



BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN
Citizens Square Suite 410 · 200 East Berry Street · Fort Wayne, IN 46802
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RICHARD E. BECK THERESE M. BROWN F. NELSON PETERS

MINUTES

Commissioners' Legislative Session
10:00 AM Friday, June 28, 2019
Council Chambers Courtroom – Citizens Square

Commissioners Present:

Nelson Peters, Therese Brown and Rich Beck

Others Present:

Chris Cloud	Commissioners Office
Mike Green	Commissioners Office
Bill Fishering	County Attorney
Charity Murphy	Attorney – Drainage Board
Shinisha Grayson	HR
Jeff Stevens	ACCC
Bill Hartman	Highway Director
Scott Bergthold	Attorney
Bob Eherenman	Attorney – DPS
Paul Blisk	DPS
Michelle Wood	DPS
Kim Bowman	DPS
Larry Weber	Surveyor's Office
Amanda Lawrence	SJCA Engineers & Surveyors
Perry Knox	SJCA
Jeff Neumeyer	WPTA TV

Commissioner Peters called the meeting to order at 10:04 AM. Commissioner Peters led the meeting with the Pledge of Allegiance and a moment of silence.

- 1. Consider approval of the minutes of June 21, 2019.** Commissioner Beck made a motion to approve minutes of June 21, 2019. Commissioner Brown seconded the motion. Motion carried 3-0.
- 2. Consider approval of amendment to Allen County Code Title 19 (Allen County Stormwater Management) – Article 2 (Fee Schedule).** Charity Murphy, Attorney for Drainage Bd., presented this item on behalf of the Surveyors office seeking approval of updated fee schedule for a portion of the fee schedule for stormwater management fees. She stated the only fees that are being updated are the regulated drainage fees for drainage crossing permits, encroachment permits and outlet permits from secondary streams and waterways. These fees were different amounts and the Surveyors office wants to make them all the same which will be \$100. This is actually a decrease in the fee. They'll use part of that for their administrative processes in getting the permits recorded in the Recorder's office. The other part will go into the associated drain. Commissioner Brown made a motion to approve the amendment to Allen County Code Title 19 (Allen County Stormwater Management) – Article 2 (Fee Schedule). Commissioner Beck seconded the motion. Motion carried 3-0.
- 3. Consider approval of annual property insurance renewals.** Shinisha Grayson, Risk Manager, presented this item on behalf of Allen County Human Resources. She stated this is for the renewal of the property insurance for policy period beginning July 1, 2019 to January 1, 2020. There was a small increase in premium however this increase was seen across the board by all entities whether private or government.

This is due to natural disasters such as tornados, wildfires and things of that nature. Commissioner Brown made a motion to approve the annual property insurance renewals. Commissioner Beck seconded the motion. Motion carried 3-0.

