

BOONE COUNTY BOARD OF COMMISSIONERS

MINUTES OF THE SEPTEMBER 18, 2023 MEETING

The Boone County Board of Commissioners met in regular session at 9:00 AM on Monday, September 18, 2023 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 9:16 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 August 21, 2023, and September 5, 2023, Commissioners' Meetings as presented. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

IN THE MATTER OF LEGAL ISSUES

Attorney Bob Clutter presented the following items:

- 1) Veridus Group Recommendation Letter 029 for approval of the costs to complete electrical rough-in/final connections and security camera equipment installation throughout existing Cell Blocks A through G. The total amount of the proposals prepared by Center Township Electric LLC and Security Pros, LLC for this project is \$112,270.21.
Commissioner Beyer moved to approve ratifying the Veridus Group Recommendation Letter 029 proposals signed by Commissioner Wolfe on September 14, 2023. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.
 - 2) Veridus Group Recommendation Letter 030 for the approval of costs per the IGH Steel Fabrication Inc. Quotation 15664 in the amount of \$26,821.27 for the storage cages and F Block door modifications to accommodate existing Booking/Holding renovations.
Commissioner Beyer moved to approve the Veridus Group Recommendation Letter 030 for the IGH Steel Fabrication Inc. Quotation. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.
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IN THE MATTER OF AMENDING THE AGENDA

Commissioner Beyer moved to add a presentation and discussion pertaining to elections by Indiana First Action. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

IN THE MATTER OF FOLLOW-UP DISCUSSION ON WITT ROAD/CR 150 W

Michael Andreoli, legal counsel for the Fahrenbach's and Morrison/Burnell's, announced his clients have reached an agreement with the State of Indiana regarding the additional land acquisition, right-of-way acquisitions, work to be done in the right-of-way, and compensation as it relates there to. His clients thank Commissioner Lawson for his continued support and Commissioner Beyer for his motion that allowed negotiations with the state to proceed.

Michael Watts, Pure Development, is thankful the parties were able to come to an agreement. He requested a motion to be taken to approve the remaining small section of Witt Road/CR 150 W that will allow them to reconstruct the road as recommended by their traffic engineers and roadway engineers.

Commissioner Beyer moved to approve the reconstruction of Witt Road/CR 150 W (permit # 202310053) from CR 450 N to State Road 47 in all areas not previously approved. The motion is subject to the same conditions regarding any offers on temporary right-of-way that have not been accepted or remain open, so those people have an opportunity to accept those offers. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

IN THE MATTER OF VEHICLE PURCHASE AGREEMENT FOR HEALTH DEPARTMENT

Abby Messenger, Environmental Health Director, presented the Vehicle Purchase Agreement for the Boone County Health Department – Environmental Division.

- 2023 Ford F150
- 2023 Ford Escape

Commissioner Wolfe moved to approve the Vehicle Purchase Agreement for the Boone County Health Department. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

IN THE MATTER OF BOONE COUNTY HOSPITAL ASSOCIATION APPOINTMENTS

County Attorney Bob Clutter presented the two letter of recommendation letters received from Kelly L.P. Braverman, President/CEO of Witham, regarding the consideration of reappointments to the Boone County Hospital Association. The Board recommended the following:

- Thelma Theobald to be reappointed for another four (4) year term.
- Russel Roberts to be reappointed for a two (2) year term.

Commissioner Wolfe moved to approve reappointing Thelma Theobald and Russel Roberts to the Boone County Hospital Association as requested. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

IN THE MATTER OF RFP EMPLOYEE BENEFITS BROKER SERVICES

Megan Smith, Human Resources Director, presented the 2023 Request for Proposal (RFP) for Employee Benefits Broker Services. Proposals will be due by 8:30am on Monday, November 20th, 2023. The intention is for the contract to be a 3-year agreement effective 1/1/2024.

Commissioner Wolfe moved to approve releasing the RFP for Employee Benefits Broker Services. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

IN THE MATTER OF JX PETERBILT CONTRACT

This item was tabled.

IN THE MATTER OF CHA AGREEMENT FOR DESIGN OF BRIDGE 139

Nick Parr, Director of Highways, presented the CHA agreement for the design of the replacement of Bridge No. 139 – CR 875 W over Walnut Fork Sugar Creek.

