

HOWARD COUNTY BOARD OF COMMISSIONERS MEETING SEPTEMBER 20, 2010

The Howard County Board of Commissioners met in Regular Session on Monday, September 20, 2010 at 8:30 a.m. in room 338 of the Administration Center. Those in attendance included President David Trine, Vice President William Thompson and Member Tyler Moore. Also in attendance were County Attorney Larry Murrell and Auditor Ann Wells.

The meeting was called to order by Major Steve Rogers and the meeting was conducted by President Dave Trine. All in attendance were led in the Pledge of Allegiance by Commissioner Moore.

IN THE MATTER OF APPROVAL OF MINUTES:

The minutes of the September 7, 2010 meeting were previously submitted and reviewed. A motion was made by Mr. Thompson to approve the regular meeting minutes dated September 7, 2010. Mr. Moore submitted a correction on page eight, under Commissioner Trine's comments, changing "...Chop the Block" to "...Chalk the Block". Mr. Thompson amended his motion to include the above stated correction. The motion with its amendment was seconded by Mr. Moore and approved.

The minutes of the September 3, 2010 Joint Executive Session were submitted and reviewed. A motion was made by Mr. Moore, seconded by Mr. Thompson and carried to approve the minutes of the September 3rd Joint Executive Session.

The minutes of the September 7, 2010 Executive Session were submitted and reviewed, then approved on a motion made by Mr. Thompson and seconded by Mr. Moore.

The minutes of the September 14, 2010 Executive Session were submitted and reviewed. A motion was made by Mr. Thompson, seconded by Mr. Moore and carried to approve the minutes as submitted.

*President Trine took this opportunity to inform all in attendance
that these proceedings were being streamed
over the internet, per approval by the Board of Commissioners.*

IN THE MATTER OF HIGHWAY DEPARTMENT ISSUES:

Highway Superintendent / Engineer Ted Cain submitted the following issues for the Board's information and approval:

1. **Check To The State For Boulevard Project:** It is time to send a check to the State of Indiana for the Boulevard Project. Mr. Cain cannot send the check, however, until his office receives a check FROM the State of Indiana. He is expecting to receive the State's check soon, as he would like to send a check To the State by October 4, 2010.
2. **Morgan Street Project:** Mr. Cain's office is preparing for the Morgan Street project at 200 North, east of US 31. An Interlocal Agreement with the City of Kokomo is needed for this project and Mr. Cain will be meeting with the consultant concerning the distribution of responsibility between the City and the County. Design and right-of-way work will be done in 2011, with construction beginning in 2012. In 2012 he will begin the engineering portion of the work on 150 East portion, and in 2013, purchase the right-of-way and begin construction (no later than 2014). In 2015 he plans to begin engineering design and right-of-way purchases for Morgan Street West, connecting Phillips Street and Dixon Road. In response to a question concerning re-routing (detour) traffic during road work, Mr. Cain responded that the State of Indiana chooses the detour route. If a State Road is being worked on, the State will allow the local entity to choose an unofficial detour. In the event of any damage to that route, the State will repair the roads back to a pre-detour condition.

IN THE MATTER OF SHERIFF DEPARTMENT ISSUES:

In the absence of Sheriff Talbert, Major Steve Rogers submitted the following issues for the Board's information and approval:

1. **Jail Population:** The current inmate population is three hundred sixty-one (361) with fifty-four (54) being females.

2. **Commendation:** Commissioner Moore commended the Deputies who were involved in apprehending the suspects in a rape case. Good work by all involved.

IN THE MATTER OF PLAN COMMISSION ISSUES:

Plan Commission Director Glen Boise submitted the following issues for the Board's information and approval:

1. **US 31 Corridors Plans:** The Comprehensive plan was presented to the public at a special meeting held at IUK on September 16, 2010. It will now go before both Plan Commissions for their comment and recommendation, on to a Public Hearing, then to their respective legislative bodies.
2. **Unsafe Properties:** Mr. Boise's office has sent out several letters to owners, and two of the letters have been returned with insufficient addresses. He will continue to investigate to find the correct addresses.
3. **Flood Mitigation Grant:** The Board was informed, earlier in the year, of the newly required Flood Elevation Certificates associated with the Flood Mitigation Grant (*please refer to page two, item two, "In The Matter Of Plan Commission Issues" of the Regular Meeting minutes dated August 2, 2010*). The State has now reduced that requirement to the Certified Lowest Floor Elevation. This will simplify the process and is still required before we can move forward. Surveyor Dan Minor stepped to the podium to answer the Board's question as to what equipment is needed. He needs a level rod, several field books, tape measure, and the safety signs. The Highway Department has some signs. Any extra signs can be reimbursed from the Mitigation Grant. He believes the cost of this equipment would be no more than \$500.00. A motion was made by Mr. Moore, seconded by Mr. Thompson and carried to authorize the Sureyor to purchase the equipment needed for the Certified Lowest Floor Elevations, from the Cumulative Capital Fund.
4. **Thank You To Maintenance Department:** Mr. Boise thanked Maintenance Superintendent Scott Reed and his department for upgrading the map panels for the rack that houses the zoning maps. He also thanked Mr. Minor for printing the replacement maps for the rack.
5. **Retire:** Mr. Boise informed the Board that today is his last meeting as the Plan Commission Director. He will be retiring at the end of this month. He thanked the Board of Commissioners for their support of him and for the years of working together. He especially thanked Mr. Murrell for his years of assistance. Commissioner Moore thanked Mr. Boise for his years of service. Commissioner Thompson invited Mr. Boise to the next meeting that will be held October 4, 2010.

