

BOONE COUNTY BOARD OF COMMISSIONERS

Meeting Agenda for July 1, 2024 at 9:00 AM

Connie Lamar Meeting Room
Boone County Annex Building
116 W. Washington St., Room 105
Lebanon, Indiana 46052

This is a friendly reminder that the Commissioners meeting will be open to the public. The Commissioners ask that Elected Officials/Department Heads to be mindful to members of the public and media as seating will be limited. There is a conference bridge functionality that is available to you.

ZOOM LINK- <https://zoom.us/j/4874385613>

Please mute your audio while on the call unless you are presenting an agenda item.

1. Call Commissioners' Meeting to Order.
2. Determination of Quorum and Pledge of Allegiance to the Flag
3. Approval of Minutes of the June 17, 2024 Commissioners' Meeting
4. New Business
 - A. Legal Issues County Attorney
 - B. Scott Walker Independent Contractor Agreement for Services Auditor/Council
 - C. WalkerHughes Insurance / Travelers Policy Proposal Commissioners
 - D. ARPA Project List Commissioners
5. Old Business
6. Staff Reports
 - A. Area Plan
 - B. Capital Investments / Facilities Max Mendenhall
 - C. Health Department Lisa Younts / Abby Messenger
 - D. Highway Department Nick Parr
 - E. Human Resources Megan Smith
 - F. IT Support GUTS
7. Elected Officials
8. Document Signing
9. Acknowledgment of Correspondence
10. Adjourn

This agenda is subject to change after official notification. All times are approximate. The meeting may be extended depending upon the circumstances. The meeting will be held at the same time on the next Tuesday if the regularly scheduled Monday meeting has been canceled due to an emergency.

The Board of Commissioners for Boone County Indiana acknowledges its responsibility to comply with the American Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternate audio/visual devices, and amanuenses) for participation in or access to County sponsored public programs, services and or meetings, the county requests that individuals make request for these services forty-eight (48) hours ahead of the scheduled program, services and/or meeting. To make arrangements, contact Kaylee Jessie, Executive Administrator at (765) 483-4492 or email: kjessie@co.boone.in.us.

BOONE COUNTY BOARD OF COMMISSIONERS

MINUTES OF THE JULY 1, 2024 MEETING

The Boone County Board of Commissioners met in regular session at 9:00 AM on Monday, July 1, 2024 in the Connie Lamar Meeting Room located on the main floor of the Boone County Annex Building at 116 W. Washington Street, Room 105, Lebanon, IN 46052 with the following personnel in attendance:

Donnie Lawson	Commissioner, President
Jeff Wolfe	Commissioner, Vice President
Tim Beyer	Commissioner
Bob Clutter	County Attorney
Kaylee Jessie	Executive Administrator

DETERMINATION OF QUORUM AND PLEDGE TO THE FLAG

Commissioner Lawson opened the meeting at 9:15 AM with a quorum of all three (3) Commissioners present and led the Pledge to the Flag in unison.

IN THE MATTER OF MINUTES

Commissioner Wolfe moved to approve the Minutes of June 17, 2024 Commissioners' Meetings as presented. Motion seconded by Beyer; motion passed unanimously 3-0.

IN THE MATTER OF LEGAL ISSUES

Bob Clutter, County Attorney, presented the following item(s):

Boone County previously adopted Ordinance 2019-05, which authorized the Town of Colfax to improve and own a segment of the trails within Boone County, between Thorntown and the county line. Within three (3) years of completion of the improvements to the trail, Colfax shall convey the trail to the Boone County Commissioners for future maintenance for the use of enjoyment of the public. It was noted that the improvements are nearing completion, and Colfax is preparing to transfer ownership back to Boone County as per the ordinance. Nick Parr, Highway Director, informed the Commissioners that there is remaining signage that needs installation. In preparation for the 2025 budgets, County Attorney Clutter proposed creating a specific line item within the Highway Department's budget dedicated to trail maintenance. This line item will cover ongoing maintenance needs such as mowing and tree/brush removal. Additionally, he suggested gathering quotes from vendors to assist with the ongoing maintenance. Clutter anticipates receiving the quit claim deed at the next meeting, facilitating the formal transfer of ownership from Colfax to Boone County.

