

Hancock County Board of Commissioner's Meeting

October 1, 2019

Commissioners met in regular session. Those present were Board of Commissioner's President John Jessup, Vice President Brad Armstrong, Commissioner Marc Huber, Deputy Auditor Mary Bowmer & Deputy Auditor Trish George. County Attorney Scott Benkie arrived at 8:13 am. Auditor Debra Carnes was not present. Commissioner Jessup called to order the October 1, 2019 Hancock County Commissioners Board meeting at 8:01 am.

Highway

- Gary Pool notified Commissioners he will need to re-advertise for snow plowing. Interested parties came by and asked to bid on snow plowing. Commissioner Armstrong made a motion to advertise for snow plow bids for 2019-2020 season. Commissioner Huber seconded the motion. **Motion carried 3-0.**
- Highway Department will be delivering voting machines and this requires two Bipartisan voters. Each delivery team will have a democrat and a republican. There is required paperwork confirming this.
- Gary will apply for a grant for the Stinemyer connection.
- 600 West is starting to show age. The road is too busy for chip seal. Gary would like to micro surface and re-paint this road. This will be more expensive, but will last longer. Gary put this in next year's budget and is applying for a grant to cover half the cost. He may expand this out to micro surface all neighborhoods that have not been micro surfaced.
- Gary will be out of the office next week on vacation.
- Jail road is actively being worked on. Commissioner Armstrong asked if the jail road has been named. He asked when it would be appropriate to name the road. Gary said it is referred to as County Road 3, but when an address is assigned the road can be named.
- 600 West is finished and Gary is looking for next big corridor.

Claims & Payroll

Commissioner Huber made a motion to approve claims and payroll as presented. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**

Commissioner Minutes

Commissioner Huber made a motion to approve the Commissioner Minutes for 9/17/19 as presented. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**

Release Bonds

- Commissioner Huber made a motion to release the Performance Bond for Steve Beaty for 8" tile in an amount of \$15,000. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**
- Commissioner Huber made a motion to release the Cash Bond for Joyner Homes LLC for the Keister 8" Tile in an amount of \$2,400. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**

- Commissioner Huber made a motion to release the Cash Bond for Centennial Commons for Lot 123, Centennial Village for 8" Tile in an amount of \$500. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**

County Attorney Scott Benkie arrived at 8:13 am.

2020 Holiday & Meeting Schedule

Commissioner Huber made a motion to approve the 2020 Holiday & Board of Commissioner Meeting Schedule as presented. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**

E911 Approval for Out of State Travel

- Commissioner Huber made a motion to approve out of state travel for John Jokantas to attend his yearly HCTC (Harris Computers/Caliber Public Safety) Conference on 10/8 thru 10/11 of 2019. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**
- Commissioner Huber made a motion to approve out of state travel for Jason Haddix to attend the IPSTA (Illinois Public Safety Telecommunications) Conference on 11/3 thru 11/6 of 2019. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**
- Commissioner Huber made a motion to approve out of state travel for Jason Haddix and Greg Duda to attend his yearly NENA Center Managers Certification Program (CMCP) on 11/17 thru 11/23 of 2019. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**

Maintenance

Dean Mullins discussed maintenance issues. Commissioner Armstrong requested Council to authorize advertisement for spending excess 2015 GO Bond proceeds on Capital Building Maintenance projects thru the rest of 2019. Commissioner Huber seconded the motion. **Motion carried 3-0.**

AED's (Defibrillators)

- Judge Snow updated Commissioners with information on AED's for the courthouse. Leasing is \$109/mo with a 36-mo lease, maintenance included. Commissioners discussed details. The following buildings will need AED's; Courthouse (3), Annex (2), Memorial Building (2), Highway, Purdue Building, Department of Corrections and Prosecutors Office with a total of 11 at \$15,000. Commissioner Armstrong said there is a need to establish a \$15,000 a year budget for AED's.
- Commissioner Armstrong made a motion to work with Council to establish a fund for leasing and maintenance of AED's with a budget proposed at \$15,000/per year to allow up to 11 units in county buildings. Commissioner Huber seconded the motion. **Motion carried 3-0.** Commissioner Armstrong said they needed a coordinator and a negotiator to negotiate the contract.