IN THE MATTER OF MAINTENANCE DEPARTMENT ISSUES:

Buildings & Grounds Superintendent Scott Reed submitted the following issues for the Commissioners' information and approval:

1. **Water Heater At County Home:** Mr. Reed reported that the water heater at the County Home had been leaking. A replacement water heater has been ordered and the department is draining the old one and preparing the space for the new heater.
2. **Repairs At The Government Center:** Mr. Reed mentioned the rack that was hung in the Plan Commission Office. Also, his department installed televisions in the Health Department.
3. **McAllister Contract:** The Generator Contract for building generators (including Kinsey Youth Center) is different than the contract approved last year. Mr. Murrell cannot approve this contract until the portion that addresses Kinsey Youth Center is put into the same format as the contract for the other buildings. Mr. Murrell will contact Mr. Richard Ott of McAllister.
4. **Key Bank Parking:** Before the final lease closing, Key Bank is requiring a map locating the fourteen reserved parking spaces and six as needed spaces in the County's employee parking lot on the corner of Mulberry and Buckeye Streets. There are already reserved spaces and signs that specify parking for Key Bank. Mr. Reed will make six signs that specify Howard County Employees or Key Bank. When that has been completed, a map will be given to Key Bank so that the present lease can be closed.

5. **CJC Kitchen Equipment:** Jail Maintenance Supervisor Art Fross presented a need for and request to purchase new equipment for the kitchen in the Criminal Justice Center. The current equipment is original equipment installed when the Center was build. Benchmark Mechanical estimates that \$7,422.77 has been spent on repairs just from February of 2009 to August of 2010. Mr. Fross and cook Donna Walker submitted information regarding the following pieces of equipment:

Electric Tilting Skillet	\$ 8,308.73
Electric Steam Tilting Kettle	\$11,778.49
Stackable Ovens	\$10,000.00
Buffalo Chopper	\$ 4,985.00 (18")
	\$ 2,897.00 (14")

These appliances are all electric so there will be some electrical installation costs from Lowdermilk estimated at \$2,800.00. Because they are electric they will dramatically reduce the monthly operation costs with estimated annual savings of \$3,126.00. Warranties on parts and labor will be included. Cooks will be able to operate and maintain the equipment, and inmate workers will be able to help, as well. Mr. Fross did obtain quotes and negotiated prices. He also negotiated a dishwasher from Sysco. This equipment will insure that the Criminal Justice Center can prepare more meals. The old equipment can be picked up by a company near Chicago, and sold on consignment. These purchases can be funded through the Misdemeanor Grant and the Cumulative Capital Fund. It was the consensus of the Board to review the equipment purchase request.

IN THE MATTER OF PERSONNEL DEPARTMENT ISSUES:

Personnel Director Wanda McKillip submitted the following issues for the Board's information and approval:

