

Boone County Board of Commissioners Minutes

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Boone County Board of Commissioners Minutes April 9, 2007

The Board of County Commissioners met in a regular business session at 9:00 a.m. in the Boone County Office Building, Connie Lamar Meeting Room, #105, Lebanon, Indiana 46052 on April 9, 2007. Those present were Commissioner Huck Lewis, Commissioner Charles Eaton, Commissioner Marc Applegate, County Attorney Eileen Sims and Karen Lasley Administrative Assistant.

The meeting was called to order by Board President Charles Eaton at 9:00 a.m.

IN THE MATTER OF APPROVAL OF MINUTES

Attorney Sims pointed out in the minutes of April 2, 2007, in the legal issues, it was stated that U.A.W. was representing citizens of Whitestown when actually it should have been Fayette.

Commissioner Lewis made a motion to approve the amended minutes from the April 2, 2007 Business Meeting. Commissioner Eaton seconded. Motion carried 2-0.

Commissioner Lewis

made a motion to approve the Memorandum from the Executive Meeting on April 2, 2007. Commissioner Eaton seconded. Motion carried 2-0. Commissioner Applegate was not present at the April 2, 2007 meeting, therefore, he did not vote on the minutes.

IN THE MATTER OF LEGAL ISSUES

County Attorney, Eileen Sims, was present and noted that she had one invoice for Anson from Gradex in the amount of \$17,379.72, which has been approved by BLN, Tom Kouns and Ken Hedge. Commissioner Lewis made a motion to approve the invoice from Gradex in the amount of \$17,379.72. Commissioner Applegate seconded. Motion carried 3-0.

Attorney Sims informed the Commissioners that on April 3, the Redevelopment Commission was served with a request for records from Bose McKinney & Evans, namely Chris Janack, concerning every document that exists regarding the sale of the Bonds on the I-65 West Economic Development Area. Attorney Sims stated that she had already responded and provided them with every document that existed that they requested. Attorney Sims stated that she had never received responses to her several requests to Whitestown for public records and she asked the Commissioners what they would like for her to do; stating that she would like to follow up with her requests. Commissioner Eaton stated that he had a meeting Saturday morning with Jason Tribbey, President of the Whitestown Council, and with Jack Belcher, Perry Township Trustee. Commissioner Eaton stated that they had come to a potential settlement which would

make a lot of this go away; however, this needs to be discussed in an Executive Session. According to Commissioner Eaton, Mr. Tribbey will have to meet with the Whitestown Town Board and discuss these negotiations with them also. Commissioner Applegate stated that he still felt that we should follow through with the record request to which Commissioner Eaton stated that there may be no need to if the negotiations work out. Commissioner Eaton suggested that they postpone Attorney's Sims' request until next Monday.

Judge Mulligan, Montgomery County, entered his initial order concerning the decision of the Boone County Election Board. The Board upheld a challenge for a Zionsville candidate named Mark Plassman. He appealed the Boone County Election Boards' decision, there was a trial and the Court ruled initially that Mr. Plassman may be on the ballot and the Court will issue more precise findings of fact and conclusions of law when the Judge has time to write them.

Attorney Sims presented a Tort Claim Notice by an Evan Bennett, which is a wrongful death claim for his father, Steven Bennett. Mr. Bennett's death was due to a vehicle accident at SR 38 and 850 N. Attorney Sims stated that she had already forwarded the information to Lamar and Lamar.

IN THE MATTER OF REQUEST FOR CHANGE IN ORDINANCE BY MIKE ANDREOLI

Commissioners Eaton stated that the Commissioners had received a letter from him requesting that he be taken off of the Agenda today and placed either on the 23rd of April or the 7th of May.

IN THE MATTER OF THE STATUS OF HIGHWAY FUNDING

Mr. Tom Kouns, Highway Supervisor, was present to discuss the status of highway funding. Supervisor Kouns presented the 'Boone County Highway Department Estimated Road Design Cost of Materials Using 2007 Bid Prices for Cost Estimates'. (See Appendix 1) Mr. Kouns then presented stats for 2001 (See Appendix 2) and stats for 2007 (See Appendix 3). The following was pointed out by Mr. Kouns:

	<u>2001</u>	<u>2007</u>
Mileage of Roads in the County	814	814
Total Miles of Paved Roads	455	474
Seal Coat Interval	5 years	5 years
Seal Coat Cost per Mile	\$12,530	\$19,530
Resurfacing Interval	20 years	20 years
Resurfacing Cost	\$50,754	\$71,669
Current \$ Available	\$3,050.800	\$544,000

Costs and Production Required to Maintain Desired Program

Annual Cost Per Mile	\$3,791	\$5,536
Annual Sealing Program	68 miles per year	71 miles per year
Annual Resurfacing Program	23 miles per year	24 miles per year
System Cost – Paving & Sealing	\$2,009,826	\$3,087,138
Total Pavement Maintenance Cost	\$2,059,826	\$3,137,138
Annual Shortfall	\$990,974	\$2,593,138

