

Boone County Board of Commissioners Minutes
October 7, 2019
Connie Lamar Meeting Room
Boone County Government Building

Commissioners Present: Jeff Wolfe, Donnie Lawson, and Tom Santelli

Commissioners Absent:

Staff Attending: Bob Clutter (County Attorney) and Kaylee Jessie (Administrative Assistant)

Board President Jeff Wolfe opened the meeting at 9:08 am with the pledge of allegiance.

Approval of Minutes for September 16, 2019 (Regular Meeting):

Commissioner Tom Santelli made a motion to approve the minutes for the September 16, 2019 meeting. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.

In the Matter of Legal Issues:

Attorney Bob Clutter presented the following items:

1. Performance Bonds for Acceptance
 - a. The Heritage Section 2
 - Storm Drains / Subsurface in the amount of \$518,547.70
 - Erosion Control in the amount of \$19,841.17
 - b. 267 Industrial Park Farrell Drive Tile Relocation
 - Farrell Tile Relocation in the amount of \$248,320.00
 - c. Edmonds Creek North @ Anson Section 2
 - Erosion Control in the amount of \$124,252.00

Commissioner Donnie Lawson made a motion to approve the acceptance of all three performance bonds. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.

2. Global Master Services Agreement with ADP for the Wisely Pay Cards. Commissioner Jeff Wolfe authorized the agreement to be executed on September 18, 2019, and it's being presented today for ratification.

Commissioner Tom Santelli made a motion to approve the Global Master Services Agreement with ADP. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.

3. Operating Assistance Grant Agreement administered through the Indiana Department of Transportation for the Boone County Senior Services. The Commissioners approved the Operating Grant earlier this spring.

Commissioner Donnie Lawson made a motion to approve the Operating Assistance Grant Agreement. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.

In the Matter of Bid Opening for Project No. 2019-03 Crack Sealing in Various Townships:

***** Bid opening began at 9:13 am. *****

1. **Bidder's Name:** Freefill Asphalt Inc.
Date Received: October 4th at NOON.
Bid Amount: \$77,000
Base Bid Plus 7 Alternates: \$148,786.00

Commissioner Donnie Lawson made a motion to take bid received under advisement. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.

In the Matter of Discussion about a County Road:

Rhonda Stapert, Boone County Resident, was present at today's meeting to discuss the roads located in Marion Adams Township. The residents that live in the area would like for the roads to be passable, safe, and the least damaging to vehicles as they can be. Rhonda presented a packet to the Commissioners outlining the issues and the resident's desired short term / long term results, along with attached exhibits. **(Appendix #2)**

Kathleen "Kathy" King, Boone County Resident, added that all the residents would like to see better upkeep of the roads. She has recently had \$1,500 worth of work done to the front of her car, and it's only 4 years old. Most neighbors have mentioned that they are willing to pitch in to have the roads paved.

Rhonda Stapert thanked the Commissioners for allowing them to address their concerns at today's meeting, and also thanked Commissioner Donnie Lawson for meeting with them outside of the meeting to look at the roads in person.

Commissioner Tom Santelli added that there have been many discussions on converting the gravel roads to paved roads. Craig Parks, County Engineer, definitely has the desire to convert ten miles a year, but next year has only received the funding for one mile. The county is working with the challenges of having a budget.

Craig Parks, County Engineer, requested the residents to contact the Boone County Highway Department "BCHD" and ask for himself or Nick Parr. He also added that he put the Road Conversion Program in place with a scoring matrix for the public to understand the process of selecting roads to be paved each year. Another item he wanted to address is that the BCHD does use chip and seal, but for the preservation of pavement. An additional item was about the 53 Stone that has been laid on roads for years. This is a soft limestone that breaks down and creates dust. The BCHD is converting the roads to gravel, but it's a process getting the gravel on top of the stone. He also wanted to add that he does not make decisions based on geographic but on the needs of the county. Marion Adams Township is not being ignored; the county just has a lot of gravel roads on top of balancing the preservation of paved roads before they begin falling apart.

