

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD APRIL 16, 2012**

Comes now the hour of 9:05 A.M. on the 16th day of April, 2012, in the Commissioners Court in the Noble County Courthouse, Albion, Indiana, being the time, date and place set for a special session of the Board of Commissioners of Noble County, Indiana.

Present were:

Joy Y. LeCount, President
David J. (Dave) Dolezal, Vice President
Jack W. Herendeen, Member

Also present were:

Marion S. Cavanaugh, Deputy Auditor
Dennis Graft, County Attorney
and Bob Braley & Scott Perry, News Media

PAYROLL TO BE PAID 4/19/12 APPROVED

After reviewing the payroll from 3/23/12 – 4/05/12 to be paid 4/19/12 Jack moved to approve it. Dave seconded the motion and it carried, 3-0.

CLAIMS TO BE PAID 4/16/12 APPROVED

After reviewing the claims to be paid today's date, Dave moved to approve them with the exception of two claims for the Surveyor's Office. Jack seconded the motion and it carried, 3-0.

HIGHWAY BUSINESS – MIKE FITCH & MARK GOODRICH

BRIDGE #134 PROJECT DISCUSSION & LPA VOUCHERS

There was a brief discussion about the Bridge #134 Project. Mark presented two LPA claim vouchers for the Bridge #134 Project, (H.I.). Jack moved to approve them. Dave seconded the motion and it carried, 3-0.

UTILITY PERMIT #UP-019-12

Mark presented a utility permit application, #UP-019-12 from MEDIACOM for a fiber optic line. Joy asked if they are getting them buried deep enough that we don't get into them. Mark said we haven't had any problems yet. He said they are more conscientious of the fiber optic lines.

Mark said the utility companies are supposed to inform the Highway Department 5 days before they install the lines and the Highway Department tries to go out and check on them. He said they don't always let them know though.

This permit is for work on CR 200 S between CR 1200 W and SR 5, (H.I.).

CSX - ROAD CLOSURE & WORK

Mark reported that 700 E is still closed, but all of the other roads are opened. There was a brief discussion about the work that had been done by CSX.

KENWORTH PALMER TRUCKS – DEMO TRUCK

Mark said that Kenworth Palmer Trucks out of Fort Wayne and Indianapolis is going to bring a demo truck by this morning. When asked, Mark said he thought it was a tandem truck, and he thought they had it dressed up and had the underbody plow on it. He said there is a possibility that if the demo truck is what we are interested in that we could get it for a discounted price because it is a demo. Mark said the truck will be here until Wednesday or Thursday. He said they want us to drive it.

JIM ABBS, CHIEF PUBLIC DEFENDER – PROFESSIONAL INSURANCE POLICY

Jim came before the Commissioners at their request to discuss the insurance policy. He said he called the individual in question (about the insurance), and he had not gotten back to him yet. Dennis said some of the other counties do the insurance as an office. Jim said that is the way Vigo County and Indianapolis do it. Dennis asked what Marion County does. Jim said Marion told him that they have an office policy too, because it is less expensive to do it that way.

CEDIT & CAGIT MONEY RECEIVED FROM STATE

Auditor Jackie Knafel reported on the money the County had received from the State because of an error that the State had made in their distributions to the counties. Jackie said the amounts we get on a monthly basis will be revised for the rest of the year. She said we got a total of 1,137,000.00 which includes interest.

SHERIFF DOUG HARP – SHERIFF'S BUSINESS EXPENSE OVER \$500.00

Doug said he had an expense over \$500.00 for the impellers on the pressure pumps for the water system. He said typically, the life of them has been about three or four years. Doug said they are \$1,864.00. He said when they go down, we have to get them back up and running immediately. Doug said he talked to Kevin, Maintenance Man at the Jail, because he thought a three or four year life span was pretty bad. He said the company told Kevin that he thinks it is the high concentration of chlorine that the City puts in the water that destroys them so quickly. Doug said he had the one replaced and he has two others ordered, because generally when one of them goes down the other ones are going to go down fairly soon.

Doug said they have another impeller that is a more heavy duty version and they are \$2,829.00 and he thought it would be a good idea to get one of them a year until we have the replacements, and then when they go down again we can put the better ones on with the hope of getting maybe 10 years of life versus the three to four years. Jack asked if there is some kind of guarantee on the heavy duty ones. Doug said they said they thought they would last eight to ten years. He said he would do more research to see if there is some kind of guarantee or if there is some other company or jail that has a better track record.

Dave moved to approve the expense of the impellers. Jack seconded the motion and it carried, 3-0.

OVERTIME

Jack questioned why there was so much overtime for the Sheriff's Department, especially for Dean Gillespie. Doug said Dean has been picking up lab (meth) trash, and there is a lot of it to pick up this time of year. He said with overtime, what they are typically not looking at is the comp time that the guys are building that isn't costing us any money.

