

**DEKALB COUNTY JOINT PUBLIC HEARINGS
OF THE DEKALB COUNTY COMMISSIONERS AND COUNCIL
April 5, 2021**

The following Commissioners were present:

President William L. Hartman
Vice President Michael Watson
Vice President Todd Sanderson

The following Council Members were present:

President Richard Ring
Vice President William VanWye
Member Eldonna King
Member Robert E. Krafft
Member David Yarde
Member Amy Demske
Member Amy Prosser

Others present:

Auditor Jan Bauman
Attorney James P. McCanna
Attorney Donald J Stuckey

MATTER OF PUBLIC HEARING FOR SALE OF COUNTY ROAD 61 PROPERTIES

President Ring opened the first public hearing at 9:00 a.m.

This public hearing was advertised in advance of the meeting in the Star newspaper and in accordance with statute.

This public hearing is in accordance with I.C. 5-3-1 in connection with I.C. 36-1-11-3 to consider the sale of real estate for an amount in excess of \$50,000.00. Said real is in two (2) parcels on County Road 61, which parcels are identified as Parcel ID 15-07-22-100-007 (State ID 17-07-22-100-007.000-026); and Parcel ID 15-07-22-326-005 (State ID 17-07-22-326-005.000-026). These parcels are located on County Road 61 without a number address, the first being in part of the S ½ SW ¼ 22-34-14, and the second being E ½ E ½ SW ¼ 22-34-14. Both parcels are in Wilmington Township, DeKalb County, Indiana.

Commissioner Hartman said the prospective buyers for these parcels backed out when they saw the cost would be a minimum of \$141,650 (average of 2 appraisals). The Commissioners would like to offer the property up for sale anyway because there may be hunters or Amish interested in the property.

President Ring asked if anyone from the public wanted to make comment.

Hearing none, the public hearing was closed at 9:02 a.m. The regular council meeting was resumed at 9:02 a.m.

MATTER OF PUBLIC HEARING FOR SALE OF COUNTY ROAD 36A PROPERTY

President Ring opened the second public hearing at 9:15 a.m.

This public hearing was advertised in advance of the meeting in the Star newspaper and in accordance with statute.

This public hearing is in accordance with I.C. 5-3-1 in connection with I.C. 36-1-11-3 to consider the sale of real estate for an amount in excess of \$50,000.00. Said real estate to be sold is part of tax ID number 09-05-24-400-001 (State ID #17-05-24-400-001.000-016), in the northwest corner of the tract. It is located on County Road 36A, Auburn, without a number address. Said portion of real estate does not include any road frontage and consists of approximately 11.7 Acres of the total 119.54 Acres. Said real estate is located in DeKalb County in the State of Indiana.

Commissioner Hartman explained that adjacent land owners, the Rynearsons, are interested in purchasing the property. The Commissioners don't believe anyone else wants to purchase the property, but will need to open it up for bidding. The minimum bid would have to be the average of the two appraisals, which is \$61,500. None of the land is currently being farmed.

Citizen Lynn Reinhart 4224 County Road 71, Butler, wished to speak. He asked if the County is in a position to liquidate assets that have been owned by the County for many years. Also, if Council wants to sell the property, he thinks the property should be given access to the road to draw more prospective bidders. Commissioner Hartman explained that the only access available is to the folks who want to buy it, so adding access would be a moot point. Commissioners scrutinize every County dollar spent and every dollar that can be pulled in to forward projects the County needs to do such as the new Highway location. And, the property being sold is of no real use to the County.

Councilman VanWye wondered why the County would want to spend money to add a culvert for access to the property. Commissioner Hartman added that a lot would go into adding a culvert, including going through the Surveyor's Office and Drainage Board. The Drainage Board would probably not approve putting a new culvert in without there being a real need for it.

Councilman Yarde asked the attorneys if you have a property that is landlocked on four sides, does an adjoining landowner have to give you an easement or access to it? Attorney Stuckey replied that only if the adjoining land owner created the landlock. If the adjoining landowner sold the County property that was landlocked, the County might be able to obtain an easement by necessity. Attorney McCanna said an easement by necessity is granted only in very few cases, and it would not apply here.