IN THE MATTER OF SCOTT WALKER INDEPENDENT CONTRACTOR AGREEMENT FOR SERVICES

Ken Hedge, Council member, presented the Scott Walker independent contract agreement for services such as compiling and reconciling the Annual Financial Report. Reviewing and modifying issues related to the State

Board of Accounts Audit. Supporting the unit during the Annual State Board of Accounts Audit. Balancing and reconciling data, financial statements and daily reporting including payroll audits/reviews. Training employees on daily operations, reporting and the balancing and reconciling function of the Auditor and Treasurer's office. Additionally, other services that the Boone County Commissioners or the Boone County Council requests. The fixed hourly rate for this contract is one hundred fifty dollars (\$150.00) per hour, not to exceed fifty thousand dollars (\$50,000) annually without prior written approval of Boone County. Councilman Hedge confirmed this is a budgeted item within the County Council (\$40,000) and County Auditor (\$10,000) budgets.

Commissioner Beyer moved to approve the Scott Walker independent contract agreement. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

IN THE MATTER OF WALKERHUGHES INSURANCE / TRAVELERS POLICY PROPOSAL

Bob Clutter, County Attorney, presented the WalkerHughes Insurance / The Travelers Companies, Inc. policy proposal for the following: Commercial, General Liability, Employee Benefit Liability, Law Enforcement Liability, Public Entity Management Liability, Public Entity Employment-Related Practices Liability, Auto Liability, Auto Physical Damage, and Umbrella Liability. The proposal premium amount is \$574,270.

Commissioner Wolfe moved to approve the WalkerHughes Insurance / The Travelers Companies, Inc. policy proposal. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

IN THE MATTER OF AMERICAN RESCUE PLAN ACT (ARPA) PROJECT LIST

Carol Cunningham, County Surveyor, proposed an amendment to the American Rescue Plan Act (ARPA) Project List to reallocate funds between two projects. She informed the Commissioners that the Grassy Branch regulated drain project has been completed. As a result, she requested a reduction of \$600,000 from this project's budget. This freed-up amount is intended to be redirected towards the Terhune drainage improvement project, which has exceeded its initially estimated costs. Carol requested the Commissioners' support to proceed with her request before the County Council for approval of the re-appropriation of funds.

Commissioner Wolfe moved to approve the amendment to the ARPA Project List to reflect the reduction of \$600,000 from the Grassy Branch project and reallocate the funds to Terhune project. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

IN THE MATTER OF OLD BUSINESS

No old business items were presented at this meeting.

IN THE MATTER OF STAFF REPORTS

- APC –
- Capital Investments / Facilities – Max Mendenhall
- Health Department – Lisa Younts / Abby Messenger
- Highway Department – Nick Parr

- Human Resources – Megan Smith
- IT Support – GUTS
- Other Elected Officials

Nick Parr, Director of Highways presented the following item(s):

- 1) Community Crossings Match Grant (CCMG) 24-2 call for project funding commitment letter. Indiana Department of Transportation (INDOT) increased the maximum that each Local Public Agency (LPA) is eligible to receive in CCMG dollars for 2024 to \$1.5 million. Boone County was awarded \$372,975.55 for bridges 17 & 19 from the CCMG 24-1 call for projects earlier this year, leaving \$1,127,024.45 available for Boone County to apply for in the second call. Projects in this request are for road preservation, included are: Full Depth Reclamation of CR 500 E from SR 32 to CR 300 S and resurfacing of Cooper Lane and Belle Maison Drive. The applications are due in July and award notices are anticipated this fall. The construction of projects awarded CCMG dollars must be under contract for construction within four months and be completed and closed out within 18 months of award. If we are awarded funding, letting for these projects would be this fall and construction would take place in 2025. Commissioner Wolfe moved to approve the funding commitment letter. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

