

FEBRUARY 3, 2020

REGULAR SESSION

PULASKI COUNTY COMMISSIONERS

The Pulaski County Commissioners met in regular session Monday, February 3, 2020 at 6:00pm at the Pulaski County Highway Department training room. Commissioners present were Kenny Becker, Mike McClure, Jerry Locke, Auditor Laura Wheeler and County Attorney Kevin Tankersley.

Also present were Jessye Gilley, JoLynn Behny, Doug Denton, Chris Schramm, Carroll Lange, Mark Dahn, Terry Young, John Kramer, Gary Miekodas, Franna Barger, Robert Barger, Jerre Shanks, Jon Frain, Dr. Carrie Cadwell, Jim Gould, John Masterson, Michael Gallenberger, Maurice Loehmer, David DeLorenzo, Penny DeLorenze, Tim Harmsen, Eric Young, Nicole Hiatt Drang, Brandon DeLorenzo, Andrew Loshnowsky, Allison Taroli, Scott Becker, Brian Young, Kelli Denton, Kelly Gaumer, Rod Nicholson, Judge Mary Welker, Kathi Thompson, Courtney Poor, Dave Olds, Terry Pine, Joe VanEs, Scott Straw, Patty Sullivan, Michael Hartle, Judge Crystal Kocher, Brian Kocher, Jeff Richwine.

President Kenny Becker opened the meeting with the Pledge of Allegiance.

IN RE: CORONER

Coroner Jon Frain discussed Chief Deputy and Alternate Deputies job descriptions and asked to have his part-time status changed to full-time as he is an elected official. Attorney Tankersley said that only the County Council can make this change.

IN RE: FOUR COUNTY

Dr. Carrie Cadwell, CEO of Four County, appeared to give an annual review. From July 1, 2018 to June 30, 2019, they serviced 489 Pulaski County Residents resulting in 9,819 mental health and substance abuse contacts. The four top substances being abused in Pulaski County are alcohol, marijuana, meth and opioids/heroin. The Winamac staff include three doctors at Senior Care (a partnership with Pulaski Memorial Hospital), two psychiatric registered nurses, five therapists, and nine skilled coaches. All three Pulaski County schools are offered therapy and skills coaching.

Nicole Hiatt Drang, Vice-President of the northern clinical operations, reported that there is a criminal justice liaison, who provides educational programs in jails and a new program will start in March connecting family/loved ones with resources on how to move loved ones toward seeking treatment. Recovery Coach Academy Training starts at the end of February.

IN RE: ELECTION BOARD

County Clerk JoLynn Behny asked permission to use the Justice Center for early voting for both the May and November elections this year. The Election Board passed an ordinance in 2017 designating the Justice Center as the Clerk's annex. Jerry Locke made a motion to approve the request, Mike McClure seconded and motion carried unanimously.

Security and technical support on election days were discussed briefly. Mike McClure made a motion contract with DeGroots for technical support on May 5 and November 3, 2020. Jerry Locke seconded and motion carried unanimously.

Clerk's Office is accepting candidate applications until noon Friday February 7, 2020.

IN RE: EMS

Brandon DeLorenzo reported on EMS 2019 average activity as 123 calls and 24 transfers per month. Staffing and Construction on the new building discussed briefly.

John Masterson of U S Aggregates commended Pulaski County EMS received on a quarry blast training exercise.

IN RE: SHERIFF

Sheriff presented the 2019 jail report and discussed courthouse security with a comparison to Cass County security.

IN RE: 2ND AMENDMENT ORDINANCE

Andrew Loshnowsky presented a proposal for a 2020 Second Amendment Sanctuary Ordinance for Pulaski County, State of Indiana, as follows:

2020 Second Amendment Sanctuary Ordinance for Pulaski County, State of Indiana

SECTION 1. TITLE

The title of this ordinance shall be known as the "Second Amendment Sanctuary Ordinance," or "SASO."