1. **Amended Travel Policy:** At the September 7th meeting Commissioner Thompson submitted copies of an amended Travel Policy, to be acted upon at the September 20th meeting (*please refer to page five, item two, "In The Matter Of Personnel Issues", of the Regular Meeting minutes dated September 7, 2010*). The Board has reviewed the amended policy, and Ms. McKillip believes that necessary issues have been addressed. A motion was made by Mr. Thompson to approve the amendment to the Employee Travel Policy, Resolution No. 1998-HCC-21. The motion was seconded by Mr. Moore and carried.
2. **NOVIA Health Clinic:** Howard County is partnering with the City of Kokomo concerning the location of the NOVIA Employee Health Clinic. Ms. McKillip asked Mr. Murrell to review the information with the Board concerning the clinic and to submit the two agreements. Mr. Murrell thanked Ms. McKillip for her vision and her work on this project, and to Doug Heath for his valuable assistance. Mr. Murrell worked with Attorney Derrick Sublette and City Personnel Director Kathy Horton in this agreement, as well. Mr. Murrell now submits a Clinic Management Agreement with NOVIA to operate the employee clinic, and an Access Sharing Agreement with the City of Kokomo to share the location. The City and the County have separate agreements with NOVIA. The agreement with the City of Kokomo has been signed by the Mayor, but both attorneys are working on an indemnity provision. Likewise, the agreement with NOVIA still has an issue that Mr. Murrell and NOVIA's attorney are still working through. Ms. McKillip would like the clinic to be opened sometime in October with an Open House for the employees, and employee educational meetings. Ms. McKillip would like the clinic to be opened for 35 to 40 hours weekly, and as the clinic is being utilized more, the hours can be increased. Because the City and the County are partnering in the location of the clinic, the employee fees have been reduced by \$3.25 per user. A motion was made by Mr. Moore to approve the Access Sharing Agreement between the City of Kokomo and Howard County, subject to the final revision and Mr. Murrell's review, and authorize the President to sign on behalf of the Board of Commissioners. A motion was made by Mr. Moore to approve the Clinic Management Agreement with NOVIA, subject to final revision and Mr. Murrell's review, and authorize all Board members to sign the final agreement. The motion was seconded by Mr. Thompson and carried. Ms. McKillip thanked the Board of Commissioners for their support of the clinic. Mr. Moore thanked the City of Kokomo for their cooperation in this venture. He also thanked Ms. McKillip and Mr. Heath for their work. Ms. McKillip informed the Board members that this is the sixth consecutive year that employee rates have not been increased.

3. **Health Care Reform Package:** The National Health Care Reform Package has earmarked reimbursement for early retiree health insurance programs, under Medicare age. There are a handful of early retirees from Howard County employment and this reimbursement will not go into the general fund, but will be used in the insurance fund to help keep the insurance costs down. Anthem has sent a document that will help identify the employees, and then they will execute the paperwork to obtain the reimbursement for Howard County. This is at no cost to the County. A motion was made by Mr. Thompson, seconded by Mr. Moore and carried to sign the documents allowing Anthem to identify the early retirees from Howard County and execute documents for the reimbursement of funds to Howard County. The motion was seconded by Mr. Moore. The motion was amended by Mr. Thompson to include authorizing the President to sign the documents on behalf of the Board of Commissioners. The amendment was seconded by Mr. Moore and carried.

At this time President Trine vacated the chair and Vice President Thompson presided over this portion of the meeting.

Vice President Bill Thompson opened the meeting to include discussion pertaining to the recording of the recessed portion of the September 8, 2010 Budget Session. "Thank You Mr. President, and thank you ladies and gentlemen for being here this morning. As Vice President of the Board of Commissioners I will preside over this portion of our meeting today that deals with the live audio stream and computer disks from Wednesday, 8 September 2010. Some items will be repeated more than once to insure they are recorded in the minutes. I will give an opening statement. I will present the facts. I will read the press release from September 14 so it may also be entered in the minutes. I will give a closing statement. I will allow for questions. I will close this portion and the President will again preside over the rest of our meeting." Mr. Thompson then read the following opening statement:

"As all intelligent men and women are aware, no elected official knows everything about every aspect of every job under their control. County Commissioners count on Highway Engineers to inspect bridges and maintain County roads. We count on our maintenance crews to run boilers and maintain air handling units. These are the types of folks we trust to know their jobs and carry out their duties.

The same is true for our Information Systems folks; the guys that work in the IS department have done an outstanding job of bringing us into the 21st Century by providing Voice Data Video service to local government that would not even have been thought of a few short years ago. Without exception, the Commissioners trust the integrity and knowledge of this department and all the employees that work there.

For this portion of our meeting we will be addressing the IS (Information Service) department, and the audio live stream that was recorded on Wednesday, 8 September 2010.

After the facts have been presented and your questions have been answered you will have a very clear understanding of what transpired on that day and the days following.

Commissioner Moore and I have asked Commissioner Trine and Attorney Larry Murrell to allow us to act on this issue without their direct involvement."

Commissioner Thompson then read the following prepared **Facts** – 20 Sept 10

"On Tuesday, 7 September, the IS department offered to set up a live audio stream that would both record the County Council Budget meeting (set for the next day) and be able to be heard by anyone logging on to that site.

The next morning (Wednesday, 8 Sep) microphones were set up so the audio was being recorded and streamed live over the Internet to anyone logged on. A recess in the meeting was called for lunch; the live stream continued uninterrupted. In order to download and save audio of the meeting before the recess was called; IS shut down the part of the system that was recording. IS re-set the system and started the recording again for the afternoon session. The live stream continued uninterrupted but the recording had been stopped for approximately 10 minutes while these actions were taking place.

When the recording of the morning's meeting had been downloaded and saved, and the system was ready to start recording again, it was turned back on and the live stream was again being recorded. During this entire time the live audio stream never stopped and those 10 minutes were not recorded.