- 2) Duncan Robertson, Inc Change Order #2 for Project 2021-12, replacement of small structure SC015 Bridge #21. This change order increases the contract amount by \$7,228.19 to \$968,195.19. The increase is due to the amount of materials used versus what was included in the original quantities. Commissioner Beyer moved to approve the Duncan Robertson, Inc Change Order #2 for Project 2021-12. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

- 3) Milestone Contractors Change Order #1 for Project 2021-10, replacement of small structure WO-016. This change order increases the total contract amount by \$6,991.75 to \$426,076.75. Quantities in addition to the original planned amounts were needed to complete the project. The materials were placed at the direction of our team during construction. Commissioner Beyer moved to approve the Milestone Contractors Change Order #1 for Project 2021-10. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

- 4) Lebanon Utilities right-of-entry (ROE) agreement to access their easement and poles on Lot 2 along I-65. They will begin work the week of July 8th, and the work could take up to thirty (30) days. Commissioner Wolfe moved to approve the Lebanon Utilities right-of-entry agreement. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

- 5) Butler Fairman & Seufert Task Order #36 supplemental amendment request for Project 2023-05, sidewalk replacement in various locations. The project is continuing longer than anticipated and has encountered issues with materials meeting specifications, therefore additional hours worked for inspection and oversight are needed. Requesting execution of Task #36 supplemental, which increases the total amount by \$10,680. Commissioner Wolfe moved to approve the Butler Fairman & Seufert Task Order #36 supplemental amendment request for Project 2023-05. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

- 6) **Highway Items for Information**
 - Road work around the Lilly project
 - Traffic signals at 150 W/ 300 N, 375 N/SR 39 and SR 47/150 W are live.

- Pavement markings and speed limit signs have been placed on 150 W north of 450 N

IN THE MATTER OF PUBLIC COMMENT

- 1) Mike Broach, Boone County resident, presented a notice and read it aloud.

Notice of Fiduciary Capacity as Public Trustee and Agent of the People

Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent

To: Boone County Commissioners, Boone County Council

Cc: Indiana House of Representatives (All Members), Indiana Senate (All Members); Indiana Attorney General, Todd Rokita; Indiana Secretary of State, Diego Morales; Indiana Supreme Court

I, one of the People (as seen in the **Indiana Constitution, Article 1, Section 1**), republican in form, *Sui Juris*, do serve you, Boone County Commissioners and Boone County Council, this Notice, by Necessity, that you do provide immediate due care:

Please take notice that all political power is inherent in the People and that the People have a right to lawfully instruct their government (**Indiana Constitution Article 1 Sections 1 and 31**), and

Please take further Notice that as a Public Trustee and Agent of the People, you serve in a fiduciary capacity solely for the People's benefit, implying and necessitating great confidence and trust and binding you to act in good faith and with due regard, for the People who you serve, and

Please take further Notice that when the People provide lawful instruction in pursuance of the highest law, the constitutions, good faith demands that such instruction shall be obeyed. Any prior acts or agreements, not made in pursuance of the highest law, by public trustees or government servants, are inferior and shall yield to the People's lawful instruction. See maxims below. Maxims referenced herein are from *A Selection of Maxims of Law by Charles A. Weisman*.

Maxim of Law 50c: Good faith demands that what is agreed upon shall be done.

Maxim of Law 11s: One lawfully commanding must be obeyed.

Maxim of Law 11w: In the presence of the superior power, the inferior power ceases.

Please take further Notice that fiduciary capacity comprehends obligations to manage assets competently, select and supervise agents diligently, and undertake appropriate investigations before making decisions such as entering or renewing contracts. Such obligation may involve reconsidering prior decisions, potentially including revocation. See maxims below.

