

Hancock County Board of Commissioner's Meeting

August 6, 2019

Commissioners met in regular session. Those present were Board of Commissioner's Vice President Brad Armstrong, Commissioner Marc Huber, County Attorney Scott Benkie, Auditor Debra Carnes & Deputy Auditor Trish George. Commissioner John Jessup arrived at 8:05 am. Commissioner Armstrong called to order the August 6, 2019 Hancock County Commissioners Board meeting at 7:59 am.

Claims & Payroll

Commissioner Armstrong made a motion to approve claims and payroll as presented. Commissioner Huber seconded the motion. **Motion carried 2-0.**

Highway

- Gary met with Mary Ann Wietbrock (Pennsy Trail) she is applying for grants. Mary Ann is using the TAP Grant as 20% local match for a Federal Grant (great idea) to complete the Pennsy Trail. Mary Ann will come to the BOC meeting on August 20th.
- Gary had a meeting with the contractor for the County Farm road and is preparing an MTP for the general portion. Options would come from the BOC at a later date.
- There was discussion about the City doing a Greenways Grant to clear Brandywine Creek, so Gary took a look. The exploration involved getting into Brandywine Creek and he was subjected to poison ivy, thistles and jams. Gary felt this would cost thousands of dollars to pursue.
- A complaint with sight visibility triangles (sight visibility standards) was resolved.
- Fogging is on schedule but left for last.
- Commissioner Armstrong asked Gary about the signs for the Mt Comfort Truck Parking area. It's still a truck stop. Do we need more signage? Gary suggested he and the Sheriff take a look. Gary will drive out and take a look today.

Commissioner Minutes

Commissioner Huber made a motion to approve the Commissioner Minutes for 7/30/19 as presented. Commissioner Armstrong seconded the motion. **Motion carried 3-0.**

Maintenance

- Dean Mullins (Maintenance) notified Commissioners the Memorial Building has issues with water coming in the front doors. Dean will get estimates for the Commissioners to review.
- Dean has three estimates for the Purdue Building and will send those to the Commissioners for review.
- Dean continues to change out batteries throughout the building.

Amend/Rezone Commitment 7284 W 200 N Brybelly Properties

Amend/Rezone Code RE: Bed & Breakfast Facility

- Mike Dale (Planning Department) reported at last month's Planning Commission meeting, the commission forwarded a favorable recommendation (split vote 5-2) in favor of

amending the zoning commitment that came about in 2005 when 7284 W 200 N Brybelly Properties was rezoned to industrial. Brybelly would like to add some driveway locations along Buck Creek Road.

- Larry Siegler (Peterson Property) spoke for Brybelly and reported them as a success story. They are expanding East & West and they are in need of a second entrance on Buck Creek Road. Brybelly would like to widen and repave Buck Creek Road to make it suitable for big trucks.
- Mike Nash and Jeff Smith (Brybelly) introduced themselves and discussed their growing business. Brybelly was started in 2005. They started with importing poker chips and selling at flea markets, eBay and Amazon. They learned about e-commerce and how to build the product line so it is a nice cohesive selling unit. We now sell toys, hair extensions and sporting goods. The product lines never stop, they have 35 product lines in stock. They realized they had to develop their own products and progressed into product development. They strive to make better products that no one else has. They have a diverse group of people; product development, marketers, graphic designers, technicians and creators.
- Larry added Gary Pool is in favor of this decision, as long as the road provided is suitable for heavy truck traffic.
- Commissioner Jessup asked if anyone would like to address this for or against it.
- Larry Frymier (Shadow Creek) spoke and was concerned if this is approved it will affect the life of Shadow Creek neighborhood. This is a very nice upgrade neighborhood. Larry is concerned with the trucks he has already seen on Buck Creek Road. Larry moved to Buck Creek Road because it was a closed road on both ends and is upset with the increasing truck traffic he has been seeing lately.
- Catherine Sellers (Kellywood Subdivision) said she and her husband have lived here since 2009. She congratulated Brybelly on their success. But, she said the rest of us have our own American success story of owning a home and being part of a community. She talked about having to deal with the flooding issues. Catherine talked to Susan Bodkin and Gary Pool regarding the flooding issues. The neighborhood have cleaned out their own drains and ditches as they are unregulated. Basically they provide their own services. If a road and walkway are provided, who maintains this? The ditches currently are filled with foliage and they are not being maintained. If they pave and create a walking path, how far up are they going to create that? Catherine's concerns are about what kind of service will we have and maintenance as well. If it's not maintained its not going to help the residents.
- Leland Sellers (Kellywood Subdivision) was concerned after attending the Planning meeting; they said there weren't that many trucks, but as he drove by there this morning, there were four tractor/trailers present. They have ROW on 200 North their main entrance and now they want another entrance. Then on Buck Creek Road two more entrances and now Spectra is building a huge warehouse there and they have two entrances. Why do they need four driveways?
- Quinn Gaither (Hunters Chase) noticed there is additional acreage behind these businesses for future growth and sees future traffic concerns for Buck Creek Road. This growth and road cost will be on the county, the businesses will get abatements. This growth will be on the home owners, not the businesses. I am happy for the successful businesses, but this was a successful neighborhood and the expense will be on the

homeowners. Why wasn't a commercial drive put in there to begin with? Unless you put a commercial drive in there, where will all future growth come out on Buck Creek?