Before and during the recess, when the audio was streaming live, when it was being recorded and when it was not, several folks were listening live to the audio. After recess was called there were still people listening to the live audio (of which 10 minutes were not recorded). When the recording system was turned back on, the audio was still being streamed live and was again being recorded. A County employee listening to conversations over the live stream went to the room where the conversations were going on and announced that the audio was still being streamed live on the Internet. The conversations stopped and the live stream being recorded continued on for some time after the conversations stopped.

Knowing the live stream had been on the entire time, when IS discovered conversations in the room were being recorded after the system had been turned back on they contacted both County Attorney Larry Murrell and Commissioner Dave Trine by phone for instructions on how to proceed. Mr. Murrell and Commissioner Trine had both sat in on the morning meeting. Mr. Murrell suggested to IS that since the recordings were not a part of the meeting they could be deleted. Commissioner Trine stated he was close by, and would be up to the IS office shortly.

When Commissioner Trine arrived at the IS office they told him Mr. Murrell's suggestion of deleting the after recess portion that was not part of the meeting but also advised Commissioner Trine that from their state training there was some question whether the information should be deleted. They were concerned about deleting what was already stored in their computer which was a part of what was said on the live stream, and had been heard by several employees. IS was concerned that completely deleting the information may be a violation of the law. At this time no one had listened to what was stored in the computer only what had been streamed live. From a legal point of view Commissioner Trine asked IS if it would be appropriate to download the audio on a disk for safekeeping and delete it in the computer. IS assured him that it would be appropriate.

Commissioner Trine directed IS to download four identical, separate disks (one for each Commissioner and one for Mr. Murrell). Commissioner Trine took the disks down to the third floor where the afternoon session was in progress, gave one to Mr. Murrell and kept the other three. Mr. Murrell asked Commissioner Trine what was on the disk, when told, Mr. Murrell asked Commissioner Trine if he could secure all four disks. Commissioner Trine gave the other three disks to Mr. Murrell. No one had listened to the disk at this time. Someone listening to the live stream earlier contacted Sheriff Marty Talbert. The Sheriff came to the meeting and toward the end of the meeting, requested from the Council to hear the recording.

Mr. Murrell responded that the recording involved some novel legal issues regarding both privacy and public access, and that he would like to research the matter and listen to the disc that evening before advising the Commissioners on the Sheriff's request. Mr. Murrell asked the sheriff if he had any problem with that; Sheriff Talbert said he did not and advised Mr. Murrell that Sheriff's Association Attorney Howard Williams would be in touch with Mr. Murrell Thursday.

At 8:00 a.m. the next morning (9 Sep) I (Commissioner Thompson, Vice President of the Board of Commissioners) directed Mr. Murrell to place the four disks in a sealed envelope and give them to me. I also asked Mr. Murrell to find an out-of-county attorney to assist Commissioner Moore and me with this issue because he (Mr. Murrell) represents all parties involved with this issue. Mr. Murrell and I finished our meeting, I left and went immediately to a local bank and placed the sealed four disks in a locked security box where all four copies remained until after I had spoken with our out-of-county attorney, Mr. Steven Badger, by phone for the first time at 4:00 p.m. Friday afternoon. Friday, at 4:45 p.m. after my conversation with Mr. Badger I went to the bank, opened the sealed envelope, removed two of the disks, placed the other two back, went to the post office, and mailed one to Mr. Badger and kept the other one to listen to myself. On Saturday (11 Sep) I listened to the disk. Monday morning Commissioner Moore listened to the disk.

Monday afternoon Commissioner Moore, myself, and Mr. Murrell had phone conversations with our outside counsel, Steve Badger.

Tuesday (Sep 14) an Executive Session was held and we issued our press release.

Howard County Board of Commissioners – Press Release – 14 September 2010

On Wednesday, 8 September 2010, the Howard County Council held its annual, budget review meeting. At this meeting for the very first time ever, audio of the meeting was both streamed live on the Internet and recorded. When Council members officially recessed for lunch the recording system was shut down for approximately ten minutes so the Information Service office (IS) could get the system ready for the afternoon session. When the system was ready it was turned back on. After the system was switched back on, the audio being recorded resumed once again. When IS became aware the audio was being streamed live and again being recorded during the recess, they stopped the program. To be safe, the recording for the entire portion that was recorded after the system was turned back on was downloaded and saved on four separate but identical disks. The Howard County Sheriff made a request to the Council for a copy of the disk. All four disks were given to Howard County attorney Larry Murrell to secure for the night.