SECTION 2. FINDINGS

The people of Pulaski County, Indiana, find and declare:

- A. Acting through the United States Constitution, the people created government to be their agent in the exercise of a few defined powers, while reserving to the citizens the right to decide on matters which concern their lives, liberty, and property in the ordinary course of affairs;
- B. The Second Amendment to the Constitution of the United States of America states, a well-regulated Militia being necessary to the security of a free State, the right of the People to keep and bear arms, shall not be infringed";
- C. The right of the people to keep and bear arms is further protected from infringement by State and Local Governments under the Ninth, Tenth, and Fourteenth Amendments to the Constitution of the United States of America.
- D. The Supreme Court of the United States of America in *District of Columbia v. Heller* recognized the individual's right to keep and bear arms, as protected by the Second Amendment of the Constitution of the United States of America. Justice Antonin Scalia's prevailing opinion in that case stated that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and the right to use that firearm for traditionally lawful purposes, such as self-defense within the home;
- E. Section 1 of the Fourteenth Amendment to the Constitution of the United States of America states, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws";
- F. The Supreme Court of the United States recognized in *McDonald v. City of Chicago* that the Second Amendment to the Constitution was incorporated by the Fourteenth Amendment and thereby made applicable to the States;
- G. Justice Thomas M. Cooley in the *People v. Hurlbut* 24 Mich. 44, page 108 (1871), states: "The State may mold local institutions according to its views of policy or expediency: but local government is a matter of absolute right; and the state cannot take it away";
- H. The right to be free from the commandeering hand of government has been recognized by the United States Supreme Court in *Printz v. United States*. The Court held: "The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States' officers, or those of their political subdivisions, to administer or enforce a federal regulatory program." The anti-commandeering principles recognized by the U.S. Supreme Court in *Printz v. United States* are predicated upon the advice of James Madison, who in Federalist #46 advised "a refusal to cooperate with officers of the Union" in response to either unconstitutional federal measures or constitutional but unpopular federal measures;
- I. Therefore, the right to keep and bear arms is a fundamental individual right that shall not be infringed; and all local, state, and federal acts, laws, orders, rules or regulations regarding firearms, firearms accessories, and ammunition are a violation of the Second Amendment;
- J. Local governments have the legal authority to refuse to cooperate with state and federal firearm laws that violate those rights and to proclaim a Second Amendment Sanctuary for law-abiding citizens in their cities and counties;
- K. Therefore, through the enactment of this document, Pulaski County, Indiana, is hereby a Second Amendment Sanctuary.

SECTION 3. PROHIBITIONS

- A. Notwithstanding any other law, regulation, rule or order to the contrary, no agent, department, employee or official of Pulaski County, a political subdivision of the State of Indiana, while acting in their official capacity, shall:
 - 1. Knowingly and willingly, participate in any way in the enforcement of any Unlawful Act, as defined herein, regarding personal firearms, firearm accessories, or ammunition.
 - 2. Utilize any assets, Pulaski County funds, or funds allocated by any entity to Pulaski

County, in whole or in part, to engage in any activity that aids in the enforcement or investigation relating to an Unlawful Act in connection with personal firearms, firearm accessories, or ammunition.

SECTION 4. PENALTIES

A. An "Unlawful Act" shall consist of any federal or state act, law, order, rule, or regulation, which restricts an individual's constitutional right to keep and bear arms, including any federal or state act, law, order, rule, or regulation which bans or effectively bans, registers or effectively registers, or limits the lawful use of firearms, firearm accessories or ammunition. Any such "Unlawful Act" is invalid in Pulaski County and shall not be recognized by Pulaski County, is specifically rejected by the voters of Pulaski County, and shall be considered null, void and of no effect in Pulaski County, Indiana, and this includes, but shall not be limited to the following:

1. Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition not common to all other goods and services on the purchase or ownership of those items by citizens;
2. Any registration or tracking of firearms, firearm accessories, or ammunition;
3. Any registration or tracking of the owners of firearms, firearm accessories, or ammunition;
4. Any act forbidding the possession, ownership, or use or transfer of any type of firearm, firearm accessory, or ammunition by citizens of the legal age of eighteen and over, other than pursuant to federal law background check requirements for transfers or purchases through FFL dealers;
5. Any act ordering the confiscation of firearms, firearm accessories, or ammunition from citizens;
6. Any prohibition, regulation, and/or use restriction related to ownership or the constitutionally guaranteed lawful use or carry of firearms;
7. Any prohibition, regulation, and/or use restriction limiting hand grips, stocks, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, bump stocks, suppressors, or types of ammunition available for sale, possession or use by citizens.