Commissioner Beyer moved to approve the CHA agreement for the design of Bridge No. 139 and authorizes Commissioner Lawson to sign on behalf of the Board. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

IN THE MATTER OF PROJECT 2023-03, MICROSURFACING CHANGE ORDER # 1 & 2

Nick Parr, Director of Highways, presented the following Pavement Solutions, Inc. Contract Change Orders for Project 2023-03, microsurfacing in various townships:

- Change Order #1
 - Contract Sum prior to this Change Order **\$ 683,082.90**
 - Contract Sum will be increased by this Change Order **\$ 46,074.10**
 - New Contract Sum including this Change Order **\$ 729,157.00**

- Change Order #2
 - Contract Sum prior to this Change Order **\$ 729,157.00**
 - Contract Sum will be increased by this Change Order **\$ 134,384.80**
 - New Contract Sum including this Change Order **\$ 863,541.80**

The changes include line striping for this project.

Commissioner Wolfe moved to approve the Pavement Solutions, Inc. Contract Change Orders # 1 & 2. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

IN THE MATTER OF INDIANA FIRST ACTION PRESENTATION

Eric Crouse, a Boone County Resident / Indiana First Action, presented a PowerPoint presentation requesting Boone County to consider returning to paper ballot systems for voting. It is believed that the current methods used across county, state and country are systems that avoid scrutiny, lack accountability, that are haphazardly implemented, and that are vulnerable. (See Appendix #2 for PowerPoint presentation.)

Commissioner Beyer's remarks -

We were presented a lot of information related to elections at the last meeting. I have spent quite a bit of time going through all of it since then. While this issue was not on my radar when I ran for office, the notice, by citing the constitution, is related to one of the main reasons I ran for office.

In August 2021, after college and school mask requirements were seemingly blindly reinstated nearly everywhere primarily in only colleges and schools, I began studying the federal and state constitutions as part of a group. I am no longer actively involved in that group; however, I continue to study the state and federal constitutions to this day and share what I have learned.

On a personal level, this issue also touches home for me because my parents, in Ohio, hosted voting in their basement starting in 1980 and did so for many elections thereafter until voting was moved from people's homes to churches, community centers, and similar locations.

First, I will provide a brief summary of the notice based on my studies of the constitutions for the past several years. While I will highlight some of them, I'm not going to read all of the parts of the Indiana constitution or all of the definitions for all of the words used but I did read them and looked up many of the words used in the notice in dictionaries such as early editions of Black's Law Dictionary, 1828 Webster's Dictionary, and others of the founding era that would have been applicable at the time that our constitutions were written.

A notice is a legal document intended to provide information. This notice provides information about the maladministration of elections and provides an opportunity for such maladministration to be corrected.

Our state constitution (in Article 1, which is our state constitutions' Bill of Rights, Sections 1, 25, and 31) indicates that all power is inherent in the People, that the People are endowed by their creator with certain inalienable rights, that no power exists in government except where it is derived from and delegated by the People, and that the People are to instruct their representatives, which is the purpose of the notice.

In addition to citing the state constitution, the notices also cite various Maxims of Law. Per Black's Law Dictionary, 4th edition, Maxims of Law are established principles universally admitted as being a correct statement of the law without proof, argument, or discourse. They are fundamental principles which form the basis of law and that have been universally accepted as being the true rules and principles of law and to which reference must be frequently made in its application.

Government acts as the agent of the People to protect their inalienable rights, only with the People's authority and under the People's control. Government officials are trustees of the trust (the constitutions) for the beneficiaries (the People) of the trust. Trustees (government officials) cannot use any power not delegated in the constitutions against the People, rather only delegated power can be used for the benefit of the People.

The notices also refer a republican form of government, which means a government open to administration by the People. We are a constitutional republic which means the law of the land is that which is laid down in the constitutions.

The notices also refer to duties performed by those who have sworn an oath to the constitutions meaning that those duties are performed by government trustees who swear to only use the powers that are laid down and written by the People in the constitutions. Per Black's Law Dictionary 4th edition, duties are human actions which are exactly conformable to the laws (constitutions) which require that they be obeyed. Machines cannot

perform a duty and are therefore foreign to the constitutions. Foreign here means being subject to a power that has not been delegated in the constitutions.