Program Possible with Given Mileage, Budget and Costs

	<u>2001</u>	<u>2007</u>
Sealing Interval	4 years	35 years
Resurfacing Interval	12 years	105 years

Mileage Possible with Existing Budget and Desired Program

Mileage	594 miles	67 miles
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After much discussion, Mr. Kouns informed the Commissioners that the bottom line is that with the budget in 2001 the County could take care of 594 miles of paved road. With the 2007 budget, the County can maintain only 67 miles. Commissioner Eaton stated that the problem does not go away without the involvement of our State Legislators. According to Commissioner Eaton, they keep taking money away from them and without substantial help from the State Legislators; the problem can not be solved. Commissioner Eaton stated when counties are taking paved roads and putting them back to gravel roads; it is pretty obvious that they can not maintain them. Commissioner Lewis stated that in the statistics book that Farm Bureau puts out; Boone County spends less on roads than any other County our size. Commissioner Lewis agreed with Commissioner Eaton, saying that the State has to step up.

Supervisor Kouns informed the Commissioners that he is asking for an additional out of local road and street maintenance for spring maintenance; an additional from the Highway Fund for \$2,000 to renew the contract with Murray and Trettel, Inc. (which is the service that notifies him of impending weather) and an additional of \$70,000 to finish up the joint study with Hendricks County on the Ronald Reagan Parkway. Commissioner

Applegate made a motion to approve Supervisor Kouns to take the additional before the County Council.

IN THE MATTER OF REQUEST FOR SEWER SERVICE FOR WOODS EDGE PROPERTY.

Attorney Kent Frandsen, was present to represent Brian Knapp and Bob Burn, who are the two principals of an entity known as Green House Development who has an option to purchase the 12.5 acre site currently known as the Woods Edge. This area is currently a commercial nursery and greenhouse at the NE corner of 421 and 300 S. Their contract is subject to zoning and other approvals, according to Attorney Frandsen. The current plans are for a higher end retail area on that corner. According to Attorney Frandsen they already have an agreement with Witham Hospital to have a medical clinic there and they are looking at many other shops to possibly join them. Attorney Frandsen informed the Commissioners that they are on the Agenda for the month of May for the Area Plan Commission and they need Clay Regional Waste District to provide service to the area for sewer purposes. This area is currently close but not in their exact territory. According to Attorney Frandsen, it is state law that before they can seek their permission to extend services to this area, the County Commissioners have to give their consent. Attorney Frandsen provided the Commissioners with the required document for the request for Clay Regional Waste to come into the area. Attorney Sims asked if this area was within Zionsville's planning area and Attorney Frandsen stated no. Commissioner Lewis made a motion to approve signing the document requesting Clay Regional Waste to come into the described area for service. Commissioner Applegate seconded. Motion carried 3-0. The Commissioners reminded Attorney Frandsen that this approval was only for Clay Waste to come into the area and should not be taken as an approval of the project.

IN THE MATTER OF ZONING MAP AMENDMENT FOR WITHAM HEALTH SERVICES

Mr. Adam DeHart, Keeler-Webb Associates, was present and requested that the Commissioners table their request until May 7, 2007. Steve Niblick, Executive Director Boone County APC, presented the Commissioners with a new legal description to go along with the request.

IN THE MATTER OF REQUEST FOR PRE PAY FOR CONSULTANT FEES

Boone County Prosecutor, Todd Meyer, was present and explained to the Commissioners that

he is requesting to pay a Deputy Prosecutor out of the 3000 line and not the 1000 line due to no benefits being paid. This person will actually be paid as a consultant. Prosecutor Meyer informed the Commissioners that this person did not receive his pay this last pay period due to the wrong account being used. Prosecutor Meyer requested, for this one time only, to prepay this individual so that they would not have to wait on their check. Commissioner Eaton asked Mr. Meyer if he had a contract with this person; stating that the Commissioners are the only ones that can enter into a contract for the County. Prosecutor Meyer stated that he believes he can sign contracts because his Office is a State Office and he doesn't believe that the Commissioners have authority over his

employees. Since he is a State employee Prosecutor Meyer believes that his employees are agents of his so they would be State agents and stated that he has legal authority on all of this; having it reviewed before and provided to him. According to Prosecutor Meyer, the County is mandated to fund the Prosecutor's Office but as far as authority, he didn't think so. Commissioner Eaton asked Attorney Sims to investigate this and report back to the Commissioners. Commissioner Applegate made a motion to approve Prosecutor Meyer's request of a one time pre pay. Commissioner Lewis seconded. Motion carried 3-0.

IN THE MATTER OF VOTING TECHNOLOGY

Attorney Sims stated that she had met with Sean Horan and Eric Goodnight and had received a call from Cass County on the matter. Attorney Sims stated that she is communicating with the bank in Wisconsin and the bank's attorney thinks they can put their hands on the server. After discussion with Mr. Horan and Mr. Goodnight, their desire would be to have a local computer company in Milwaukee take the server, do whatever they have to do to make sure that it is secure and shipped without damage, UPS it to us and then have Mr. Horan and Mr. Goodnight attempt to go into the software with the source code and make sure that it is what we think it is and that we have the ability to manipulate the software in case we would have a tallying problem. If the server we receive contains the proper software and source code, the bank will expect us to pay the \$110,000 we currently owe. Cass County and Parke County would be allowed to enter into an agreement so that if we have to pay a software engineer to manipulate the software as Federal rules change, that they would be willing to split the cost with us. Attorney Sims stated that Randolph County is the only County involved that has not contacted her and Boone is the only County that has been proactive on trying to get the software. Attorney Sims reminded the Commissioners that they are going to want us to sign a confidentially agreement saying that we won't share this information. Attorney Sims stated that she is not sure that they should go down that road; remember they still want our money and as far as she knows Boone is the only County that still owes them money. Mr. Horan indicated that he thinks the bank maybe concerned that they could be sued for releasing proprietary software, which is currently owned by VTI. Attorney Sims asked for the Commissioners to give her authority to negotiate with the bank's attorney and say that Boone County will sign a confidentially agreement but it will include the other three Indiana Counties. The Commissioners felt that was only fair. Commissioner Lewis stated that we would then be basically getting into the voting machine business. Commissioner Applegate stated that he did not think it would be a good thing for the County to be in the voting machine business. Commissioner Lewis stated that we don't have another half million dollars to spend for new machines and software. Much discussion followed, including the legality of the issue. Attorney Sims indicated that first thing they need to do is to find out if the software and the server is what they think it is. Attorney Sims indicated for all we know Anthony Boldin could have swapped servers on us and the one that they give us may not be what we think it is anyway and then all of this is mute. Commissioner Lewis stated that possibly we could sign a confidentially agreement with them specifically for the time that we need to find out if the server is what he think it is and then if it is, we'll talk. Attorney Sims informed the Commissioners that

the contract that Sean Horan and Eric Goodnight have is not the actual contract that was signed by the County and VTI. Then Boone County Clerk, Lisa Garoffolo, did not like their contract and drew one up and that is the one that was signed and agreed upon. Attorney Sims stated that she had reviewed that contract and it does not have the same confidentiality agreement that the regular VTI contract has. Attorney Sims indicated that the money that Boone County owes VTI was not just for the hardware; it was for support, people being present on Election Day and we have not gotten the benefit of that.

IN THE MATTER OF OTHER BUSINESS

Ms. Vickie Foster, Health Department, was present and explained that Cindy Murphy, Nursing Director, is scheduled to attend the 2007 Medical Reserve Corps National Leadership and Training Conference on April 17th through April 20th in Providence, Rhode Island. This trip will be funded by the National Association of City and County Health Officials (NACCHO) in the amount of \$1,000. Ms. Foster explained that they are required to inform the Commissioners of this trip and are requesting that any eligible reimbursable expenses that exceed the stipend amount can be submitted to the Health Department for reimbursement. Commissioner Lewis made a motion to approve the request. Commissioner Eaton seconded. Motion carried 3-0.

IN THE MATTER OF STAFF REPORTS

Attorney Sims informed Mr. Tom Kouns, Highway Supervisor, that the proposal for bid documents from BLN concerning the traffic signal are fine.

IN THE MATTER OF DOCUMENT SIGNING, CLAIMS

Mrs. Lasley presented the Claims (See Appendix 4) for a list of the claims approved and signed in today's meeting. Commissioner Lewis made a motion to approve the Claims submitted. Commissioner Applegate seconded. Motion carried 3-0.

IN THE MATTER OF MAIL

See Appendix 5 for a list of mail opened by the Commissioners on this date.

Commissioner Eaton recessed the meeting until 1:30 p.m. this afternoon.

Commissioner Eaton reconvened the meeting for the purpose of discussion of employee benefit statements. Commissioner Lewis was not able to attend the afternoon meeting.

Bob Miller, Gregory & Appel, was present to inform those present the purpose of creating an employee benefit statement. Mr. Miller pointed out that the statement would include all benefits supplied by the County for those who are insured by the County. After much discussion, Commissioner Eaton stated that the only problem he had with this was that it was not offered to all employees, only to those which are insured with the County. Statements made by some of those attending were negative and it was decided, even though the insurance company was compiling these free of charge this year, that these

would not be that beneficial.

With no further business, Commissioner Applegate made a motion to adjourn.
Commissioner Eaton seconded. Motion carried 2-0.