- Robert Farmer (owns Farmers Automotive on Buck Creek Road) has been the owner for over 37 years. He asked the Commissioner's if they believed in the law? When this business was established it was light commercial. Robert thought he would receive a registered letter with what the intent was for. He never received one, no one received one. When the property was developed and when it rained there would be a 1 to 1 1/2' of rain that would stand afterwards for 3-4 days. They raised their land to offset their water problems, which is against the law. Robert was run out of his shop five times and everyone after has had water problems. He added tile around his shop to divert the water. Another concern is the Margaret Wallace Ditch that goes into the area they want to build on and his vent tile is on the other side. What's to keep Peterson from just tearing the ditch up? Why wasn't there a registered letter sent to homeowners? Commissioner Huber said he did not know about the notices? Robert said it is against State and Federal laws to raise land to divert water. Robert tried to hire a lawyer to pursue this and could not find a lawyer that would take this on. This means people in Hancock County have no rights, you have boxed us in. Commissioner Huber said that whole area has been zoned industrial. Again Robert asked where were the registered letters? Commissioner Armstrong asked Mike Dale to explain the mass rezoning that took place in 2007 and it was legal. Mike Dale (Planning Department) explained in 2007 Hancock County adopted rezoning maps and Indiana Law required public notice in the newspaper and not individual property owners. Mike confirmed the county did follow the law with public notice in the newspaper and not individual notice. Robert said the newspaper is not a legal document. Mike said State Law requires notice to be published in a newspaper. Robert questioned who is going to stop Peterson from ripping out his ditch near the Margaret Wallace Ditch? Basically there is no law in this County. Mike Dale clarified there were public notices sent to the newspapers, schools and churches. Commissioner Armstrong said the 2007 massive rezone has had positive and negative effects. This board has decided to not do a massive rezoning again and will do rezoning on an individual basis. Rezoning now requires a site/plat plan. Robert concluded residents of this county have no rights and you do what you want. Commissioner Armstrong said "sorry I disagree with you and sorry you feel this way sir". Robert said ask the residents of Buck Creek road. The trust is "0".
- Nancy Whelchel (Buck Creek Road Resident) lives across from the undeveloped 40 acres, north of the Brybelly and Spectra. Nancy wishes there was a way to divert traffic. The BOC made a commitment 14 years ago, to not have traffic divert to Buck Creek Road. She wishes they could develop a road within the complex. If traffic has to come out on Buck Creek, she would like to see the road widened. Nancy thanked the BOC for their time.
- Judish Clemons (Hunters Chase) said she is not a walker, but her husband is. Her husband walks with his dogs and is an avid dog walker, she is concerned with the traffic on Buck Creek. She wishes they would develop a commercial road within the acreage for use by any future development and they maintain it.
- Commissioner Jessup asked if anyone else would like to speak?
- Larry Frymier (Shadow Creek) added there are other residents who could not take off from work and requested any other meetings be after 5-6 PM so they can attend.
- Commissioner Huber clarified that Brybelly will pay for the road widening on Buck Creek.

- A resident asked who will clean the ditches after the roads are widened. She was concerned with drainage issues. She has already raised her garage and spent \$10,000. Larry Sigler (Peterson) clarified drainage would be addressed from their side of the road, because there wasn't much room on the other side. She asked about a drainage pond? Larry said there were plans to expand the retention pond.
- Larry verified there will be one entrance off 200 North and one off Buck Creek Road. He also explained they will develop curbs and signs to help divert trucks and run trucks to the South. Commissioner Armstrong said the residents seemed more concerned with drainage than a walking path. A resident asked if directing traffic would be enforced and he would like this in writing. Commissioner Huber said you can put up signs to direct trucks, but without 24/7 someone directing traffic, there will be people that ignore signs. Commissioner Armstrong said he thinks we can get in writing the curbing, directing truck traffic and signs.
- Ron Pritzke (Pritzke & Davis) attorney created an amended commitment that does not address issues addressed this morning. He can add amendment to discourage truck traffic at 300 North.
- A resident is concerned with the water table and enlarging the retention pond.
- Commissioner Armstrong made a motion to amend the commitment concerning the use and development of real estate made in connection with the petition for rezoning. As conditions for that, we recommend that we mirror the Planning Commission's recommendations that the road be widened 24', widen the intersection of Buck Creek Road and 200 North, install signage to discourage truck traffic, install directional control features and install the trail. Also add as part of the 24' widening, install proper ditch on the west side of Buck Creek road according to county standards. Commissioner Huber seconded the motion. **Motion carried 3-0.**
- Mike Dale (Planning Department) requested rezoning for a Bed & Breakfast to allow for a special exception to R1, R2.5 and R3. Would BOC recommend Mike present to the Planning Commission? Commissioners agreed Mike could present to the Planning Commission.