Indiana Code is simply the government policy that is established in order to administer the People's business. Using that policy, no authority can be created by government that has not already been specifically delegated by the People in the constitutions. While it is not necessary because the constitutions stand on their own, this is specifically stated in Indiana Code 1-1-2-1, Hierarchy of Law, which states that the state and federal constitutions are first (supreme) followed by statutes (code) of the state and federal government that are consistent with such constitutions.

Commissioner Beyer read the notice received aloud.

Two other things Commissioner Beyer mention that are not discussed in the notice but are contained in our state constitution. Article 2 (Suffrage and Election), Section 1 states "All elections shall be free and equal". In the 1816 constitution, this appeared in the Bill of Rights (Article 1, Section 4). Free is defined as "subject only to fixed laws (the constitutions), made by consent, and to a regular administration of such laws (constitutions)", "open", "unencumbered". In other words, free from interference, free from maladministration, free from improper influence or conduct; public, not hidden, exposed to view.

Article 2 (Suffrage and Election), Section 13 states "All elections by the People shall be by ballot". Ballot is defined as a ticket or written vote in the dictionaries I mentioned earlier. This simply states that the People are in charge of elections and clearly defines that ballots are to be paper.

Everything that was just discussed has nothing to do with political parties. This is not a partisan issue; however, as was mentioned in the last meeting, the Republican National Committee (RNC) recently passed a resolution urging a "Return to Excellence" in American Voting and Elections.

Main points of note in that resolution:

- (1) RNC opposes voting manipulation schemes and a return to the functional and historic balloting and polling experience that Americans understand, appreciate and love.
- (2) RNC recognizes that the integrity of our voting and election administration is critical and foundational to maintaining a civil and decent society decentralized from a federal government as the Founders intended.
- (3) RNC supports counties and states that are willing and able to competently and efficiently implement voting procedures that do not require the use of machines and those that implement full transparent hand counting procedures that are planned, timely, fully observable by the public, and fully auditable.
- (4) RNC calls on all Republican officials to defend the historic practice of geographically-defined and assigned precinct, ward and localized polling places for means of balloting and tabulating paper ballots by geographic unit (no vote centers).

One other note - At the 2022 Republican state convention, paper ballots were used for 5 rounds of electing state candidates.

Getting back to the notice, among other things, it instructs the county commissioners and county election board to make a public statement within 21 days. Notices were first delivered on September 1st, so Commissioner Beyer made a public statement, today, as follows:

I fully support everything that the notice instructs us to do, namely that, except for good faith consideration for absentee electors for the physically handicapped and military-service members who are unable to physically participate on Election Day, the People's elections are to be restored to one day on paper ballots to verified electors, be hand counted and results published on Election night, and be performed without the use of any machines at all, including e-pollbooks, or the involvement of any other foreign or extraordinary party.

From a practical standpoint, I am not sure how many of these can be implemented for this year's municipal election, but we should implement as many of them as reasonably possible, such as paper ballots, pollbooks, hand counting, and voting by precinct (no vote centers). With the early voting dates already being published, trying to adjust dates may create confusion.

There is also a County Election Board hearing on an unrelated matter this Friday, which is 21 days from September 1, the day the first notices were delivered, so the County Election Board, may wish to make a public statement at that time.

Commissioner Wolfe commented that there was a lot of information presented today for discussion and consideration.

Charles Bookwalter, Sandra Jasionowski, Diana Freeman, and Joyce Lytle came forward during public comment to support the request for paper ballots.

IN THE MATTER OF OLD BUSINESS

BOONE COUNTY JUSTICE CENTER PROJECT UPDATES

Michael Nielsen, Project Manager, presented the following updates for the Boone County Justice Center project:

Safety	● 133 days without a recordable incident. ● Reducing drive lane completed – no issues. ● Daily and weekly safety meetings continue. ● Precast floors in B completed walls begin the next two weeks. Limiting access to Controlled Access Zones for walls. ● Crane safety plan is in place beginning this week.
Issues	● Dewatering continues at Aqua-swirl site. One concrete structure left to sit.
Milestones accomplished since last update	● Completed pre-cast floors in Building B. ● Underground plumbing in Building A was complete and floors poured. Interior walls are being constructed as well. ● Building E foundation continues well ahead of schedule. Walls being constructed via Masons. ● Mockups – Masonry mock-ups were approved by the commissioners. ● New Electrical Transformer Pad completed. ● Backfill around building A and B has started.
Schedule milestones to be accomplished	● Continue to work on Masonry walls in all interior buildings. ● Unit E underground plumbing continues to begin to pour floors. ● Continuing to review Scope for drywall and case work subcontractors.