In the Matter of Monon Trail Presentation – Kirklin / Clinton County:

Chip Mann and Dan Mann are present at today's meeting representing Hamilton County, Boone County, and Clinton County. Chip gave a little background history of their family's involvement with the growing community in Kirklin and the Monon Trail. The Governor has given the State of Indiana the opportunity to connect communities through trails. It allows our state to have something that we can be proud of and to promote businesses coming here. Everybody in this room loves taking their families to do fun things, and the Monon Trail can be apart of that. Three maps were provided to show trail possibilities for the Monon Trail in Boone County, Kirklin, and Sheridan. **(Appendix #3)** There is an opportunity to receive grant funds that they would like to submit a proposal with the support, partnership, and encouragement from Boone and Clinton County. They are requesting a letter of support, not financial support. They will also need to work with the county to find alternate routes on county roads that might benefit by co-sharing with the trail, along with the residents, and making the connection between trails.

Elise Neishalla, County Councilwoman, commented that it has been so neat work with the brothers, Dan and Chip Mann, and to see their vision for Kirklin. They have come in as servant leaders, meeting with the community and citizens asking, "How can we serve you?". To me, this is very exciting as the trail is gaining momentum. We could have a unique opportunity of having a trail loop with the connection between the Monon Trail to the Big Four trail. It opens up the door further to opportunities in the future for bike tours. There are lots of cool towns, shops, and things to stop and see along the way.

Commissioner Jeff Wolfe requested time to prepare a letter of support for the next meeting.

In the Matter of Cummins Sales and Services Planned Equipment Maintenance Agreement:

Craig Parks, County Engineer, presented the Planned Equipment Maintenance Agreement in the amount of \$2,808.65 with Cummins Sales and Services for the generator at the jail. This is an automatic renewal. County Attorney Bob Clutter does have minor modifications to the terms and conditions.

Commissioner Tom Santelli made a motion to approve the Planned Equipment Maintenance Agreement subject to the acceptance of County Attorney Bob Clutter's modifications. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.

In the Matter of Multiple Parcels on a Deed and Sales Disclosures:

Recorder Nikki Baldwin, Deputy Assessor Peggy Lewis, and Auditor Heather Myers are present at today's meeting to discuss an incident that recently occurred with eRecording where one deed contained a total of thirty-five lots and two large metes and bounds descriptions. Because each lot sold for a different price, it required a sales disclosure that totaled one hundred thirty pages. The Recorder's Office, Auditor's Office, and Assessor's Office must review each of the items on these documents. If one item is not correct or meets the requirements on the sales disclosure, the whole package goes back to the submitter to make the necessary changes. Then the process begins again where all three offices must review each document to make sure there were no additional changes made. From a productivity point of view, depending on how many pages there are for the sales disclosure, each office could spend a few hours reviewing these documents.

Nikki Baldwin, Recorder, presented the request to meet with County Attorney Bob Clutter to draft an ordinance limiting how many transfers can be listed on one deed. County Attorney Bob Clutter commented that he can work with Nikki and check to make sure there aren't any statutes prohibiting how many transfers can be listed on one deed.

In the Matter of Project Management Contract for ADP Payroll and HR Implementation Project and Project Documentation Contract for ADP Payroll and HR Implementation Project:

Commissioner Jeff Wolfe presented the Project Management Contract for ADP Payroll and HR Implementation Project **and** the Project Documentation Contract for ADP Payroll and HR Implementation Project with Government Utilities Technology Service, Inc ("GUTS"). This project was initiated by the Commissioners. County Attorney Bob Clutter has reviewed both documents and does not have any additions, changes, or corrections from a legal standpoint.

- Compensation for the Project Documentation Services will be calculated at \$125 per hour, and not to exceed \$5,000 for the period 10-07-2019 thru 12-31-2020.
- Compensation for the Project Management Services will be calculated at \$125 per hour, and not to exceed \$40,000 for the period 10-07-2019 thru 12-31-2020.

Commissioner Tom Santelli made a motion to approve the Project Management Contract for ADP Payroll and HR Implementation Project **and** the Project Documentation Contract for ADP Payroll and HR Implementation Project with Government Utilities Technology Service, Inc ("GUTS"). Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.