Commissioner Jessup recessed the Hancock Board of County Commissioners meeting at 8:59 am. To conduct business for:

Board of Directors for the Hancock County Regional Water & Sewer District

Commissioner Jessup reconvened the Hancock Board of County Commissioners meeting at 9:01 am.

Richard Sutton & Diane Titchenell

With RE Sutton for 2020 Health/Dental/Eye Insurance

Richard Sutton and Diane Titchenell with RE Sutton with a review of the last 12 months of claims. Richard clarified it was a great year. RE Sutton is part of Brown & Brown, one of the largest employee brokers working with private sector clients in Indiana. Medical claims are down 41.8% for the last 12 months. Richard said it was a remarkably good year on health insurance. Richard suggested staying with Anthem because they have the biggest networks and the deepest discounts. Richard expressed he would like to continue to work with Hancock County. Richard thanked the Commissioners and appreciated the opportunity to work with them.

Walker Hughes Insurance

- Kevin Mandrell (Walker Hughes Agency) presented Commissioners with an MOU discussed at the last meeting. Kevin had a brief meeting with Brian Brees (Patriot Insurance). He reviewed the contract and found a 30-day termination was required in writing.
- Diane Titchenell (RE Sutton) clarified there was some early on issues with Brian Brees getting information, but that was taken care of within the first couple months of his contract.
- Commissioner Armstrong made a motion to instruct the County Attorney to draft a 30-day termination letter to Patriot Insurance. Commissioner Huber seconded the motion. **Motion carried 3-0.**
- Kevin thanked Commissioners. I served as the primary consultant for seven years. Kevin reminded Commissioners they currently have a long-standing relationship with Walker Hughes. Kevin will assist them in the transition, if Walker Hughes is hired.
- Commissioner Armstrong said so the proposal has flat fees for medical plan and clinic management; and commission on dental, vision and life. Kevin said good point there, it has been three years and you now have 249 employees on the plan; once we dig in and look at the numbers there; we'll be coming back with a contract, but yes right now, we will maintain everything at current levels and again reimburse Patriot out of our fees so they maintain and they can continue to be whole thru the remainder of the year.
- Commissioner Armstrong made a motion to enter into a Consulting Agreement with Walker Hughes Insurance as presented with the rates at \$1500/per month for medical, \$1250/per month for clinic, standard commission rates with disclosure on dental, vision, life and disability plans. Commissioner Huber seconded the motion. *Commissioner Armstrong added this is not in association with Richard and Diane and their help with Brian; They have really done a good job for us, the last couple of years; It's not an indictment of your work, it's just a fit for us moving forward.* **Motion carried 3-0.** Kevin thanked Commissioners and appreciates the opportunity to get back in and pick up where we left off.
- Commissioner Armstrong said the Business Associate Agreement will be separate and will allow the County Attorney to review that. The County Attorney will review the Consulting Agreement and the MOU.

Gibson Teldata, Inc. Agreement/Nine Star Agreement

- Bernie Harris (IT Director) presented the Gibson Teldata, Inc. Agreement was already approved and just needs signed.
- Scott Benkie, County Attorney to review the Nine Star Agreement