TIMECLOCK PLUS PROJECT UPDATES

Michael Nielsen, Project Manager, presented the following updates for TimeClock Plus (TCP):

- Our current contract is set to expire in October 2023. Mike will be forwarding the Commissioners and legal counsel a contract renewal for their consideration at a future meeting.

- Continuing to work on the new OT and Flex Time module with TCP support.

K2M 20 YEAR NEEDS ASSESSMENT PROJECT UPDATES

Michael Nielsen, Project Manager, presented the following updates for K2M 20 Year Needs Assessment Project:

- Meeting with Judges and HR coming up on October 5th to complete the interviews and assessments from each county office.

IN THE MATTER OF STAFF REPORTS

- APC – Stephen Elkins
- 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

Megan Smith, Director of Human Resources presented the following item(s):

- 1) Megan spoke with the County's insurance broker on Friday and is expecting to receive the Stop Loss quote sometime today. This quote is time sensitive and will expire on September 25th. Megan asked the Commissioners to consider authorizing Commissioner Wolfe to execute the Stop Loss quote after review by County Attorney and the Insurance Committee. The quote would then be presented to the Commissioners at their next meeting for ratification.

Commissioner Beyer moved to approve authorizing Commissioner Wolfe to execute the Stop Loss quote on behalf of the Board. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

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

- 1) Construction in right-of-way permit (#202310113) for Boone REMC at various locations for the placement of overhead lines. There is a blanket bond on file. The Boone County Highway Department recommends approval of the permit.

Commissioner Beyer moved to approve the construction in right-of-way permit (#202310113) for Boone REMC. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

- 2) Construction in right-of-way permits for Ervin Cable for Charter Communications for the placement of overhead lines at various locations. There is a blanket bond on file. The Boone County Highway Department recommends approval of the permits.

#202310114 at CR 325 S from CR 100 E to CR 125 E

#202310115 at CR 100 E and CR 450 S

#202310116 at CR 400 S from CR 125 E to CR 50 E

Commissioner Wolfe moved to approve the construction in right-of-way permits for Ervin Cable for Charter Communications as presented. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

- 3) Construction in right-of-way permit (#202310117) for Miller Excavating at 2800 E 750 S for drainage tile repair. The Boone County Highway Department recommends approval of the permit with a \$10,000 Bond.

Commissioner Beyer moved to approve the construction in right-of-way permit (#202310117) for Miller Excavating. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.

4) Road closure permit (#202330020) for Stonegate HOA at Stonegate Commons on October 6, 2023. The Boone County Highway Department recommends approval of the permit.

Commissioner Wolfe moved to approve the road closure permit (#202330020) for Stonegate HOA. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

5) Other Highway Items for Information/Discussion:

- Bridge 192, which is on CR 300 S just east of CR 800 E is scheduled to close for construction September 26, 2023. It will remain closed until the bridge is reconstructed.
- Lilly Project updates:
 - N CR 150 W is scheduled to close on Monday, September 18, 2023
 - Utility relocations are ongoing.
 - Lane Restrictions (Left Turn) at CR 300 N and US 52 anticipated on September 25, 2023.

IN THE MATTER OF DOCUMENT SIGNING

1) Affidavit for payment to GM Development in the amount of \$2,298,768.97 for the construction of the Boone County Justice Center expansion – Draw Request 010.

Commissioner Wolfe moved to approve the affidavit for payment to GM Development. Motion seconded by Commissioner Beyer; motion passed unanimously 3-0.

2) Claims Dockets – regular, prepaids, 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.

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 10:45 AM on Monday, September 18, 2023. Motion seconded by Commissioner Wolfe; motion passed unanimously 3-0.