In the Matter of SIHO Amendment #1 and Summary of Materials Modification:

County Attorney Bob Clutter presented the Amendment #1 and Summary of Material Modifications with SIHO listing the Auditor and Commissioner's Assistant as members of the Boone County Government workforce to be designated as authorized to receive Protected Health Information from the Plan in order to perform their duties with respect to the Plan. This will also be accompanied by a non-disclosure agreement.

Commissioner Donnie Lawson made a motion to approve the SIHO Amendment #1 and Summary of Materials Modification. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.

In the Matter of Updated Emergency Management Plan:

Rachel Hanson, EMA Administrative Assistant, presented the updated Comprehensive Emergency Management Plan. She also thanked all the agencies involved and for their participation in the meetings.

Commissioner Donnie Lawson made a motion to approve updated Comprehensive Emergency Management Plan. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.

In the matter of Old Business:

There was none at this time.

In the Matter of Staff Reports

- a. Facility Maintenance – Mike Miller
- b. APC – Rachel Cardis
- c. IT Support – GUTS
- d. Health Department – Cindy Murphy / Brett Peppin
- e. Highway Department – Craig Parks

Rachel Cardis, Area Plan Director, wanted to let the Commissioners know that she will be working with Craig Parks and Bob Clutter to create a form for any permit applications on county owned property to have a narrative submitted. An applicant is going to come to them to provide the narrative, construction schedule, and that way any project will go before this body. It will not release them for construction, but it will authorize them to apply for permits to every agency (State, County, and/or Federal). County Attorney Bob Clutter commented that Rachel brought this to him, and he thinks it's a phenomenal idea because there will be a great paperwork trail and a formal public approval process.

Michael Nielsen, County Sheriff, commented in the spirit of transparency and moving forward with three projects going on out at the jail.

1) Small shelter around the temporary dog holding area. He has met with Rachel Cardis and Craig Parks about this project. Next, he will meet with Ken Hedge to see if there are any draining issues.

2) Parking lot expansion. Craig Parks has also been involved with this project.

and 3) He would like to seek permission from the Commissioners for three flag poles to be installed at the front of the driveway along with a new sign for the jail. The previous sign was damaged and taken out when the drainage was redone during the construction on Indianapolis Avenue. He has already begun getting quotes but would like to know if he should utilize the new application process for this project moving forward. Commissioner Jeff Wolfe commented that this might be a great test case for the new application process.

Craig Parks, County Engineer and Director of Highway Department presented the following items:

1. There is a Public Hearing on the study of County Road 300 S scheduled for October 8, 2019 at 6:30 pm in the Zionsville Town Hall. This is a project between Boone County, Town of Zionsville, and Indianapolis MPO. The consultant has asked if any of the Commissioners would like to speak at the introduction. Commissioner Tom Santelli commented that he will be attending the meeting and happy to make a brief comment.
2. Construction in Right of Way Permit (#201910037) for Vectren Energy to install one bore under the road located at CR 780E south of CR200S. The Boone County Highway Department recommends approval with a bond in the amount of \$5,000.

Commissioner Donnie Lawson made a motion to approve the construction in right of way permit (#201910037) for Vectren Energy. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.

