

**Commissioners Meeting  
September 19, 2017**

**Present: Al Logsdon, Jim Seiler, Tom Brown, Larry Dale Kenney, Attorney Jeff Lindsey, Auditor Autumn Winkler**

Meeting was called to order by President Jim Seiler at 2:00 P.M.

**Minutes**

Brown made a motion to approve the minutes from September 5<sup>th</sup> as presented. Logsdon seconded the motion, motion was approved.

**Claims**

Logsdon made a motion to approve Batch #3671 as presented. Brown seconded the motion, motion was approved.

**Highway Report**

Kenney stated they are working on CR 2200N and CR 2100N has had all chip and seal ripped up, culverts replaced, the ditch work is being done now and they will have Mulzer's lay the 73's after the rain. On CR 2000 there is a section of road that needs to be milled instead of ripping it with the road grader. Kenney is afraid they couldn't get the chunks broke up enough, so he has hired a company to come in and mill that section of road for \$6,500.00. Kenney and Gelarden will go with the company to supervise. Kenney informed Logsdon he has ordered 3 railroad tankers for CR 600E in his district. One tanker is for CR 1300N and it is 8'11" x 49' long and weighs approximately 27,000 lbs. The other 2 tankers are for CR 1350N and are 8'9" x 46-1/2' and weigh approximately 26,500 lbs. CR 600N in Seiler's district is ready for chip and seal and will be done soon. Kenney reported there have been complaints from the bus garage about bad spots in some areas so Kenney has had crews working on those areas and rock was being spread at CR 1000W and CR 300N. The slow rain we received for a few days really made the roads soft instead of a good hard rain that packs them down.

Kenney and Attorney Lindsey discussed the proposed road and bridge closings and Kenney will have a list of roads and measured distance for the public hearing.

Kenney stated that in February of 2016 the commissioners approved a boot allowance every 2 years for highway employees and they seem to be wearing them out quicker than every 2 years. Kenney is requesting the allowance be given every 18 months if possible and Seiler stated that he wears out a pair of boots every year, Brown agreed. Kenney will check with Gina to see if there is enough funds in the budget and the employees will begin receiving a boot allowance once per year.

Brown stated that recently it seems like we are getting rain days during the week and it ends up being pretty on Fridays and we have no crew working. Brown mentioned having the crew work overtime on Fridays to ensure we get all the roads prepped that we need to and Kenney stated that he has been putting up an overtime sign-up sheet and this past week only one person signed up. Brown stated that when we are behind on work the only way to get caught up is to work overtime and he feels we need to be working on Fridays when the weather is good. Kenney stated he would have to look at the union contract regarding mandatory overtime, he thinks it can only be forced during emergency situations. Brown stated that we are ending years with roads not complete and that is unacceptable. Logsdon stated that last year he was in the same position as Brown with being the last district done and did have roads that were not completed. It is a bad situation when you have to explain that to the taxpayers in your district. Logsdon stated that he feels there should be a verbal agreement amongst the board that the district order be on rotation each year, so that you are only last every third year.

**Kay Erwin - ADA**

Erwin presented a list of repairs needed for each facility to be ADA compliant. Many of the items in the courthouse were small things that the Maintenance Supervisor has fixed, but some things will need to be contracted out. Erwin stated that the facilities of most concern to her are the rental properties and Animal Control. Logsdon asked which facility was top priority in her opinion and Erwin stated the Animal Control building, because it is not accessible at all. There is an estimated cost of \$5,500.00 which came from Erwin speaking to Hwy Superintendent Kenney about the cost of possibly chip and sealing the parking lot and striping it. Attorney Lindsey will review the contracts on the rental properties so we can determine if the responsibility to

complete repairs on rental properties is ours or the owner. Erwin just wanted to give the board a heads up on where we are in the process and inform them we need to have a meeting to get a plan together for repairs.

#### **Veteran Service Officer**

Martin "Butch" Meredith the newly appointed Veteran Service Officer came to the meeting to formally introduce himself and give a brief update on the office. Meredith stated there are 1,755 veterans in Spencer County and he is excited to begin working with all of them. His office hours will be Monday, Wednesday, and Friday 8:00 – 4:00, Tuesday and Thursday by appointment. Meredith has scheduled training in Indianapolis and has spoken with previous V.S.O Jeffrey Heathman who has offered up his services if needed.

#### **Legal Report**

Lindsey reported that notice has been sent to all landowners regarding the public hearing on October 3<sup>rd</sup> at 3:00 p.m. for the road/bridge closures. There were 3 separate groups, one group for each road.

Lindsey presented Ordinance 2017-06 Adopting a Conflict of Interest Policy for commissioner review. Other counties have been implementing similar ordinances to address the conflict of interest with vendors entertaining elected officials and employees at social events, dinners, etc. It was determined within the last few years that this behavior could be seen as a conflict of interest and could therefore jeopardize our federal funding, because it is contrary to federal and state regulation. Warrick, Perry, and Orange County have established a \$200.00 threshold per event that is allowable. Adopting this ordinance would remove any risk of federal funding and allow outings with vendors as long as it does not exceed the \$200.00. Logsdon made a motion to wave the rules and adopt the ordinance on first reading. Brown seconded the motion, motion was approved. Brown made a motion to adopt Ordinance 2017-06 with a \$200.00 max threshold. Logsdon seconded the motion, motion was approved.