B. Anyone within the jurisdiction of Pulaski County, Indiana, accused to be in violation of this ordinance may be sued in the district court of the state of Indiana for declaratory and injunctive relief, damages, and attorneys' fees. Neither sovereign nor official or qualified immunity shall be an affirmative defense in cases pursuant to this section.

C. Any peace officer may enforce this ordinance. D. A civil offense against this ordinance is a Class A violation, per the Indiana penal code, with a maximum fine of \$2,000 for an individual, and \$4,000 for a corporation, per the Indiana penal code.

E. Exceptions:

1. The protections provided to citizens by this ordinance do not apply to persons who have been convicted of felony crimes or who are prohibited from possessing firearms under federal law.
2. This ordinance is not intended to prohibit or affect in any way the prosecution of any crime for which the use of, or possession of, a firearm is an aggregating factor or enhancement to an otherwise independent crime.
3. This ordinance does not permit or otherwise allow the possession of firearms in Federal buildings.
4. This ordinance does not prohibit individuals in Pulaski County from voluntarily participating in assisting in permitting, licensing, registration or other processing of applications for concealed carry permits, or other firearm, firearm accessory, or ammunition licensing or registration processes that may be required by law.

SECTION 5. SEVERABILITY

A. The provisions of this act are hereby declared to be severable, and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

SECTION 6. EFFECTIVE DATE

A. The effective date of this ordinance, The Second Amendment Sanctuary Ordinance, or SASO, shall be immediately upon approval by the Pulaski County Commissioners.

This ordinance and what it would mean to Pulaski County was discussed at length with comments from Sheriff Richwine and County Attorney Kevin Tankersley. Tankersley does not think the ordinance is needed to protect 2nd amendment rights and the Indiana General Assembly has taken away the right of "political subdivisions" to regulate firearms. This Ordinance is symbolic in nature and does not really have any meaning except to say that Pulaski County supports the 2nd Amendment. Furthermore, this ordinance, if signed, could cause liability issues for the County by not enforcing State laws.

Mike McClure made a motion to table this matter for further review, Jerry Locke seconded and motion carried unanimously.

IN RE: BONDS

The following bonds were presented for approval:
Sheriff - Jeff Richwine

Mike McClure made a motion to approve the bonds, Jerry Locke seconded and motion carried unanimously.

IN RE: CONFERENCE REQUESTS

The following Conference Requests were presented for approval:
Clerk – Behny & Johnson-Northern Indiana District Clerk’s Conference, March 3-4, Swan Lake
Treasurer-Teresa Bryant-2020 Indiana County Treasurer’s Association, March 10, Carmel
EMS-Brandon DeLorenzo-Leadership Development Conference Part 2, February 3-4, West Lafayette
EMS-Brandon DeLorenzo-Leadership Development Conference Part 3, March 9-10, West Lafayette
EMS-Jason Fort-Critical Incident Stress Management, February 24-26, Terre Haute
Sheriff-Jason Woodruff-Procedures for Handling a Written School Threat, March 2, Hammond

Mike McClure made a motion to approve the Conference requests as presented, Jerry Locke seconded and motion carried unanimously.

IN RE: BOARD OF FINANCE MINUTES

Jerry Locke made a motion to approve and sign the January 21, 2020 Board of Finance meeting minutes, Kenny Becker seconded and motion carried unanimously.

IN RE: CLAIMS AND PAYROLL

Kenny Becker motioned to approve and sign claims and payroll as presented, Jerry Locke seconded and motion carried unanimously.

IN RE: OTHER BUSINESS

A letter from the Town of Monterey requested the commissioners consider purchasing the old Sportsman’s Bar in Monterey. This request was taken under advisement and needs to wait until after the April 9, 2020 tax sale to start the three- month process.

IN RE: PUBLIC COMMENT

Clean up of the Sportsman’s Bar in Monterey discussed briefly.

With no other business to discuss, Mike McClure made a motion to adjourn at 7:25pm, Kenny Becker seconded and motion carried unanimously.

Signed and dated this 18th day of February 2020

PULASKI COUNTY COMMISSIONERS

Kenny Becker, President

Jerry Locke, Vice-President

Mike McClure

ATTEST: _____
Laura Wheeler, Auditor of Pulaski County