3. Railroad Crossing Striping Grant Agreement from INDOT in the amount of \$23,427.50 to add striping and new signs at all the railroad crossings within Boone County's jurisdiction.
Commissioner Donnie Lawson made a motion to approve the Railroad Crossing Striping Grant Agreement from INDOT. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.
4. LPA/INDOT Agreement with INDOT in the amount of \$9,600 for Right of Way Services for Project 2018-12, Reconstruction of Bridge #154.
Commissioner Tom Santelli made a motion to approve the LPA/INDOT Agreement with INDOT. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.
5. A Supplemental Agreement #1 with Butler Fairman & Seufert, Inc. in the amount of \$0.00 for Project 2018-12, Reconstruction of Bridge #154.
Commissioner Tom Santelli made a motion to approve the Supplemental Agreement #1 with Butler Fairman & Seufert, Inc. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.
6. LAP/INDOT Agreement in the amount of \$296,576 for preliminary engineering for Project 2019-04, Bridge #192 Replacement.
Commissioner Donnie Lawson made a motion to approve the LPA/INDOT Agreement. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.
7. A quote from Conexco in the amount of \$9,500 for replacement of no less than 250ft of sidewalk in various locations within the Royal Run subdivision for Project 2019-13.
Commissioner Donnie Lawson made a motion to approve the quote with Conexco. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.
8. Change Order #2 with HIS Constructors in the amount of -\$1,040 for Project 2018-09, Reconstruction of Bridge #207. This is the final change order and results in a final contract cost of \$798,896.51.
Commissioner Donnie Lawson made a motion to approve the Change Order #2 with HIS Constructors. Commissioner Tom Santelli seconded the motion. Motion carried 3-0.
9. Change Order #1 with Pavement Solutions in the amount of \$9,840 for Project 2019-02, Microsurfacing in Various Townships. The Boone County Highway Department has requested an additional layer of microsurfacing on Kissel Road.
Commissioner Tom Santelli made a motion to approve Change Order #1 with Pavement Solutions. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.
10. The request to declare three pieces of Highway Department equipment and one piece of Facilities equipment as surplus.
Commissioner Tom Santelli made a motion to approve declaring equipment as surplus. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.
11. United Consulting did have a critical finding during the routine inspection on Bridge #217, CR 550S over Eagle Creek. Barrels have been placed to close the shoulder on the south side of the structure. The Boone County Highway Department will need to rearrange the 5-year plan to replace the structure.

Other Elected Officials:

There was none at this time.

In the Matter of Public Comments:

1. Phil Schlak with ATC Group Services LLC wanted to follow up to see if the wells located on the 4-H Fairgrounds have been tested recently. Commissioner Jeff Wolfe recommended that he reaches out to Jack Jones, Facilities Manager of the 4-H Fairgrounds to see if the wells are being used to livestock watering or if they converted to city water. Phil Schlak commented that Sunoco Evergreen is willing to sample the wells, having them analyzed and paid for if need to.
2. Commissioner Tom Santelli commented that the City of Lebanon had the Unite Under the Lights celebration Saturday evening and it was a fabulous event that they put together. Joe LePage should be congratulated for seamless execution. One of the things that were mention in his speech several times was the great appreciation of the County Council and Commissioners for the preservation of the courthouse. Everyone feels that is the centerpiece. Along those lines, Tom wanted to thank Mike Miller, Craig Parks, contractors, and everyone that has been involved with that. Now, with the construction of the ADA Ramp, there was an update in Craig's plan. The critical path on that is the limestone. Craig Parks, County Engineer, commented that the cutting of the stone that has caused the delay. He has still let the contractor know there is a contractual date, so liquidated damages will be assessed. He believes that they have been given an ample amount of time.

In the Matter of Document Signing:

1. A key request form for Karen Neaville in the Clerk's Office.
Commissioner Donnie Lawson made a motion to approve the key request form.
Commissioner Tom Santelli seconded the motion. Motion carried 3-0.
2. An affidavit for payment for USI Consultants in the amount of \$1,065 for Bridge #202 Rehabilitation.
Commissioner Donnie Lawson made a motion to approve the affidavit for payment.
Commissioner Tom Santelli seconded the motion. Motion carried 3-0.

In the Matter of Claims presented in today's meeting

See (Appendix #4)