Personnel Matter

- Judge Snow requested exception to the County Personnel Policy on credit for past full-time employment for the county. Technically he does not have to request because he is judiciary, however, 17 years ago the judges decided to adopt the County Personnel Policies to keep everything even throughout the County. There are cases approved on a case by case basis. This request is for a court reporter who left with good standing and Judge Snow would like her to be granted exception for 6 years of previous employment. She would be able to pick up a week of vacation early and in two years pick up another week.
- Commissioner Armstrong made a motion to authorize Judge Snow to include the six years of previous employment from November of 1991 to March of 1998 for vacation time for Lorie May, effective January 1, 2020. Commissioner Huber seconded the motion. **Motion carried 3-0.**

RQAW Update

- Dustin Fry (RQAW) updated Commissioners with jail progress.
- Dustin is working with Garmong on the GMP. The current status of the GMP is preliminary, it has not been finalized. The GMP is 3.8% more than expected due to having more sub-contractor input as opposed to historical data. There have been scope additions as the design was finished up.
- Dustin would like to have a Board of Commissioners executive session to discuss details. Scott Benkie (County Attorney) said an executive session was not needed.
- Commissioner Jessup summarized from design development to the preliminary GMP the contingency went down from 7% to 6%. The question, is to move forward with the GMP or wait till time of bid? The current contingency is 4% or \$4.8M. What we consider with this is the risk of going into bid day with a locked in number, or what happens with the project contingency and what happens with the \$600K and that it stays with the county. Commissioner Huber questioned if we would be locked into accepting a bad bid. Dustin said no.

Commissioners Discuss City of Greenfield MOU (Utilities for Jail)

- Scott Benkie (County Attorney) discussed with BOC the MOU from the City of Greenfield. Scott will make requested changes to the MOU and re-submit to the City of Greenfield.
- Commissioner Armstrong made a motion to enter into revised MOU agreement with City of Greenfield. Commissioner Jessup seconded the motion. Commissioner Huber voted "Nay". **Motion carried 2-1.**

E911 Clerk's Grant Annex Basement/Door Access/Monitoring Cameras

- John Jokantas (E911) requested the Commissioners approve the Clerk's Grant Annex Basement/Door Access/Monitoring Cameras. Scott Benkie (County Attorney) expressed concerns with the contract's risk allocations and he feels this should be a shared responsibility. Commissioner Huber said we would all like to be in that kind of business where we have no responsibility or liability. Commissioner Armstrong and Jessup agreed. Commissioner Armstrong asked if we could use this as a one year band aid to be in compliance, can we move to a self-serving system that calls us when needed. John said that is what they are working toward.
- Commissioner Armstrong made a motion to enter into the contract with Nelsen Fire Alarm not to exceed the amount of \$29,976 to be reimbursed all but \$107 through a state grant. Commissioner Huber seconded the motion. **Motion carried 3-0.**

BOC Review 144's

Commissioner Armstrong made a motion to approve the 144's as presented with the exception of Emergency Management Line Item for Misty Moore for 2020 salary be \$60,302.40 rather than \$68,500. Commissioner Huber seconded the motion. **Motion carried 3-0.**

Deputy Work Pay Injury

Commissioner Huber discussed Deputy injuries in the line of duty and coverage. They only get paid 66 & 2/3rds pay. They were under the understanding they relinquish their 66 & 2/3rds pay and get a full pay check, but this policy changed. Commissioners agreed to keep with the current policy.

Smoke Shop

Commissioner Armstrong received a call from the Smoke Shop in Greenfield with a request to amend the Smoking Ordinance 2018-12G to add a smoke area to his establishment. We could add a provision for businesses solely dedicated to the sale of tobacco products solely for profit on the business premises. Commissioner Jessup said he had no problem with introducing and getting feedback; tobacco users are citizens and have rights to petition too. Armstrong talked with Scott Benkie (County Attorney) to change this and introduce a new ordinance on August 20th and get input and vote on it at the September 3rd meeting.

Hancock County Commissioners

Commissioner John Jessup, President

Commissioner Brad Armstrong, Vice-President

Commissioner Marc Huber

Attest: _____
Debra Carnes, Hancock County Auditor