Smoking Ordinance

- Commissioner Armstrong addressed amending Smoking Ordinance 2019-9B. Last week we introduced Ordinance 2019-9B amending the Smoking Ordinance 2008-12G; a Smoking Ordinance established in 2008.
- Commissioner Huber stated it is a narrow scope that we are here to talk about today; so I would like everyone to think about that today.
- Scott Benkie (County Attorney) added he would like to thank Steve Long (CEO of Hancock Hospital) for being very helpful working with the Ordinance and making the amendment to it.
- Dr. Aspy (Health Officer for the County), introduced herself and said, once again I am strongly in support our current Ordinance. The Town Councils of New Palestine, Fortville, McCordsville have all passed Resolutions to not change our current Ordinance. This amendment is a mish-mosh of confusing stuff. Under smoking you introduce marijuana and so if someone is smoking marijuana openly in public they are supposed to call the Board of Health. None of this really makes sense. There's no registration, there's no mandated inspections, there's no registration list for approved businesses, there's no definitions of what a cigar specialty store is, there's no regard to residences living above the store; neighboring businesses next to it with shared ventilation systems, there's no specifications for ventilation standards, there's no verification of who is an approved business and who is not, which pretty much makes this unenforceable. This would make my employees have to go into a place to inspect, this would expose them to second hand smoke, which they may not want to do. There's no accountability to the business owner because we don't know who will be approved and who is not, who is following the rules and who is not because there is no inspection and because of that I request when you pass this that you remove the Board of Health as the enforcing agency. Commissioner Armstrong clarified, if we revise the smoking ordinance, the Board of Health wishes not to enforce this. Dr. Aspy answered correct, we wish to be removed as the enforcing agency. Commissioner Armstrong said that doesn't make any sense. Dr. Aspy said it is unenforceable and you are going make my employees go into a place and be exposed to second hand smoke. Commissioner Armstrong said it's a pretty big document you are changing, so you can't enforce the other 13 pages? Dr. Aspy said the current Ordinance has enforceability issues, as you have heard. Enforceability is already an issue, but the new amendment makes it totally unenforceable. Commissioner Armstrong said is that your Boards position? Dr. Aspy said no that's my opinion. Commissioner Armstrong said ok, I want to know what will happen if this passes. Does your Board do that or you? I believe your position is accountable to your board. Dr. Aspy said yes and the next Board meeting is next week. Commissioner Armstrong said ok. Dr. Aspy said you are welcome to come.
- Steve Long (CEO of Hancock Hospital) wanted to say thank you for allowing us to be involved in this discussion because this is a contentious issue and clearly as the Health Care Organization for Hancock County, we are highly involved and highly in favor of anything that improves the health status and to echo your comments; we know smoking is a huge part of that; and we have made great strides in Hancock County since this Ordinance was first implemented; so I thank you for your support of that Ordinance over the last ten years; I would say I also understand the position you are in; there are multiple sides to this issue; multiple facets and you have to balance out everything; so we appreciate the ability to reach into the discussions and into the process and while I would say it gives me pause to expand

that opening, at that same time the additional protections we have put into that ordinance are a good balance and I think the Ordinance remains strong and is still a leading Ordinance in the state of Indiana. I think we will have to work through the enforcement issues so I would encourage you be part of that and I would say Hancock Health will be involved in that in any way you see fit for us to do and we would, of course, have to go through our own process. But, we believe that is important for us to have an ordinance that is enforced and that we want to ensure that this narrow exception is not expanded upon on and I believe you guys are in support of that as well. So thanks for allowing us to be involved. We all need to work together and I think we all can work together to do this. We look forward to continuing the dialog.