Attorney Lindsey presented a memorandum from Kent Irwin regarding the law enforcement policy proposed by Prosecutor Wilkinson. Irwin is the attorney we contact with management and personnel issues. He does not specialize in situations such as this and consulted Attorney Tony Overholt with Frost Brown Todd, LLC which is a large legal firm that is more suited for this topic. Irwin provided all documentation received from Wilkinson to Overholt so he would have a clear understanding of the situation. Overholt provided this memorandum to Irwin, which was then provided to us. In the memorandum, Overholt outlined the events that have taken place and noted the request by Wilkinson for the Board of Commissioner to adopt an ordinance establishing certain hiring standards for deputies. The question is whether or not the board has authority to impose stricter qualifications than those set by the Sheriff and merit board. Overholt then provided a Legal Analysis stating court cases and Indiana Codes regarding authority within the Sheriff's Department, which are namely the Sheriff and the merit board. Ordinances and policies adopted by local government are subordinate to state statute and can therefore be considered invalid. The statute does not give authority to the Board of Commissioners to establish stricter requirements or get involved in promotions or disciplinary action regarding deputies. In conclusion, Overholt stated the commissioners lack the authority to adopt the proposed ordinance. Attorney Lindsey informed the board he has only provided this memorandum to the board and the auditor. He will send this to the sheriff and the prosecutor, but wanted the board to review it and discuss it first. Logsdon asked if this memorandum made the decision final and no further discussion was needed or what liability the county might have. Attorney Lindsey stated that he does not feel the board will have a liability, because we will cite this memorandum and state that we feel the board does not have that authority. No action is required on this issue.

Attorney Lindsey stated that we still need a second appraisal on the Troy Refinery property. The employee that we thought was going to do an appraisal will not be able to. Lindsey explained that we are required to have 2 appraisals either by a certified appraiser or an employee with knowledge of appraisals. It was discussed that we will speak with the current and previous Assessor about possibly doing an appraisal or will contact Ron Magnus.

Brown mentioned the property in Hatfield that SWMD and the board have instructed be cleaned up and as of yet there has still been no progress. Brown stated that at the SWMD meeting their legal counsel suggested we find out if we need a court order to proceed with doing the cleanup for him. Seiler stated that he received a call about that property that morning and was informed a dumpster had been ordered and would be delivered on the following Tuesday. Brown stated that if it is not cleaned up and we have to proceed with cleanup we need to check and make sure we don't need a court order so we don't set ourselves up for a lawsuit.

Logsdon contacted Lisa Gehlhausen at Indiana 15 to ask if there is any blighted property grant money available and was told there is not at this time. Gehlhausen told Logsdon that the county would be wise to own any property they plan to cleanup or you can get into some legal issues. Dean Bolin with the Leader asked for clarification on the law enforcement hiring policy and whether or not the issue was now resolved or would be discussed further on October 3<sup>rd</sup> as previously stated. Lindsey will send the memorandum to the sheriff and prosecutor and it can be discussed further at the meeting with Irwin if they wish.

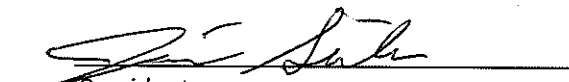

**New Business**


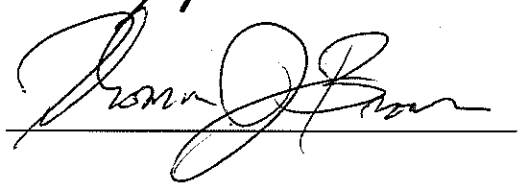
Brown made a motion to approve all claims paid since the last meeting. Logsdon seconded the motion, motion was approved.

Bridge #152

Brown stated that we have had many discussions about bridges this year and made a motion to repair/replace bridge #152 that runs into Perry County and include in the bid at least 2 proposals for design. Logsdon stated he would not second that motion and felt something like this should come from the Hwy. Superintendent. Brown stated that he requested a list of bridges from the re-inspection and this bridge is in the top 5. We will soon be closing bridge #132 and have completed St. Peter's Church Rd. Bridge and he feels this is an important one to move on. We have requested additional funding from the council and have time yet this year to get the design done and we are wasting the rest of the year if we don't move forward with another bridge. We are doing 1-2 bridges a year out of 168 and we should probably be doing 5-10 a year. Logsdon stated that never before has this type of action been taken by the commissioner's without the superintendent and he would not be a part of doing so now. Seiler ask for a second to the motion and with no second the motion died. Brown stated it is a difference in opinion on the process and he will discuss this with Kenney. Logsdon stated they will be discussing this with Kenney.

Logsdon made a motion to adjourn. Brown seconded the motion, motion approved.  
Meeting was adjourned at 3:27 P.M.

  
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President  
Attest:  
  
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Auditor, Autumn Winkler

  
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