At 8:00 a.m. Thursday (9 Sep) Commissioner Bill Thompson (Vice president of the Board of Commissioners) met with Mr. Murrell and asked Mr. Murrell to place all four disks in a sealed envelope and release the disks to him. Commissioner Thompson also asked Mr. Murrell to seek an out-of-county, independent, attorney to assist the Board of Commissioners with this issue, because Mr. Murrell represents the Commissioners, the Council members, the Sheriff, and all County employees. Immediately upon leaving the meeting with Mr. Murrell, Commissioner Thompson went to a local bank and secured the sealed disks in a locked Storage Box. Jan Carroll, an out-of-county attorney, was contacted, agreed to review the situation, and advise the Commissioners on any legal questions or concerns.

By 10:00 a.m. Friday (10 Sep) Commissioner Thompson was advised that Ms. Carroll was now unable to assist the Commissioners because her law firm had a possible conflict of interest; Ms. Carroll never contacted or spoke with Commissioner Thompson. A second out-of-county attorney was contacted, agreed to review the situation and has provided legal advice. An Executive Session was scheduled for 10:00 a.m. Tuesday, 14 September 2010.

At 10:00 a.m. on Tuesday the 14th, the Howard County Board of Commissioners met in Executive Session to discuss all information gathered; present were Commissioner Tyler Moore, Commissioner Thompson, and Mr. Murrell. At Commissioner Dave Trine's own personal request, he was excused from attending the session.

To the best of our knowledge, only Commissioner Moore, Commissioner Thompson, Mr. Murrell and the second attorney have heard the audio on the disks. Also to our knowledge no one speaking on the recording or who are mentioned on the recording, including Commissioner Trine, have listened to the audio.

The full Board of Commissioners will address this issue at our next regularly scheduled Commissioner's meeting on September 20, 2010.

Mr. Thompson then read the following closing statement:

"On this issue we have presented the facts in the most open and transparent way possible. There may be some that will say something was left out but the truth is, Commissioner Moore, attorney Steve Badger and I have done everything within our means to ensure that all of the information we have gathered has been accurately and openly shared with you.

This issue is about privacy, recordings, and County employees, but most importantly this issue is about the law. There is an expectation of privacy and trust when we talk with each other every day. In today's electronic world we have lost much of that privacy and some of that trust but as they say, "The law is the law".

For County employees the last two years in Howard County government has been interesting and challenging to say the least. Along with the everyday challenges that the County has met many times in the past, there have been new challenges (especially this year) that we have never faced before.

The County has dealt with consolidation, facilities management, tax issues, downsizing, storm water management, getting new businesses to locate here, secured financing for new businesses, and much, much more.

As a County employee and taxpayer I want to express my sincere thanks to Commissioner Dave Trine and Commissioner Tyler Moore for their tireless efforts in the cause of making County government work well for the people.

I also want to express my sincere thanks to all elected County officials and department heads that contribute so much to this same cause. Without their leadership I wonder how well we would survive. To our most valuable resource, our County employees that work hard every day, saying thank you is not enough; they are the true backbone of this life we call County government. Howard County government would not function without them.

Last but not least I want to tell you about the ROCK – Howard County Attorney Larry Murrell. To the Commissioners and everyone in County government he is our counselor, advisor, expert and mentor. From the everyday mundane stuff through new and serious issues as we are dealing with today, Mr. Murrell is there. Howard County is extremely fortunate to have a man of his caliber diligently working year after year for our community. Thanks Larry.

After we close this portion of the meeting the President will call for a motion on this issue. You as citizens have the right and duty to challenge the decision from either position. I say again, “You as Citizens have the right and duty to challenge the decision”. Please address your questions only to Commissioner Moore or me. We will now open the floor for questions.

Commissioner Moore made a motion, in response to the pending formal requests for disclosure: I move this Board invoke the protection under Indiana Code section 5-14-3-4(b)(7), and respectfully decline to disclose the audio recordings made by our Information Services Department of conversations during the recess at the September 8th, 2010 Budget Review meeting of the Howard County Council. The motion was seconded by Mr. Thompson. Commissioner Trine now opened the floor for questions or comments.

Ken de la Bastide, reporter for Kokomo Tribune: Mr. de la Bastide asked what the basis for denial was. Mr. Moore responded that pursuant to IC 5-14-3-4(b)(7), the Board is treating the recordings as the functional equivalent of private notes, diaries or journals.

Paul Wyman, 211 Sandy Court, County Councilman: Mr. Wyman addressed the motion to decline the request to disclose the audio recording. He understands the expectation of privacy. Personally he and his family have been barraged by rumors and vicious accusations concerning what was said. He has previously asked for the recording to be released. Concerning his comments on the recording, he asked the three people who had heard the tape to answer the question, “...did I call the Sheriff a name or did I in any way, shape, or form talk negatively about the Sheriff?”

Mr. Thompson responded that he has to follow the law, and cannot answer the question. A similar response was given by Mr. Moore and Mr. Murrell, both of whom reaffirmed their intention not to disclose anything said on the recording.