Doug said there is some training coming up in May, which is the SWAT Conference. He said there would be some overtime issues then because he would like to send everybody on the team so he knew he would have overtime to try to cover for that. Doug said he is using reserves when he can to supplement the hours, and they have juggled schedules as much as they could. He said with summer coming up there would be more vacations and there will be times they won't be able to cover.

Dave asked if someone is being trained to replace/assist Dean Gillespie. Doug said to try to train someone to do that job is a very critical job. He said you don't want to train someone haphazard and tell them they can do it part time. Doug said we don't have that many violent crimes, but when you do that person has to be very well trained. He said he does have a couple of other guys that have the ability to pick up the lab stuff, but we don't want them to put that stuff in the squad cars. Doug said there is always going to be overtime at the Sheriff's Department and they try to manage it the best they can.

Doug said some of the overtime is from the train wreck, and we should be getting reimbursed for that.

Dave asked if Dean retired and they put someone in that position if that is when the training would come in. Doug said when Dean gives notice that he is retiring that is when they will start training someone. Dave asked how they would fill that position. Doug said there are several people that would be interested in it and they would fill it from within. He said Dean has had some very extensive training, and he had been sent to Miami Florida several years ago to get "hands on" experience in the big cities, so when something happens here he knows what to do.

INSPECTION AGREEMENT FOR GENERATOR

Doug said he had a contract with WW Williams for the generator inspection. He said it costs \$2486.00 for one year and \$7458.00 for three years. Jack moved to approve the contract. Dave seconded the motion.

Joy asked if Kevin (maintenance man) goes out when they come to do the inspection. Doug said he tries to. He said generally they are scheduled in advance, and he spends quite a bit of time with them. The motion carried, 3-0.

JAIL INMATES

Joy asked what the jail population is. Doug said it has been staying around 140 – 150 for several weeks. He said we did lose some DOC inmates again, and the numbers of DOC inmates have been going down throughout the state because of a couple of new facilities that had been opened up. Doug said he didn't think we would ever get back up to the 60 or 80 DOC inmates we used to house.

REPLACEMENT OF VEHICLES

Doug said the Chargers they had ordered are all in, but not all of them are ready for on the road yet. He said they get better gas mileage with them, and they saved money by not getting the two-toned vehicles. Doug said they will also be cheaper to fix if they are in an accident and the turn-around time will be less.

TITLES FOR TRADED SHERIFF'S CARS

Auditor Jackie Knafel presented two titles for the Commissioners signature. Doug said the Explorer is going to the Surveyor's Office.

Doug said they are in the process of hiring a new Deputy, so they kept one of the vehicles that we were only going to get \$1500.00 trade-in on for the new person to drive until next year.

Dave moved to approve the signature of the titles. Jack seconded the motion and it carried, 3-0.

HIGHWAY DEPARTMENT – TRANSFER OF FUNDS

The Commissioners received a request for a transfer of funds of \$24,000.00 from Highway Accounts General Liability Insurance to Equipment Crew, which will go to the Council once approved by the Commissioners, (H.I.).

Dave moved to approve the transfer. Jack seconded the motion and it carried, 3-0.

CLAIMS OTHER THAN NORMAL CLAIMS

The Commissioners reviewed the claims other than the normal claims which include utilities that are paid as they are received. After having their questions answered, Dave moved to approve the claims. Jack seconded the motion and it carried, 3-0. Joy said these claims have to be paid timely to avoid a service charge.

Joy said the Commissioners also have the claims paid from un-appropriated funds. After reviewing them Dave moved to approve them. Jack seconded the motion and it carried, 3-0.

TREASURER'S REPORT – MARCH 2012

The Commissioners received the Treasurer's Report for March 2012, (H.I.).

CLERK'S REPORT – MARCH 2012

The Commissioners received the Clerk's Report for March 2012, (H.I.).

IDEM – DALTON CORP. IN KENDALLVILLE – CLOSURE/POST-CLOSURE PLAN REVISION

The Commissioners received notice from IDEM that a revised closure/post closure plan had been submitted by Dalton Corporation (Neenah Enterprises Inc./Neena Foundry), (H.I.). The Commissioners also received copies of legal advertising submitted to the Kendallville Daily News and the Kendallville News-Sun stating that a copy of the closure/post closure plans would be at the Kendallville Public Library for the public to view, (H.I.).

WOOD-LAND-LAKES RC&D – CHANGES TO BY-LAWS RE: FUTURE MAKE-UP OF BOARD OF DIRECTORS

The Commissioners received notice from Wood-Land-Lakes that they would like to make the above referenced changes to their by-laws, (H.I.). They will be looking at reducing their Board from the 21 members to 11 members, and to change the term limits from two, three year terms to five, three year terms, (H.I.).