- Larry Harnish owner of Maduro on Main in Fortville thanked Commissioner Brad Armstrong for honoring his request to explore the possibility of opening up a specific area in a specific shop for a specific people. He agrees with most of the Ordinance. He has had many customers ask if there is a smoking room. I applaud what Hancock County has done. Larry was concerned with customers going outside to a different place, to a different cigar shop to smoke. He is trying to keep people close to Hancock County.
- Commissioner Armstrong asked since you are here, there is one area that I think will be problematic; a stand-alone business with no other businesses or residential property attached to the premises. I didn't catch before we introduced this, you don't have somebody living above, beside or connected to the facility. I think most of these shops are going to be located in a retail environment. Larry said correct. Commissioner Armstrong said a strip mall or something along those lines. The term stand-alone business, I am going to ask for some legal help on that; is the term stand-alone business; that is the only business within that space or does that mean it is referencing a building. Scott Benkie (County Attorney) said I think that term means if it is stand-alone, it is not attached. Commissioner Armstrong said so that is an area that we would address. Commissioner Huber agreed we need to clear up for interpretation. Commissioner Armstrong said just for the record so your business has tenants above it. Larry said tenants above it and residential; there is an ice cream shop connected; on one side the current connection is empty; a separate building; the area I am looking at is about 20' back; the shop will stay smoke free; this is a separate area, down a hallway through two doors, you have to go through doorways, it's definitely a separate area; insulated, separate ventilation system. Commissioner Huber said it will have a separate ventilation system. Larry said yes, exchange area every 6-10 minutes. Scott Benkie (County Attorney) said do you share a wall with the ice cream shop? Larry said I do. There is also a door between us that we keep open; if it gets to the point where maybe someone leaving the smoking area; I guess similar to if someone just pulled up in their car after smoking a cigarette walked in the front door you might still have that smell, right. If that was an issue we would close that door, but the ice cream shop owner is supportive, the landlord is supportive, we have all had discussion on how it would work and if it didn't work, it would stop; but we are all on the same page. Larry thanked Commissioners.
- Steve Long (CEO of Hancock Hospital) approached again for discussion. In light of this conversation, the reason that we did not put very specific language around ventilation requirements which can really be difficult to do; believe me I actually tried drafting that; you can get around all of that with the requirement it is stand-alone. Because then there is no one else to be bothered by it. I think this is important and I would encourage you to not take that out. I realize that that would be an impairment in this particular case. However, you

would then have to craft ventilation requirements that would ensure smoke would not make it into the residences above which is the key. I think we absolutely don't want to have the ability for outside smoke to infiltrate into residential units. I would encourage you leave that component in there because I think it protects us against the need for ventilation requirements, while still allowing the exception that you are looking for. Commissioner Armstrong said so where his store is, if we pass this ordinance as it is now, he couldn't have that smoking area. Steve said no, it sounds like to me no it wouldn't work, because it has residences above. Honestly, I think if we are looking for a narrow exception that does not have an impact on other workers, people that are working in an establishment that is next door or residences above, this is the best way to do it. It achieves the goal of the narrow exception, but it does not have an impact on other people. Commissioner Armstrong said what is going to be difficult is most of these are in a retail environment. Commissioner Huber said to have a stand-alone, to be able to support a stand-alone, free-standing building, not a rented space in a strip is probably tough. Steve said I get that and I think the key component here is that there are residences above. That, I think, would be really difficult to go down that route. Scott Benkie (County Attorney) said what if they were to consent? Steve said I would not be in support of that. I will say the way the ordinance is written right now is good. I think it achieves all the purposes and I get that this is an issue, I do. But I would have difficulty saying it could be in an environment like that. Commissioner Huber said what if it was the same scenario but nothing above. If you were just in a one story strip. Steve said I think it is an interesting interpretive issue. Commissioner Huber said I think that is why it needs to be defined or we are going to be interpreting this for ever and ever. My interpretation and your interpretation and everybody's in the audience is going to be different. If we are going to do it, we need to come to, I mean. Steve said yes, I agree. Steve said let me say, we are fully supportive of the ordinance as it is written. If it were to change in a way like that; that support would not be what it is. Commissioner Jessup said what if we were to leave that language, but grandfather the one cigar shop that exist in the county right now. Steve said so essentially we would say for. Commissioner Jessup said at its current operating location. Steve said so from this point forward, if another business wanted to do this it would be stand alone? Commissioner Jessup said yes. Steve said certainly is up to you all, that might be a worthwhile way to move forward. Commissioner Jessup said would that be a compromise somewhere in the middle. Commissioner Huber said does the state have any type of requirements? Steve said as far as I can tell no one does, because it is very difficult to create those requirements. There is really no way to adequately ventilate a smoke filled room. That's just the unfortunate part of it. So if you have a business like this, a free-standing environment is the very best way to make it happen. I think if you were to go, kind of what you are saying John, is that if it were grandfathered for a business that is in business right now and anything new these regulations would apply to them. That's probably a reasonable step. I would worry about existing tenants that are above, because they would be subjected to the potential of this; I would urge you take this into consideration as well. Commissioner Armstrong said ok.