Mr. Wyman continued his response by respectfully asking again for the audio to be released, and he maintained his innocence of the alleged name calling of several county employees and elected officials. He offered to pay to have a stenographer transcribe his portion of the recording, and release it to the public. “I have done everything in my power to get the correct information regarding my comments to the public. It is my hope that we will put an end to the rumors and speculation, today, as we go forward. As you know we are in the middle of campaign season. There are forty-five days left to the election. It is my hope that for the next forty-five days that this tape will not be the issue. That we will actually focus on the issues that are facing the community. That’s my sincere hope.”

Linda Koontz, Howard County Recorder: She understands the Board’s decision, but the fact that it was streaming live and that people heard the comments, that’s where the problem is. She believes that if the recording were released, “...the bravado that’s being shown here would be upended by the actual tape.” Not knowing that for sure, she is willing to accept the apology and willing to accept the decision to not release the recording. The comments were heard and repeated, so it wasn’t private.

Commissioner Thompson reiterated that it wasn’t the content of the tape or the subject of the conversation that was in question. It’s a question of the Board attempting to follow the law.

Ken de la Bastide: asked how long the tape was. Commissioner Thompson will not answer that without legal counsel.

At this time it was discovered that the live streaming was interrupted by the changing of the cd recording. In light of the discovery, Commissioner Thompson asked Mr. Wyman to repeat his request, in full, so that those listening in by live stream, would be able to hear his complete comment and request. Mr. Wyman repeated his request to release the recording to the public.

Patrick Munsey, reporter for the Kokomo Perspective: As the other speaker on the recording, Mr. Munsey would like the recording to be released, in order to dispel any rumor or innuendo.

Mr. Murrell reminded all that the denials made to release the recording and denials made to requests to give verbal information about the recording, were all done on legal grounds. As much as any of the Board members might like to discuss the contents of the recording, for legal reasons they were advised not to do so.

Clee Oliver, 5768 West 00 North South: Mr. Clee raised the subject of allowing county employees to listen to the proceedings on line, while on the county's time. He appreciates the County's move toward continued transparency in county government, but maybe they shouldn't be streaming over the county's website.

Mona Myers, Howard County Clerk: It was Ms. Myers' understanding that the live streaming was done mainly for the Office Holders and department heads who could not attend the actual budget session because of work to do in their own offices. She believes that not many employees were actually listening.

Dick Davis, taxpayer: If this information is property of the County is it subject to the Freedom of Information Act? If some of the information is disclosed, would it be redacted?

Mr. Murrell responded that yes, it is county property and is subject to the Freedom of Information Act. Formal requests have been made and this process is the response to those requests. There are some public records that do not have to be disclosed to the public. If the recording is disclosed it would be up to the county officials to decide if it will be redacted. If the Board chooses to deny the formal requests for the information, the party making the request can go the Public Access Counsel and request a formal opinion. The Public Access Counselor can review the request and denial and either agree with the decision of the Board or reverse that decision and order it to be made public.

There being no further discussion or comment at this time, President Trine reminded the Board that there is a motion and a second on the floor. The motion was repeated as follows: I move this Board invoke the protection under Indiana Code 5-14-3-4(b)(7), and respectfully decline to disclose the audio recordings made by our Information Services Department of conversations during the recess at the September 8th, 2010 Budget Review meeting of the Howard County Council. The motion was approved.

The regular business of the meeting was continued.

IN THE MATTER OF INFORMATION SYSTEMS DEPARTMENT ISSUES:

Information Systems Director Terry Tribby submitted the following issues for the Board's information and approval:

1. **Centrex Contract Renewal:** The Centrex Contract with A T & T is up for renewal the end of this month. Mr. Tribby has met with several county employees who work with the phone system, to review the Spyglass Report and identify any lines that are unused. Mr. Tribby will continue to review this process.
2. **Fiber Optic Bid:** Concerning the fiber optic lines that are being purchased by grant funds for portable radios, the bid has been let by the City and there will be a meeting with the contractors tomorrow morning at 10:00 a.m. for those who are interested in bidding on the project. The Commissioners are welcomed to attend the meeting. The utility companies have been contacted and they will have all their lines marked so contractors can see where they are in proximity to the proposed optic cable location. Mr. Tribby has also marked the cable line's path in white from the Criminal Justice Center to the emergency tower.

A motion was made by Mr. Moore, seconded by Mr. Thompson and carried to recess the meeting for three minutes. The meeting was reconvened at 10:25.

IN THE MATTER OF THE KITTY RUN BASIN:

MS4 Director Greg Lake informed the Board of Commissioners that the Kitty Run Basin will be finished in a few weeks. The funds needed to finish this project were put into the 2011 budget request. However, this project will be completed ahead of schedule and the funds are needed this year. Mr. Lake will need to request an additional appropriation from the Council to spend the money this year to complete the seeding of the project. Mr. Lake is requesting that the County enter into a contract with Slussers Green Thumb Inc. for seeding of the basin, in the amount of \$59,000.00 from the EDIT Fund. A motion was made by Mr. Thompson to authorize Mr. Lake to enter into a contract with Slussers Green Thumb Inc. for seeding of the Kitty Run Basin, in the amount of \$59,000.00, and forward the additional appropriation request to the County Council. The motion was seconded by Mr. Moore and carried.