Maxim of Law 7f: What is done without consideration or reflection, upon better consideration we should revoke or undo.

Maxim of Law 24f: A contract without consideration, or upon a false consideration, (which fails,) or upon unlawful consideration, cannot have any effect.

Please take further Notice that no cause of action for bringing a suit can result from a government trustee following lawful instruction from the People. See maxim below.

Maxim of Law 44c: No guilt attaches to him who is compelled to obey.

Please take final Notice that my constitutionally sound wish, order, and demand, which you are bound by oath to follow unless you can prove by way of sworn affidavit that I have misconstrued the Indiana Constitution or the Maxims of Law, is that you provide **remedy to the People by investigating all contracts with regard to your fiduciary capacity and mandatory requirements of your trust indenture, the**

Indiana Constitution, and take any corrective action to bring those contracts into compliance with such requirements.

If you disagree with any of the information or claims in this notice or if you claim to have been delegated the authority to ignore the People's instruction pursuant to the constitutions and Maxims of Law, please show, within 10 (ten) days where you were delegated the Constitutional Authority, or agree by acquiescence, all statements in this notice to be truth and fact. Any man, woman, or person found suppressing this lawful communication between the People and government agents/trustees is engaging in tortious interference of contract and agrees to pay 50,000 dollars per count or infraction. Any response from an attorney not directly addressed by this notice will be considered a non-response. All responses not sworn under penalty of perjury are non-responses. If remedy, as instructed, is not given, the People, to whom you swore an oath, will recognize it as being done purposely, with full knowledge, intent, and malice. No court shall be able to rehear this matter, but it shall stand as evidence, truth, and law in all courts of record.

This notice is sent in the peace and love of Jesus Christ that you will give due care to the People, who hold all political power.

Excerpts from an Article entitled *The Constitution and the Public Trust* by Robert G. Natelson in *Buffalo Law Review* Volume 52 No. 4:

There are at least five broad fiduciary obligations...relevant to government officials:

1. The duty to follow (lawful) instructions
2. The duty of reasonable care
3. The duty of loyalty
4. The duty of impartiality
5. The duty to account

The duty to follow (lawful) instructions means that public officials are legally bound and obligated to act in accordance with the purpose and rules of the relationship as set forth in the governing instruments (the constitutions).

The duty of reasonable care applies irrespective of good intent and comprehends obligations to manage assets competently, select and supervise agents diligently, and undertake appropriate factual and legal investigations before making decisions.

The duty of loyalty is the fiduciary's obligation to subordinate his own interests to the welfare of the beneficiaries (the People). Acting in a self-serving way ("self-dealing") violates the duty of loyalty because of the risk that the fiduciary may be enriched at the expense of the beneficiary.

The duty of impartiality requires the decision maker to avoid favoring some beneficiaries over others (some People over others), unless otherwise directed by the governing documents (the constitutions). Thus, a trustee (a government official) must act with due regard to each beneficiary's respective interests. By analogy, public trustees should avoid targeting particular constituencies for favor or for punishment.

Finally, the fiduciary has a duty to account for his conduct, including an obligation to repair any harm caused by breach of the public trust (the constitutions).

Only if fiduciaries (government officials) honor all of these duties, does the law grant them a fairly broad realm of managerial discretion

- 2) Ron Coy, Boone County resident, encouraged the Commissioners to uphold the constitution and stand up to protect our grassroots.
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IN THE MATTER OF DOCUMENT SIGNING

- 1) Claims Dockets – regular, prepays, payroll, and insurance.
Commissioner Beyer moved to approve Budgetary Claims presented from the Auditor’s Office. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.
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IN THE MATTER OF MAIL

See (**Appendix #3**) for a list of mail opened by the Commissioners on this date.

IN THE MATTER OF ADJOURNMENT

With no further business, Commissioner Beyer moved to adjourn the Boone County Commissioners’ Meeting at 9:56 AM on Monday, July 1, 2024. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.