- Edward Flick introduced himself and said he is a resident of Hancock County since 1969. Smoke free since 1970. What I have noticed since you enacted the law is I could go to places and not have to breathe it. My concern is once you make an exception for this business, what are you going to do when another business comes forward and wants an exception; you will slowly roll the requirements back to where we were before 2008. The factory that I was in

had to go smoke free in 2008. There were little problems in the beginning, but the smokers adapted to it. They had to go outside and it made a much better environment. But if we roll-it back, then the non-smoker has to breathe it again and there is nothing you can do about it. Thank you.

- Dr. Robert Klinestiver, a Pulmonologist in Greenfield for 23 years introduced himself. He sees local patients. As part of the original anti-smoking ordinance, it really had a good value. I wanted to make a comment on the stand-alone issue and I think that is essential. What I have seen here and no offense to anyone in the room is; the way I view this here is we are looking at the desire of an individual versus the rights of many people and that balance to me, swings obviously towards the people. That's why we have the anti-tobacco ordinance is to protect the people; and in terms of the people next door and certainly the people above they certainly have a right to have clean air and there is no way to completely ventilate as that's been said. Ironically the situation, cigar smoke as we know is very putrid, very strong and you can smell it more easily than any other type of smoke. What do you do if one individuals starts complaining they can smell the cigar smoke? There is no remedy for that. Technically, I could see someone create a law suit over this against the County for their rights being impaired. Or God forbid they would get lung cancer and blame it on this situation. I think it is dangerous going forward right now it even makes sense with the exception you mention, even with consent, things change, people move, new people move in and they are not going to give consent. This should be designed to be long-standing and not looking ahead for more exceptions. I am pro-business and I appreciate the other side of this. I really do, but nothing should trump public and individual rights and safety. Commissioner Armstrong commented that in the apartment upstairs you can smoke a cigar in it right now. So there is a right to do that. I don't know if it happens or not, but there is still a right to that and that is a legal product and you can do that in a residential area. You have the same amount of exposure whether that is done in that cigar shop to whether it is in the residence. It's possible to do that. I appreciate your points about wanting to protect the rights of those that don't want it. Dr. Klinestiver said again this isn't the need of an individual it's the request, the desire of a businessman versus. Commissioner Armstrong said it is also the desire of constituents, I wouldn't be here if I didn't have to be; I wouldn't go through this mess if I didn't have constituents say I would like to do that; I would like to go to Fox Garden and when I get done go over and enjoy a cigar I bought at the store. A lot of them may not want to come and speak publically to that, because it is kind of a shameful thing to do, even though it is a legal product; its publically shamed; I know for a fact, that I have talked to several constituents that had a desire to do that and that is the only reason we are here. They pay taxes, vote and it's a legal product and we are looking to do that. That's why we are here. We are trying to find that balance and Steve is great in trying to help us to find that middle road. I think a stand-alone facility will answer those needs.
- Crystal Baker, Office Manager with the Health Department clarified her departments procedures. If we get a complaint about someone smoking outside a restaurant, someone goes and talks to the manager and educates. When they get a complaint about a guy in a blue shirt it's hard to enforce.
- Commissioner Armstrong made a motion to pass the Ordinance 2019-9B with two changes; Section 4, Letter D the phrase between stand alone and businesses, the phrase free-standing be added and at the end of Letter D the phrase with the exception of businesses in definition A operating as of October 1, 2019. I would have that same language added to Section 5 Letter

D. Commissioner Huber seconded the motion. Commissioner Huber asked Commissioner Armstrong to clarify what A is, so it is good and clear. Commissioner Armstrong clarified A is the language that we are going to allow this from that is primarily engaged in the sale of tobacco products and instruments for profit intended for use off-premises consumption or use with at least 90% of the gross revenue of the business resulting from such sales. **Motion carried 3-0.**

Dedicate 35' Half ROW Randal Norman Minor Sub/Replat of Charles Bales 50' Half ROW