IN THE MATTER UNITED WAY RESOLUTION NO. 2010-BCCR-13:

United Way Loaned Associate Kurt Reed has contacted several office holders to schedule a presentation to their office on behalf of United Way. He informed the Board of several new programs with United Way. Also, for this year, the State United Way has a donor that will double any donations given to Howard County United Way. At the conclusion of his presentation, Mr. Reed submitted Resolution No. 2010-BCCR-13, which was read aloud by Commissioner Moore. A motion was made by Mr. Moore, seconded by Mr. Thompson and carried to approve Resolution No. 2010-BCCR-13. Mr. Reed thanked the elected officials and county employees for their support of the United Way.

IN THE MATTER OF PUBLIC COMMENT:

President Trine opened the floor for public comment as follows:

Landon Bartley, Russiaville Fire Chief: Mr. Bartley began by thanking the Board of Commissioners for allowing him to speak, and also for the radios for the fire departments. Mr. Bartley had a question concerning the difference between the Council approved amount of funds to be appropriated for the County's match (***\$129,006.99, as reported in the June 22, 2010 Regular Council Meeting minutes***), and the actual number and amount reported by the Board of Commissioners (***40 hand held, 16 mobile, 911 dispatch upgrade & fiber optic cable run, Russiaville repeater upgrade and Cisco software upgrade, according to the September 7, 2010 Regular Commissioner Meeting minutes***).

Commissioner Thompson explained that the Council did appropriate **up to** \$129,006.99. It was up to the Board of Commissioners to determine the number of radios needed and to work with the entities who receive the radios, as to the prospect and process of repayment. The Kokomo Fire Department is still negotiating prices and there is not a final amount per radio to report yet.

Mr. Bartley submitted a written request for a loan from the Board of Commissioners in order for the Russiaville Fire Department to buy the radios needed, (plus additional equipment reported to Brad Bray) in an amount to be determined after the final bid is granted. This loan would be repaid annually for the next five years.

Attorney Murrell informed the Board that although the County is not in the business of loaning money, precedence has been set. Also, the Council gave the Board of Commissioners the authority to negotiate repayment of the funds as they see fit. Mr. Murrell can prepare a promissory note for an interest free, five year loan. Though the actual amount is not known at this time, Mr. Bartley is comfortable requesting a \$9,000.00 loan. At the conclusion of discussion, a motion was made by Mr. Thompson to authorize the Board to loan \$9,000.00 to the Russiaville Fire Department, an interest free five year loan for additional equipment of twelve handheld radios, five mobile radios and four chargers. The motion was seconded by Mr. Moore and carried.

IN THE MATTER OF CLAIMS AND REPORTS:

Auditor Ann Wells submitted the following claims and reports for the Commissioners' information and approval:

1. **Salary Claims:** The Salary, hourly and overtime claims payable September 24, and October 1, 2010, in the amount of \$346,484.04 each, were approved for payment on a motion made by Mr. Thompson and seconded by Mr. Moore.
2. **Operating Claims:** The Commissioners' Operating Claims payable today in the amount of \$350,807.36 were approved on a motion made by Mr. Thompson and seconded by Mr. Moore.

3. **Treasurer's Report:** The Treasurer's Monthly Report for the month ending August 31, 2010 was submitted and reviewed, and accepted on a motion made by Mr. Moore and seconded by Mr. Thompson.
4. **Weights & Measures Report:** The Weights & Measures Report for the month of August 16 to September 15, 2010 was submitted and reviewed. A motion was made by Mr. Thompson to accept the Weights & Measures Report. The motion was seconded by Mr. Moore and carried.

IN THE MATTER OF COUNTY ATTORNEY ISSUES:

County Attorney Larry Murrell submitted the following issues for the Commissioners' information and approval:

1. **Brian Oaks Invoice:** Mr. Murrell submitted an invoice from attorney Brian Oaks, in the amount of \$864.93 for services rendered in reference to Edna Taylor v Plan Commission. The County won on the local level and the decision was appealed. The Court of Appeals upheld the local trial decision, and this is the final statement. A motion was made by Mr. Moore to approve the invoice from Attorney Brian Oaks, as submitted. The motion was seconded by Mr. Thompson and carried.
2. **Firestone Purchase Status:** Realtor Jim Ferguson has an option to purchase the Firestone Building. He is willing to assign the option to Howard County. Mr. Murrell submitted copies of the Purchase Agreement with Star Financial in the amount of \$75,000.00. There are several contingencies attached to the agreement as follows:

Release of City's No Demolition Order
Phase II Environmental Study
Obtain two appraisals and not pay more than the average of the two

At the conclusion of ensuing discussion, a motion was made by Mr. Thompson to authorize the Howard County Board of Commissioners to accept the proposed Assignment of Option from James Ferguson with respect to the original plat lots 38 and 39, Kokomo, Indiana, commonly known as the Firestone Building, and authorize the President of the Board to execute all such documents as are necessary to exercise this option with the seller, Star Financial Bank on behalf of Howard County as the signee. The motion was seconded by Mr. Moore and carried.