CENTERPOINT ENERGY – PRODUCTS & SERVICES

The Commissioners received information from CenterPoint Energy Services, Inc. regarding the products and services they have available, (H.I.). They stated that the county paid 13% more for natural gas in February and March than they would have with them.

MINUTES APPROVED – MARCH 12, 2012, MARCH 30, 2012, OCTOBER 31, 2005 & APRIL 2, 2012

After reviewing the minutes of the March 12th and March 30th UDO meetings Dave moved to approve them, Jack seconded the motion and it carried, 3-0.

Jack said the October 31, 2005 minutes were okay to the best of his recollection. Dave moved to approve for Jack to sign them. Joy seconded the motion and it carried, 3-0.

After reviewing the minutes of the April 2, 2012 meeting Dave moved to approve them as corrected. Jack seconded the motion and it carried, 3-0.

FARM BUREAU LEGISLATIVE UPDATE - SENATE ENROLLED ACT 98

Joy said apparently there was some change in the law which allows greater flexibility for using property tax funds and miscellaneous revenue deposited in the county general revenue funds to pay for maintenance of county highways.

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CLEAN WATERS ACT

Dave said it sounds like the Clean Waters Act is trying to extort money out of the counties for permits. Joy said it basically takes it out of the hands of local governments.

KARR TUCKPOINTING

Joy told Phil Jacob, Head of Maintenance that she thought the Commissioners were ready to sign the agreement with Karr. Joy said she had talked to them and the time frame in which they could start had not changed.

Joy asked Dennis to review the agreement. Dennis said there is no contract for the Commissioners to sign. Joy called Karr and they will send a contract.

TOMBSTONE TRAIL PROGRAM GRANT

Joy presented a copy of a letter she had sent to the Indiana Office of Tourism Development indicating that the Commissioners are in favor of Tombstone Trail

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 11:28 A.M. and reconvened at approximately 2:02 P.M.

UDO REVIEW & DISCUSSION

Present for this portion of the meeting were: Bob Braley, News Media, Tom Griffiths; and Randy Sexton.

Tom had some specific questions that he asked of the Commissioners, some of which was just to find out what some things were in Draft G, because he had an old draft.

The first question Tom had was about the set-back lines for a confined feeding operation, which was discussed. Tom said he didn't think a confined feeding operation should be allowed on an adjacent property owned by the same person as the confined feeding operation, closer than the 500' set back. Joy explained that the reason for allowing that is because many times there are people hired to help with the operation and they should be located close by. Tom said he didn't agree with not staying with the 500'. When asked, Tom said he wouldn't mind a 500' set-back, but for people that don't come to the meeting he thought a 750' set-back would be acceptable. Tom said he thought some time down the road someone will ask why 500 hogs would be allowed closer than 15 dogs. There was further discussion on the issue.

The next question was in regards to geothermal units, and where open-looped systems and closed-loop systems would be allowed. Tom said his big concern is that when it is dry out and someone is pumping a geothermal into a private tile, the trees would go 50' to find the tile and the roots will plug it. He said then the taxpayers will have to pay to clean the tree routes out of the tile. Tom said the problem with geothermal units that pump out on the ground is that if someone only has five acres and they put one in, then sometimes the water runs over onto the neighbors ground. Joy said she thought they had decided to say the use should comply with applicable State air quality standards.

Tom asked about the set-back for planting trees. He said he had been asked to farm a piece of property where the farmer and the adjoining landowners don't get along. He said one of them planted trees on the property line. Tom said the concern would be about the person doing the farming getting into the trees and killing them. He asked where the set-back is for planting trees. Joy read from the draft what it said about planting new trees and installing new fence.

Randy Sexton said the bigger concern he would have would be with regulated drains. Randy said he has a real problem with giving variances to plant trees closer to a tile drain than the statutory right-of-ways. He said the roots will destroy the drains and it is hopeless to try to clean them out. Randy strongly encouraged the Commissioners to put some language in the ordinance about the set-back from a tile for planting trees, in order to make people aware of it.

There was discussion about the zoning and how many agricultural zones there will be. Joy showed the current version of the zoning maps.

Randy said LaGrange County wrestled with the multiple ag zonings, and they decided against going with it. He gave an example of a client that has 158 acres with a house on it. Randy said he wants to sell two acres and the house, and with the new maps the way they are now it will roll from A-1 to A-2. Randy said he himself has 40 acres that is bare ground that is A-1. He said his client will soon be selling off the 2 acres which would make his 156 acres that is bare ground zoned A-2 and he himself has 40 acres that is A-1. Randy said he thought there is an inconsistency that would be virtually impossible to defend within the court system.

Joy read how they came up with the zonings as shown on the new zoning map. There was discussion about how they arrived at those zonings.