Commissioner Tom Santelli requested if the Auditor Heather Myers could return to the meeting as he has a number of things he would like to address. There were two claims submitted during the last Commissioners meeting regarding payroll that was not supported by hours worked. That is in direct violation of Federal Wage and Salary standards. Specifically paying for but not counting hours worked which is statute 778.319. It also applies to a fixed sum for a varying amount of overtime, and that's statute 778.310. What he certainly doesn't want to have happening is setting a precedent where claims are submitted and not reviewed with the Council and Commissioners ahead of time that goes against not only federal law state statute, as well as the County's employee handbook. Specifically, each employee is designated as either non-exempt or exempt from federal and state wage and hour laws. Non-exempt employees are entitled to overtime pay under the specific provisions of federal and state laws. Exempt employees are excluded from specific provisions of federal and state wage and hour laws. The County Commissioners may change an employee's exempt or non-exempt classification only upon written notification. There are a number of issues that were presented as a result of those two claims which were in the minutes from the last Commissioners meeting. Another issue it raises is that if you have a first deputy that under the new 2020 provisions, which is a \$35,000+ minimum wage, our first deputies would be considered a non-exempt employee. If you have a first deputy, it is important that if they are non-exempt now, you would need to come before the Commissioners to change that to exempt status. Also, if you have an exempt employee that you are going to pay a bonus, that does not fit with our wage and salary guidelines. At a minimum, that would require an appropriation request from the Council. Fairly said, it's easy not to know the statues, but it's a lot easier to come and ask the question first before it's submitted. When I [Tom] have 400 pages of information to read through and have to go through the claims individually, what I [Tom] do expect is the Auditor would come to him and point out claims with questions. I [Tom] do not

expect the Auditor to come forward with a request that violates state, federal, and our employee handbook. I [Tom] do not like to have to read through all the claims and pick those out individually. I [Tom] want to make sure that all the department heads recognize that we have to pay non-exempt for hours worked. We cannot say well they work this many hours and I'm going to pay them a sum different. I [Tom] am asking Bob Clutter to make the Auditor aware of this and also to make sure we have timesheets submitted for the employees to support the \$300. We need to make sure we are complying with federal, state, and requirements of the employee handbook. I [Tom] am sorry that Heather is not here to at least go through the rationalization of how this got slipped into the claims, questioned it and then Dennis (HR Consultant) met with Heather. They were to submit the timesheets and I [Tom] have not seen those. Bob, if we could make sure we get copies of those for the Commissioners so that we can prevent an issue with federal coming in with the wage and hourly. Because when they come in, they will examine two years of your employee's employment and what's been paid. If there is a gray area, ask first. We have people on staff, knowledgeable Commissioners... I [Tom] have personally been through this in the private sector and the fines are substantial and you must end up paying those employees. It's not that somebody says I'm going to work these hours and you don't have to pay me. Because at some point in time they could say I worked all these hours and you didn't pay me. I [Tom] would ask that we are all in compliance, and I [Tom] am sure we want to be. This is one of the reasons why we are going to an outside payroll service.

Commissioner Jeff Wolfe commented that this is not just an opinion from Tom; this is a shared opinion by those of us on the board. We want to make sure that we have accurate record-keeping. We also have HR professionals on contract to make sure we don't have a mistake like this.

Commissioner Tom Santelli wanted to address a second issue. Again, I [Tom] am sorry that Heather is not here. We are not sure whether the Auditor contracted on behalf of the Auditor's Office with an attorney or whether she contracted privately with an attorney. There is a bill that has been submitted as a claim. I [Tom] am sure that there is a rationale that could be explained behind it, but it's something that if it were to be submitted it would have to go through the Council and the Commissioners. No office can enter into a contract without the review and approval by the Commissioners. There is a \$900 attorney bill that has been submitted and appears to be a private claim that is being submitted through the county. What is the rationale behind that submission? Who in the Auditor's office submitted the claim? I [Tom] would like a copy of the bill from the attorney to see whether it was to the county or the individual. I [Tom] have to rely on the office of the Auditor that they are picking out the issues at hand that I [Tom] should review, not that they are being submitted by the Auditor and then I [Tom] have to catch them. That's not right.

Commissioner Jeff Wolfe stated that he is going to remove the claim specifically from the claims docket list to be considered separately. The claim is for Whitsitt & Nooning, P.C. in the amount of \$900 – Check # 186599 – Dated 10/07/19.

Commissioner Tom Santelli made a motion to approve claims as submitted with the removal of the claim for Whitsitt & Nooning, P.C. in the amount of \$900 for the Auditor's office. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.

Commissioner Jeff Wolfe asked the board if anyone would like to make a separate motion to approve that individual claim. The claim was denied due to lack of motion.

In the Matter of Mail

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

With no further business, Commissioner Tom Santelli made a motion to adjourn at 11:38 am. Commissioner Donnie Lawson seconded the motion. Motion carried 3-0.