Mr. Trine understands that the Library Board would like to partner with the Board of Commissioners for an undetermined amount, making this parking lot's landscaping and lighting (that is what the Board of Commissioners plans to do with the building) match the lot previously purchased from the Board of Commissioners.

3. **Previously Approved MOU's:** The Memorandum of Understandings, previously approved for B N B Custom Collision Center, Sweet Poppins LLC, and Cook McDoogal's Irish Pub at the last meeting, have all been executed by Mr. Conrad on behalf of the Greater Kokomo Economic Development Alliance. The Board of Commissioners will submit an Additional Appropriation from the EDIT Fund at the October Council Meeting.
4. **Grant Writer Prospect:** Mr. Trine and Mr. Murrell will be meeting with a prospective Grant Writer. If the meeting goes well, Mr. Murrell hopes to have an agreement to submit to the Board at their next meeting. The agreement would be for the first six months, then negotiate a per services price.
5. **Pending Firearms Ordinance:** Mr. Murrell is currently working with Major Rogers on a new Firearms Ordinance, concerning firearms given to retiring Deputies.
6. **Appreciation Expressed:** Mr. Murrell expressed appreciation to Commissioner Thompson and Commissioner Moore for their leadership in handling the difficult situation with the recorded conversation during the recessed portion of the 2011 Budget Session. They are handling this difficult situation well. "Sometimes when you're trying to follow the law, things appear a little cumbersome or even mysterious, but I think when we get to the end, at some point hopefully, everyone will understand the wisdom of your decision."

IN THE MATTER OF COMMISSIONER ISSUES:

Commissioner Thompson:

Mr. Thompson submitted the Township Assistance Hearing for Mr. Mitchell W. Hedger from Center Township. A motion was made by Mr. Thompson to uphold the denial of the Township Trustee for Mr. Hedger. The motion was seconded by Mr. Moore and carried.

Mr. Thompson asked for the status of the Interlocal Agreement for the Dispatch Center. Mr. Murrell reported that as of last Monday, Derrick Sublette, attorney for the Mayor, said the agreement is in review. Attorney Corbin King received a copy of the agreement and will review the agreement on behalf of the City Council.

October is Breast Cancer Awareness Month and Mr. Thompson will be wearing pink.

Mr. Thompson has received several complaints about trash in neighboring yards. Mr. Thompson has visited the sites and talked to neighbors. Mr. Murrell reminded the Board that they have a "state of the art" ordinance to address trash, but the enforcement authority assigned in the Ordinance has been rescinded. Currently there is no enforcement authority. As far as the abandoned vehicle is concerned, the Sheriff's department will tag abandoned vehicles for removal. With the increasing amount of foreclosures, the trash and abandoned home problem will increase.

Commissioner Moore:

Resolution No. 2010-BCCR-14 is a resolution proclaiming September 30th as George Kingston Day. Mr. Kingston was an automotive pioneer in Kokomo, and this proclamation will be presented at the Howard County Heritage Automotive Hall of Fame Dinner, the evening of September 30th. A motion was made by Mr. Moore to approve Resolution No. 2010-BCCR-14. The motion was seconded by Mr. Thompson and carried. The actual resolution will be read at the October 4th meeting.

Commissioner Trine:

Mr. Trine reminded the Board that the November 1st meeting will be in Greentown, at 4:00 p.m.

Mr. Trine received an e-mail concerning the proposed Veteran's Monument, and will review that document.

Mr. Trine thanked Personnel Director Wanda McKillip and Suzanne Goley, for the assistance and work for the Commissioners' Golf Tournament. He does not yet know the amount of proceeds, but it all goes directly toward the Employee's Holiday Party.

There being no further business to come before the Board at this time, the motion was adjourned at 11:17 a.m. on a motion made by Mr. Moore and seconded by Mr. Thompson.

HOWARD COUNTY BOARD OF COMMISSIONERS:

DAVID A. TRINE, PRESIDENT

WILLIAM THOMPSON, VICE PRESIDENT

TYLER O. MOORE, MEMBER

ATTEST:

ANN WELLS, AUDITOR

Howard County Commissioner Meeting September 20, 2010