- Steve Cooper (Coor Consulting) requested dedication of ROW. Commissioner Armstrong made a motion to accept the Replat of the ROW for the Robert Davis Minor Sub for a 50' Half ROW on 300 South. Commissioner Huber seconded the motion. **Motion carried 3-0.**
- Commissioner Armstrong made a motion to accept the 35' Half ROW for the Randal Norman Minor Sub. Commissioner Huber seconded the motion. **Motion carried 3-0.**

Sheriff's Department Update

- Sheriff Burkhardt notified Commissioners Council members ask him to look into the JIP recovery block that had been discussed. Sheriff Burkhardt would like to know what the Commissioners thinks of a JIP recovery block? Commissioner Huber said I am all for it, I am glad to see it on the radar. Space is one issue, but he hates to see Sheriff Burkhardt jump through hoops if Probation isn't behind it. Sheriff Burkhardt said we currently doing this, just not as efficient as it could be. This would be dedicated specifically the JIP Block. It would be more efficient. Commissioner Armstrong said you might get a short payoff, you may not. But I like that it allows you start increasing your program before we go into that space.
- Commissioner Armstrong made a motion to request Council seek funding for renovation of indoor req to be used as a JIP block. Commissioner Huber seconded the motion. **Motion carried 3-0.**
- Sheriff Burkhardt is trying to figure out part of the radio system for the new jail. With increase in staff, we will need more radios.

Senior Services INDOT Contract

Bob Long (Senior Services) requested Commissioners signatures on two INDOT Contracts (Operating Expenses and Vehicle Match). The total capital vehicle expense is \$148,400 with Federal funds for \$118,720 through the commissioners and \$29,680 on our own. That's the 80/20 match and that's for next year's vehicles. Then on the draw down for the revenue for Operating Expenses Federal is \$250,259 and the state is \$68,132. Commissioner signed contracts for Senior Services.

Hancock Building Inspector

- Scott Williams (Building Inspector) notified Commissioners the unsafe building reported six weeks or so ago had been demolished by the homeowner.
- Commissioner Jessup asked if any Jail permits have been requested. Scott said not at this time. Commissioner Armstrong made a motion to waive all Building and Permit Fees for the Hancock County Jail Project. Commissioner Huber seconded the motion. **Motion carried 3-0.**
- Commissioner Armstrong made a motion to recommend to the Planning Department to waive all fees for the Hancock County Jail Project. Commissioner Huber seconded the motion. **Motion carried 3-0.**

Dedicate 65' Half ROW at The Boulders (200 West)

Phillip Going (Accura Express) requested dedication of ROW. Commissioner Armstrong made a motion to accept the 65' Half ROW on 200 West and 50' Half ROW in interior roads in The Boulders, Section 1. Commissioner Huber seconded the motion. **Motion carried 3-0.**

GO Bond Ordinance & Scope of Exhibit A

Commissioner Armstrong made a motion to request Council revisit the GO Bond Ordinance and Scope of Work Exhibit A. Commissioner Huber seconded the motion. **Motion carried 3-0.**

Resolution 2019-10-1

Commissioner Armstrong introduced Resolution 2019-10-1 Amending Employee Handbook regarding At-Will Employment.

Request to Hunt on County Farm

Commissioner Jessup received request to hunt on the County Farm property. Commissioner Jessup appreciates the request. Legal Counsel advised against this request. Commissioners agreed to not give specific permission to hunt on the County Farm property.

Budget Transfers

Commissioner Jessup made a motion to transfer from Line Item 31601 Court Ordered Care of Children in the amount of \$2,817 to Building, Mowing & Snow Removal; Additionally we transfer from Line Item 31601 Court Ordered Care of Children \$3,197.08 to Building Maintenance & Repair. Commissioner Huber seconded the motion. **Motion carried 3-0.**

Hancock County Commissioners

Commissioner John Jessup, President

Commissioner Brad Armstrong, Vice-President

Commissioner Marc Huber

Attest: _____
Debra Carnes, Hancock County Auditor