Randy talked about the inconsistencies. Dave asked what they do in LaGrange County. Randy said as long as what you are taking off is 10 acres, or the remainder is 10 acres, you don't have to deal with the Plan Commission or the upstairs office. He said on anything that is above 10 acres you have adequate room to be able to do what you want to do. Randy said when the parcel you are taking off, or what is left after you take the parcel off is less than 10 acres, then you have to plat it and the minor subdivisions go through the plat committee. He said the plat committee is a much more informal process and it doesn't tie up the Planning Commission.

Randy said whatever is done with the UDO, it should be made so it works and functions for the paying tax payers of this county 90% of the time, so they aren't going for a BZA hearing or approvals from a board. He said this document cannot be a work in process. Randy said it needs to be a working document at the time that the gavel is knocked on the counter. He said that is not where we are with this at this time. Randy said he thought they were doing a disservice to the public by telling them that most of the stuff they want do they are going to have to come back in and get an approval to do it. He said rarely should people have to go for a variance. Randy said he thought the biggest hitch in the UDO is the A-1, A-2, A-3, and A-4, and especially A-1 and A-2. He said maybe things should be based on soil types and that sort of thing and not on the size of the property, or whether or not it has buildings on it.

Tom said he thought it was too late for the soil types, because of the way everyone has built up to this point.

Tom asked if the A-1 would be the most restrictive as far as conservation goes. Joy said it would be. Tom said for years and years we have had classified forests. He asked if he owns 50 acres across the road that is zoned A-1 and wanted it to be conserved as farm ground, if it could possibly be treated in a manner such as classified forest. Joy said the classified forest goes through the state.

Tom asked Randy if it is really such a big deal to go ask for a variance. Randy said if you are doing something unusual you should probably go before the Board of Zoning Appeals. He said you should plan on the UDO taking care of itself without variances and rezoning 90% of the time. He said it is the unusual situations that fall in the other 10%.

Bob Braley said it could be a big issue if the person wanting it comes in without contacting any of the neighbors. He said if you get the surrounding neighbors upset, it will not get passed.

Randy said the BZA members are appointed and they have ultimate control. He said they are one of the most powerful bodies within the government. Joy said the only appeal process is the courts. Randy said nine times out of ten, the courts aren't going to look at the subject matter. He said they are going to look to see if the hearing was handled properly. Randy said if it wasn't handled properly, they will send it back to the BZA and tell them to handle it properly this time. He said they can come out with the same outcome though. Randy said if a hearing is done properly, there is no recourse to a BZA hearing.

Joy said no matter how well planned out it is, she thought the likelihood of someone in Noble County getting a kennel would be very difficult.

Dave asked if LaGrange County adopted a UDO, and if they did how it is working for them. Randy said it is working very well, but you have to remember the demographics are different there than they are here.

Dave said if combining A-1 & A-2 is working for LaGrange County, he didn't know why it wouldn't work for us. There was discussion about the possibility of adopting the UDO so we don't have to pay more money for it, and making a condition that if some things didn't happen between the time it was adopted and the time it went into effect then it would be null and void. Dave said he thought we could tweak it and simplify it.

Joy said she thought the problem we had before this UDO was started, was that the Comprehensive Plan was flawed in areas. She said that is just her opinion.

Randy said Joy was right. He said he was on the Task Force, along with Jack, that helped put this stuff together. Randy said a lot of what was decided is not what we are seeing in the book (draft). He said they took a few things out of the Comprehensive Plan and basically built it on that. Randy said you need to take all of the things and blend it together and look at the well being of the county in order to come up with a good document.

Joy said the UDO is way more urban oriented than it is rural oriented. Randy said this document is very similar to DeKalb County's, and they are having the pains that Noble County is about to have if they follow through with this. Randy said Mr. Johnson (from Ground Rules who is working on the UDO) doesn't understand rural America.

Joy said an area that she has some concern about is that if we are going to promote rural tourism, why we don't allow a Bed & Breakfast in an Ag setting when we allow it in a Rural Estate as a permitted use. There was discussion that there are 200,000 plus people a year that use the Chain O'Lakes facilities, and a lot of them utilize the businesses in Albion, and that the Albion Saddle Club and York Hills Riding facility also bring in many people.

Dave said the A-1 and A-2 is an issue. He said we should do whatever we can to simplify it. Dave said our customer is the taxpayer of Noble County and that is who we should serve. He said he understood it is not difficult to get a variance, but if they shouldn't have to, they are going to view it as an inconvenience and be upset. Randy said the people won't be real happy either because of the cost of a variance.

CLAIMS HELD EARLIER APPROVED

After getting the information needed, Dave moved to approve the two claims under the Surveyor's accounts that were held this morning. Jack seconded the motion and it carried, 3-0.

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 3:25 P.M. recessed from day to day until the 23rd day of April 2012.

Joy Y. LeCount, President

David J. Dolezal, Vice President

Jack W. Herendeen, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor