

**MINUTES OF A SPECIAL SESSION OF THE  
BOARD OF COMMISSIONERS HELD APRIL 22, 2013**

Comes now the hour of 8:49 A.M. on the 22<sup>nd</sup> day of April, 2013, 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:

Gary Leatherman, President  
David J. (Dave) Dolezal, Vice President  
Chad Kline, Member

Also present were:

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

**RE-ZONING IN MERRIAM**

Nathan Miller, Plan Commission Director came before the Commissioners to discuss a re-zoning request in Merriam. He said that Andrew Rossell (Developer) & Dennis Shively (Land Owner) came in for a rezoning and a simple subdivision, according to the UDO, and he presented a folder containing pictures and other information. Nathan said they discussed the project and explained why they felt it was important to rezone the 2 acre parcel that is located at 50 W and US 33 from A-1 to C-3. Nathan said the Plan Commission made a recommendation to do the re-zoning. He said the Plan Commission Board Members that were present each filled out a findings of fact. Dave asked if the plans had changed any other than adding a fence. Chad said they still have to get with the Surveyor. Dennis said the Plan Commission didn't decide on anything other than the re-zoning. Nathan said there were people that showed up to talk about the project for which the re-zoning was being asked for. He said the project discussion technically had nothing to do with the re-zoning process.

After further discussion Dave moved to approve the recommendation of the Plan Commission Board to grant the re-zoning for the Merriam site from A-1 to C-3. Chad seconded the motion and it carried, 3-0.

**TOWN OF AVILLA PLAN COMMISSION  
APPOINTMENT - ROBERT LEY**

The Commissioners received a letter from Bill Ley, Avilla Town Manager, informing them that one of their appointees to the Avilla Town Board had resigned due to illness, and that Robert Ley is interested in filling the position.

Chad moved to appoint Robert Ley to the Avilla Plan Commission Board. Dave seconded the motion and it carried, 3-0.

## **GRANT AGREEMENT – COMMUNITY CORRECTIONS BOARD**

Stacey Beam, Chief Probation Officer said the last time she was here to discuss the Community Corrections grant and the board members that need appointed, the Commissioners said they would like to contact the lay people she had listed, and she had contacted them to let them know the Commissioners would probably be calling. She said the Commissioners need to appoint three lay members, and she had four names to choose from. Stacey said they want the fourth lay person to be a Commissioner. There was discussion as to whether any of the board members could live out of the county and still be eligible, other than those that were to be board members according to the law. Stacey said she hadn't seen anything that said they have to be residents, but she would check on it.

Dennis asked about some things that are missing from the grant agreement and asked Stacey if she had them. He said he had problems telling the Commissioners it is ok to sign the grant agreement when it is not all there. Stacie said she did not have the items referred to and that she would check into getting them and come back next week. (See next week's file for the paperwork).

## **MINUTES APPROVED**

Dave moved to approve the minutes of the *April 8, 2013* and *April 15, 2013* meetings as corrected (via e-mail). Chad seconded the motion and it carried, 3-0.

## **DAWN BARR UNSAFE BUILDING – FINDINGS & ORDER**

The Commissioners signed the Findings & Order in the Dawn Barr unsafe building case that was approved last week, (H.I.).

## **RECESSED & RECONVENED**

The Commissioners recessed their meeting at approximately 9:18 A.M. and reconvened at approximately 9:37 A.M.

## **HIGHWAY BUSINESS - MARK GOODRICH & MIKE FITCH** **WATER PROBLEM ON RAILROAD STREET IN WAWAKA**

Mark said he sent the Commissioners some pictures regarding Railroad Street and a property in Wawaka, (H.I.). Mark said John talked to Randy (Noble County Surveyor), and Randy was going to do some investigating to see if a catch basin is plugged up or something to help eliminate some of the water problem. He said the house has been foreclosed on and has been vacant for two years and someone is taking care of it. Mark said there are two sump pumps pumping water from the basement onto the lawn. He said there is a washout (on the road) where the water runs along the edge. Mark said he didn't know if there was anything legally that we could do. Gary asked if they are pumping the water out of the basement and it comes right back in. Mark said John said when he was there they were pumping it out and part of it was running right back in the window. He showed the Commissioners where the water is running off of the property. Mark said he could get in touch with the bank. Dave asked if the streets are ours. Mark said they are ours. Gary asked if the pictures were taken before or after the rain we got. Mark said they were taken before the heavy rain we got. Mark said it is a dead end street with one other house on it, and the road isn't very good and is coming apart from all of the moisture sitting on it. Dennis said they can't be flooding the street.

Mike asked if there is an ordinance on sump pumps. No one present knew of any. There was discussion about open-loop geothermal that is not currently permitted under the new UDO. There was also discussion about the problems that could be caused by water continually going onto the street, such as water freezing on the road in the winter time and the further damage it could eventually do to the road. Dennis told Mark the bank could be contacted and told that they need to correct the problem. There was discussion about possible solutions to the problem.

Chad said the Storm and Erosion Ordinance would probably cover this problem. Dennis told Mark he could turn it over to the Surveyor or the Plan Commission Director if the bank doesn't do anything.

### **REQUESTS TO FIX ALLEYS**

Mark said he had a request from Larry Hershberger from LaOtto about an alley. He said they put a sewer system in there and when they did that we went in and asphalted everything. Mark said Alley Street was not and is not on our records for maintenance. He said Larry swears that we used to maintain the alley, and Mark said he told Larry that we hadn't maintained it since he has been on the department. He said it is a 20' right-of-way and it sounds like it is all older people along it and they can't maintain it and they want us to take it over. Mark said he told him we wouldn't take them over. He said Larry might eventually come to see the Commissioners about it.

Mike talked about where the alleys are in LaOtto and how LaOtto was platted. Mark said there was a Johnson Street that was platted but it was never developed. He said the alley Larry is talking about is 20' wide and our equipment is wider than it used to be and won't accommodate a 20' street or alley. There was much discussion about the roads and alleys in LaOtto.

Mike said there has always been an issue in many counties about how to treat streets that have never been brought up to current standards to be accepted by the county for maintenance, and he talked about some of the issues.

Mark said he thought it would be great to help these people out, but we have to protect the county highway system the best we can, and accepting anything like this is not in our best interest. He said he has had requests from Merriam on the same thing about fixing up alleys. Mark said right now he is refusing to do anything to alleys and will continue to unless he is instructed otherwise. He said he tells the people their next step would be the Commissioners, so they might come in here some day.

Mark said he lives on a road that isn't maintained by the county, and they take care of their own road. He said if they need gravel they all pitch in and buy it.

Chad asked Mike if this is something that could be added to the Construction Ordinance he is working on. Mike said normally it is a separate ordinance. He talked about Allen County's ordinance and how it works. Mike said if they don't have a group or organization that pulls the people and the money together (to improve a road for acceptance), they probably won't get it done because they need all of the property owners to fund it.

Steve Hagen was present and he said he lives in a subdivision where there have been several conversations among the neighbors on how they resent paying taxes to Noble County if Noble County continues to disavow any responsibility for the road that they are trying to dedicate to them. Steve talked about a couple of options that the county might have to improve roads such as what is called General Improvement Statutes where a portion of the costs could be passed off to adjacent property owners. He also talked about a General Improvement Process which some cities have. Steve said you don't have to have unanimous consent to move forward

with either of the things. He said the lots that were laid out years ago may not be what is required today, but they are what was there at the time, and we have to find a way to deal with it, because if we can deal with it effectively we will start improving property values for everybody. Steve said he wouldn't mind paying some of the costs if it gets his road improved and into the county system.

Mark asked if we start looking at accepting new roads into the system, what the people who are living on gravel roads and have been waiting on chip & seal roads are going to say. He said there are a lot of issues that come up from that. Mark said from his perspective in dealing with the equipment, he knows many of the roads are not big to have our equipment try to maintain them. He said these issues are coming up more and more and we might have to make some decisions on that when we get all of our roads up to a decent standard.

### **PROBLEMS RESULTING FROM HIGH WATER ON ROADS**

Mark reported that with all of the rain we have had there was not a problem in LaOtto where we did all of that work. There was discussion about the problems that result from high water on roads and about possible solutions. Mike said we have some high water areas where people have driven into them and gotten stuck. He asked if there is a way to put up a "road closed" sign and impose a fine for someone that drives into high water and gets stuck. Dennis said we would have to pass an ordinance to impose a fine. Mike said people getting stuck in water imposes a lot of expense for the county. Mark said we don't typically put "road closed" signs up. He said we put "high water" signs up, and expect people to use some common sense. Mark said a lot of people say there needs to be a "high water" sign at a certain place, and when we tell them there is one there they say they didn't see it. Dave said some of our "high water" signs are permanent in places where we have problems. Mark said he thought if we are going to put up "road closed" signs we should have a set of guidelines as to how deep of water and at what point you determine the road should be closed.

### **COBBLESTONE SECTION III STREET**

Mike said he got a letter from Carson & Boxberger regarding the street issue in Cobblestone Section III. He said they represent Granite Ridge who purchased all of the rest of the lots and they are asking the Highway Department to release the driveway permits. Dennis said we can't accept the roads until they are up to our standards, but if we want to issue building permits we could issue them with the understanding that the County is not going to do anything with the streets. Mike talked about the problem with the developer having dissolved the corporation and not having any funds to work with. He said he had agreed to get a bond to us in 2006 or 2007 but never followed through with that, and we have no leverage now. Mike said when people purchase lots, part of the purchase price should be for the street surface. He said at a minimum, Granite Ridge should be putting up some funds for the portion of the street in front of the lots that they own. There was further discussion about just approving permits with the understanding that the county will not do anything with the street until it meets our standards. Dennis said he would propose to do that if they want to sit down and have another meeting to discuss the long term development of the addition.

Chad said the Cobblestone Association had written a letter to the original owner of the lots asking that he contribute to getting the streets up to the standards of acceptance.

### **INDOT - BRIDGE #134 PROJECT**

The Commissioner received a letter from David Armstrong, Local Programs Coordinator of the Fort Wayne District of INDOT, regarding the bridge #134 project, (H.I.). The letter indicated that if the county completes the Environmental and it is then determined that the

approved alternative in the NPA is to do nothing, then the project would be considered closed and complete, and the Federal funds that had been expended for PE will not need to be reimbursed, (H.I.). The letter also indicated that the work would be eligible for Federal reimbursement.

### **NOBLE COUNTY RDC MEMBER APPOINTMENTS - JOHN WICKER & BARB BABCOCK**

Steve Hagen came before the Commissioners on behalf of the RDC to discuss the Commissioners appointments to the RDC Board. He said in February the Commissioners made their annual appointments to the board. Steve said one of the requirements of an RDC member is that they become bonded, and after the appointment and during the process of bonding for one of the members that had served before, he decided he didn't want to share the necessary information with the bonding company to obtain a bond. Steve said it was Craig Bender, and he chose to resign from the RDC. He said at that time John Wicker was the East Noble School Board representative to the RDC, and he has agreed to switch over and become a regular member of the RDC which they think will be a positive thing. Steve said the RDC board members had talked to Barb Babcock from Campbell & Fetter Bank. He said the RDC is proposing that the Commissioners confirm John Wicker as a regular voting member of the Noble County RDC and appoint Barb Babcock as the School Board member for the RDC.

Chad moved to make the appointments as requested by Steve. Dave seconded the motion and it carried, 3-0.

### **STATEMENT OF BENEFITS RE: ESTABLISHING THE DEKKO ECONOMIC DEVELOPMENT AREA AND ALLOCATION AREA**

Steve presented A Tax Impact Statement on behalf of the Noble County Redevelopment Commission (RDC) to disclose any potential impact of establishing the Dekko Economic Development Area and capturing Tax Increment, (H.I.).

### **NATIONAL CRIME VICTIMS' WEEK PROCLAMATION**

Steve Clouse, Prosecutor came before the Commissioners to talk about Crime Victim's Week which began yesterday, and to ask that the Commissioners proclaim this week as National Crime Victims' Week. He introduced Suzie Pippenger who is the Victims Advocate; Teri Skinner, who has varied duties including a lot of victims work; and Brent Ecenberger, Deputy Prosecutor who handles a lot of the domestic violence related prosecutions. Steve said none of these people are entirely paid from the general fund. He said they are paid for by deferred prosecutions or the STOP grant through the Criminal Justice Institute, and supplemented by the general fund. Steve said every year they serve around 750 victims who have been physically abused, sexually abused, victimized financially, and victimized on-line through scams or identity deception.

Chad moved to adopt the proclamation for Noble County Crime Victims' Rights Week from April 21 – 27, 2013. Dave seconded the motion and it carried, 3-0, (H.I.).

### **TUCKPOINTING & COURTHOUSE STEPS**

The Commissioners left the meeting at approximately 10:38 A.M. to go outside to discuss the mortar color to be used on the tuckpointing that is currently being done to the

courthouse by KARR Tuckpointing, Inc., and also to discuss the condition of the courthouse steps where there are some mortar problems. The Commissioners returned at approximately 10:58 A.M.

Dave moved to approve the expense of \$4,920.00 to caulk the east and west steps to the courthouse, (H.I.). Chad seconded the motion and it carried, 3-0.

### **JAILER WORK HOURS**

There was a brief discussion with Sheriff Harp about the hours that are worked by the Jailers. Gary said the County Highway and the Jailers are the only two groups of county employees that work the full 2080 hours.

### **HANDBOOK DISCUSSION**

Present for this portion of the meeting were: Auditor Jackie Knafel; Sheriff Doug Harp; Treasurer Michelle Bricker; and Clerk Shelley Mawhorter.

The following handbook issues were discussed:

***NOTIFICATION OF JOB OPENINGS*** - There was discussion about notifications of job vacancies. Jackie said it had been discussed to send an e-mail to everyone in-house and maybe posting it also at each facility. She said Dave Baum has the ability to send it to every employee and he talked like he would be willing to do that. There was discussion about possibly posting it on the web-site once the time was up for posting it within.

Dave said we should probably have a listing of all of those facilities. After some discussion Jackie asked if the Commissioners want to leave it that it would be posted for no less than three (working) days and no more than ten (working) days, and the Commissioners agreed they did.

Chad moved to remove "The postings shall exist at the Auditor's Office and the Department/Facility where the vacancy exists" and replace it with "The postings shall exist at all county facilities and email notification by the IT Director". Dave seconded the motion and it carried, 3-0.

***FULL TIME HOURS*** – There was discussion about how to figure full time hours and how it would affect positions at the Sheriff's Department that work different types of hours and shifts. The handbook currently says an employee working no less than 1940 hours per year is considered full time. Jackie said when she figured it at 37 ½ hours per week she came up with 1950 hours. After some discussion the Commissioners said they felt it could be left like it is. Chad said if they are working full time and we know they are working full time, does it really need to be set to exactly the number of hours they are working. He said he thought there is too much variation in the shifts. Dave asked if that would come in to play when figuring workers comp or disability. Dennis said it shouldn't.

***PART TIME HOURS*** – Jackie said the part-time hours do need to be changed to 1456 hours (from less than 1940 hours) which is 28 hours a week times 52 weeks. There was discussion that the permanent part time employees should not work more than 28 hours per week per the new law, and that the part time hours and the permanent part time hours should be two different listings. There was discussion as to whether a part time person could work more than 28 hours per week or if it would be based on the 1456 hours per year. Jackie said it used to be she could have someone 40 hours a week for three months in the summer and it would be okay because it wouldn't be over the 1940 hours. This will be discussed further after Dennis has time to check out the new law.

**EXEMPT EMPLOYEES** – Jackie said she felt strongly there should be a list of exempt employees. Dennis and Dave agreed with Jackie. Chad said he thought we should go through the list and check to make sure everyone on it is either a professional services person or someone who is supervising and has the authority to hire and fire. Chad said the Matron is on that list and he didn't think she was doing any hiring or firing for the front office, nor is she a professional services person.

**WORK HOURS** – Chad said he would like to go back to when he made his motion to change the hours of the courthouse. He said it was his understanding at that time that it was ultimately what the amendment to the handbook was going to be, and at that time everyone was in agreement to that amendment, and at some point in time that changed. Chad said he felt that the Commissioners changed the hours and it was agreed to at that time, but as soon as the hours changed they no longer agreed to that. Shelley said that was not correct. She said they agreed to the 8 - 4 hours and she assumed it would go to 8- 4 with half an hour lunch, and the handbook still said we had two ten minute breaks to be used at the supervisors discretion. Shelley said she thought she even said something about that when Chad said they couldn't be used with the lunch if they had to sign in and out. She said if we are back to the half an hour and we're clocking in and out, which a couple of weeks ago we were going to clock in at 8:00 and out at 4:00 with the department heads discretion on the between, then she wants the two ten minute breaks taken out. Shelley said she was not saying that what Chad thought he was saying was one thing and what they thought was happening was another. Chad said what he said that day (2/25/13) was that the 10 minute breaks would not be taken in conjunction with the lunch and that was what they all agreed on that day, and then right after that they wanted to take the 10 minute breaks with their lunch again and make it a 50 minute lunch. He said when he made that motion he thought it was ultimately going to be the amendment to the work hours, because he read it right from the handbook and said this is what the change would be. Chad said he didn't have a problem with the breaks, but maybe we just need to take the time off the breaks. Doug said ultimately the breaks would be at the department heads discretion. Chad said the lunch still says it is 30 minutes. Dave said so they would just show a 30 minute lunch and if they take a break before and after, they would still just show a 30 minute lunch period. Shelley said she thought they were just going to clock in at 8:00 and clock out at 4:00. Dave said he thought the issue was that we have to show a lunch. Dennis said it just said it would be an unpaid lunch not to exceed 30 minutes. Dave said he thought our intent was to show that the employees took a lunch so they couldn't come back later and say they never got a lunch and they want paid for it. Doug said his purpose for wanting time clocks was not to monitor the lunches. He said time clocks can work either way. He said they can work for you or against you. There was discussion about how the time clocks that are being talked about would show the employee's lunch time on them and if it will or will not work the way it is intended. There was much discussion about the many variables when it comes to work times, lunch breaks and whether they are taken or not. Chad said he thought it probably ends up being based on per department. He said transport would probably just be an 8 hour (employee) in the time system and they take their lunch whenever they can get it. He said he thought it might just come down to office people for the most part. Dennis said we would need to state specifically who we are talking about. Gary said that is the reason the last time we discussed this he said he didn't want to get into micro-management, because there are so many issues with the different types of classifications and how they get their lunch. Doug said he felt like Dave was concerned with the worst employee that is going to try to take advantage of the system. He said to him he is hurting the people that come to work every

day that are not taking advantage of the system and trying to base policy on that one person. Doug said he thought they should focus on the 99.9% that are coming to work every day and doing their job and going home, and let the department heads deal with those employee issues. Chad said to try to make an amendment to the handbook - unless we classify every employee. After further discussion about variables in work hours, Dennis asked how other counties address the situation when it comes to work hours. He said do they say for instance that this is for office staff. Dave said the reason he brought this up is if someday payroll is not paid in house and goes out to a third party. He asked how we would expect them to know if lunch is taken or not. Dave said he could perceive payroll not staying in house if we start moving into the 20<sup>th</sup> century at county government levels, using internet based payroll and time cards, and that is the whole purpose of it at some point in time. Jackie presented a portion of the handbook from Shelby County that says that breaks cannot be taken at the beginning or the end of the day. Jackie said if we are going to time management, there had been discussion that it would almost be to the point that we would have to go hourly across the board, and there are problems with that also. After further discussion Chad moved to amend the work hour section of the employee handbook by omitting the entire second paragraph and replacing it with "certain overtime eligible employees shall be provided an unpaid 30 minute lunch period each day as determined by the department head, and that employees who choose to remain at their work location are not to perform work or assignments during this period and will not be compensated for such period unless approved in advance by the department head. Breaks are at the discretion of the supervisor or department head and may vary from department to department. Such breaks will be approved by the supervisor and shall not interfere with the proper performance of work duties or operational demands". Dave seconded the motion and it carried, 3-0.

**COMPENSATORY TIME OFF** – Jackie asked if the Commissioners want to leave compensatory time off not to exceed 240 hours (160 actual hours worked). She said taking the comp time within the time period does not work. Chad asked if we really want an employee to accrue 240 hours of comp time. He said that is a lot. Jackie said that would be a big pay out when they walk out the door. Gary said he thought the comp time should go down to 40 hours.

Chad moved to amend the Compensatory time off section. He said #1 should say: "Accrued compensatory time off for non-law enforcement employees shall not exceed **40** hours". (end of section #1). #2. Completely omit. Chad said #3 and #4 are okay. Dave seconded the motion and it carried, 3-0.

**INTRODUCTORY TIME** – Jackie said there is nothing to address a county employee taking another job within the county being on a probationary period. (There is a 180 calendar day introductory period for newly hired employees). Gary asked about an employee that took another position and it didn't work out and their original position was filled. There was discussion that it is a risk the employee would take, and that could happen if we go to the job classifications and someone wants to go to a better paying job. Dave said he thought 180 days probationary period was way too high for a transferred employee. There was much discussion especially about Dispatchers, Jailers, and Road Deputies and the amount of time it takes for them to know if they can do the job or not. There was also much discussion about the 10% less on new hires and who should and who should not have the 10% imposed. Jackie asked why we didn't leave it like it is. She said it has ultimately been up to the Commissioners before to waive or make an adjustment. Jackie said we have waived the 10% introductory period for dispatchers that have come from another county and are already trained and ready to go. Chad asked if it needed to be in the handbook that a suspension of the 10% could take place or do the department



heads just come to ask for it. Dennis said if they want the Commissioners to have the discretion to waive that 10% it should clearly be in the handbook.

Chad said following the sentence that reads "During this introductory period, said employee shall receive a 10% reduced salary from the funded position or classification per the Noble County Council Policy" to add a sentence that says "A waiver of the 10% reduced salary may be requested by the department head for consideration by the Noble County Board of Commissioners". After further discussion Dave seconded the motion and it carried, 3-0.

**RECESSED AND RECONVENED**

The Commissioners recessed their meeting at approximately 12:06 P.M. thinking they had concluded all of their business. They reconvened their meeting at approximately 1:01 P.M. April 22, 2013 upon the advice of the Auditor that the Sheriff's Department had sold the 2001 Chevrolet that had been the 911, car and the title needed to be signed.

Chad moved to sign the title. Dave seconded the motion and it carried, 3-0.

**ADJOURNMENT**

This session of the Board of Commissioners of Noble County was at approximately 1:03 P.M. recessed from day to day until the 29<sup>th</sup> day of April 2013.

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Gary Leatherman, President

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David J. Dolezal, Vice President

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Chad Kline, Member

ATTESTED: \_\_\_\_\_  
Jacqueline L. Knafel, Auditor