Councilman Krafft wanted to confirm that the proceeds of this property sale are intended to help fund another project rather than to benefit County General to be used for other purposes. Yes, that is indeed the case.

President Ring reminded everyone that this property is currently not taxed. Selling it will put it back on the tax rolls.

Mr. Reinhart said the property isn't currently landlocked. It will become landlocked once the 11 acres has been split from the parcel. And if what Attorney Stuckey said is correct, if the County sells property that is landlocked, then the County might be required to give the buyer access to the property when the property is sold. Attorney McCanna disagreed because that portion of the parcel is already landlocked. Furthermore, it will be disclosed to any prospective buyers prior to purchase who may come to bid on the property. The property will have been advertised in a public notice, and a judge wouldn't order an easement to be granted because it doesn't fit the easement by necessity rule.

The cost of adding a bridge over the ditch would approach the cost of the property itself, and probably more. Mr. Reinhart again stated that since the 11 acres has not yet been split out of the larger parcel, then there currently is access to the road frontage. It is only when the 11 acres is split off that it will be landlocked. Councilman Krafft replied by saying the point that he believes that was trying to be made earlier is that the prospective buyers are willing to purchase it as a landlocked parcel.

Attorney Stuckey explained further that it's landlocked in the sense that there is a ditch that cuts off the 11 acres from the rest of the County's property. It does technically connect to the County's property, but you would have to put something over the ditch to access it. A person who wants to access the 11 acres by foot may come and bid for it if they want and if it is permissible by statute. Then Jim McCanna asked why the County would gratuitously create an easement over farm ground that is making the County money. That wouldn't make sense and would not be doing right by the taxpayers.

With no other comments from the public, President Ring closed the second public hearing at 9:34 a.m. The regular council meeting was resumed at 9:34 a.m.

MATTER OF PUBLIC HEARING REOPENED FOR SALE OF CR 61 PROPERTIES

President Ring reopened the public hearing at 9:40 for the sale of County Road 61. He allowed Mr. Lynn Reinhart to speak about the sale of property on County Road 61. Mr. Reinhart was not present at the time of the advertised public hearing due to confusion with one of the posted notices.

Mr. Reinhart wanted to make sure Council remembered how the property was acquired by the County. Yes, they knew that the acquisition was part of the SDI project (1990's). The property is divided by a ditch. There's a 75 foot setback on either side of the ditch that is not buildable. It was part of a wetland exchange. It is property that does not benefit the County at all, and if sold, the County cannot take less than the average of the two appraisals. Selling it would return it to the tax rolls, benefitting the County.

Mr. Reinhart went on to say that landowners sacrificed for the good of the SDI project at the time. Some willingly, some unwillingly. Mr. Reinhart said that he believes the property should go back at a reasonable rate to the original owners of the property. Commissioner Hartman said that the County would have originally purchased the property after getting two appraisals. Furthermore, the original owners of one of the parcels (Imhoffs) initiated this process now, and the Commissioners' intent was to resell the property back to them, but they declined due to the cost.

Mr. Reinhart's second question had to do with the legal notice and what it was referencing. He believes the legal notice doesn't address how many acres are being sold and also believes the incorrect quarter sections are being referenced. The agenda does address the acreage as being 11.736 acres, but how is that acreage derived? And what about the quarter sections? Commissioner Hartman said he believes the legal description of the original parcel was being used. Attorney McCanna explained that the notice further defined the property by including the correct Tax ID numbers of the two parcels being sold and their respective acreage amounts which total the approximate 11.736 acres. Attorney Stuckey said that Mr. Reinhart's questions about the legal notice are not an issue.

With no other comments from the public, the public hearing was closed at 9:47. The regular council meeting was resumed at 9:47 a.m.

DEKALB COUNTY COMMISSIONERS:

William L. Hartman, President

Michael Watson, Vice President

Todd Sanderson, Vice President

ATTEST:

Jan Bauman
DeKalb County Auditor

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