- 4. Consider approval of extended warranty and support services agreement between the Board of Commissioners and BI Incorporated for monitoring equipment on behalf of Community Corrections.** Jeff Stevens, Sr. Finance Mgr., with AC Community Corrections presented this item. He stated this is in regards to the electronic monitoring equipment they use. He stated this is on owned equipment so this extends the original warranty. He stated rates and the equipment itself have not changed at all but we have decided to go with a 6 months term. We are looking at other options. There are some equipment changes in the near future and we wanted to get BI's attention if anything. We still had a 30 days clause were we could have cancelled this policy at any point anyway but we decided this might put them on notice that we are looking around so we gave them a 6 month term. Commissioner Peters asked what is your anticipated outcome – what do you hope to gain at the end of the day? Mr. Stevens stated some savings but in the long run, some of their competitors have different things to offer and differences in equipment. We've got more to look at, not necessarily just cost. Commissioner Beck asked him what his confidence level that the monitoring is taking place and that we are responding to these incidents when someone steps outside their home. Mr. Stevens stated it is a GPS system that we've been on for about 5 years. He stated he is prejudiced a little bit but would say that Allen County Community Corrections probably does it the best in the state as far as monitoring. We watch them 24/7 and we know the moment they get out of their zone. Commissioner Beck made a motion to approve the extended warranty and support services agreement between the Board of Commissioners and BI Incorporated for monitoring equipment on behalf of Community Corrections. Commissioner Brown seconded the motion. Motion carried 3-0.
- 5. Consider approval of Amendment # 12 between the Board of Commissioners and American Structurepoint, Inc. for Bass Rd from Scott Rd to Hillegas Rd, Project # 04-264; in the amount of \$80,060.00 increase.** Bill Hartman, Highway Director, stated this is to update the survey and environmental documents and now we have a new wetland mitigation site to monitor for 3 years and some additional geo-technical services for this project. This is 80/20 so our share is \$16,012. Commissioner Brown made a motion to approve Amendment # 12 between the Board of Commissioners and American Structurepoint, Inc. for Bass Rd from Scott Rd to Hillegas Rd, Project # 04-264; in the amount of \$80,060.00 increase. Commissioner Beck seconded the motion. Motion carried 3-0.
- 6. Consider approval of Supplemental Agreement # 2 between the Board of Commissioners and Clark Dietz, Inc. for 2018-2021 Bridge Inspection Services for no change in contract amount.** Bill Hartman, Highway Director stated this just realigns the items in the contract. There were some bridges that had to be added to a 12 month inspection cycle and some cross sectioning in the contract for ? critical bridges that was needed but then there was some additional structural analysis for the bridge on Fogwell Pkwy. This just readjusts everything so as they invoice us we can pay properly. Commissioner Beck made a motion to approve Supplemental Agreement # 2 between the Board of Commissioners and Clark Dietz, Inc. for 2018-2021 Bridge Inspection Services for no change in contract amount. Commissioner Brown seconded the motion. Motion carried 3-0.
- 7. Consider approval of Amendment # 2 between the Board of Commissioners and A & Z Engineering, Inc. for Professional Engineering Services for Union Chapel Trail from Life Bridge Church to Crystal Creek Parkway, Project # 2900118; in the amount of \$50,020.00 increase.** Bill Hartman, Highway Director, started this adds 7 parcels to right of way agreements from 15 to 22. There is additional preliminary engineering for modifying the signalization at intersection of Coldwater and Union Chapel Road and Corbin at Union Chapel for extension of sidewalk to Maplecreek Middle School and revisions to the Life Bridge property. Commissioner Brown made a motion to approve Amendment # 2 between the Board of Commissioners and A & Z Engineering, Inc. for Professional Engineering Services for Union Chapel Trail from Life Bridge Church to Crystal Creek Parkway, Project # 2900118; in the amount of \$50,020.00 increase. Commissioner Beck seconded the motion. Motion carried 3-0.

- 8. Consider approval of Warranty Deed for Pufferbelly Trail-Kell Rd, Project # 0004707.**
a. Parcel 2 – Seyfert

Bill Hartman, Highway Director, stated this is a portion between Cedar Canyons Rd. and Shoaff Road. It's the second parcel of two required so are ready to proceed. Commissioner Beck made a motion to approve Warranty Deed for Pufferbelly Trail-Kell Rd, Project # 0004707. Commissioner Brown seconded the motion. Motion carried 3-0.

- 9. Consider approval of Change Order # 1 and Final for Bid Ref # 09-18, 2018 HMA Resurface Package # 4; in the amount of \$28,228.02 decrease.**
a. St Joe Rd – Mayhew Rd to Maplecrest Rd, Project # 0701617
b. Mayhew Rd – St Joe Rd to North Clinton, Project # 0701717
c. Notestine Rd – St Joe Rd to Schwartz Rd, Project # 0701518

Bill Hartman, Highway Director, stated wedge and leveling was necessary for part of this project and that amount was overestimated by the \$28,228.02 decrease. Commissioner Beck made a motion to approve Change Order # 1 and Final for Bid Ref # 09-18, 2018 HMA Resurface Package # 4; in the amount of \$28,228.02 decrease. Commissioner Brown seconded the motion. Motion carried 3-0

- 10. Consider approval of Project Acceptance for Bid Ref # 09-18, 2018 HMA Resurface Package # 4, with the Final Contract amount of \$572,455.98.** Commissioner Beck made a motion to approve Project Acceptance for Bid Ref # 09-18, 2018 HMA Resurface Package # 4, with the Final Contract amount of \$572,455.98. Commissioner Brown seconded the motion. Motion carried 3-0.

- 11. Consider approval of Change Order # 1 and Final for Bid Ref # 10-18, 2018 HMA Resurfacing Package # 5; in the amount of \$ 34,893.86 increase.**
a. Stelling Rd – Rohman Rd to Fort Wayne City Limits, Project # 0701618
b. Rohman Rd – Platter Rd to Stelling Rd, Project # 0701718
c. Platter Rd – Rohman Rd to Webster Rd, Project # 0701818
d. Thimlar Rd – Platter Rd to SR 37, Project # 0701918
e. Webster Rd – Platter Rd to US 24, Project # 0702018
f. Woodburn Rd – Hetrick Rd to Webster Rd, Project # 0702118
g. Woodburn Rd – Brobst Rd to State Line Rd, Project # 0702218
h. Maumee Center Rd at Loves Truck Stop, Project # 0702318

Bill Hartman, Highway Director, stated the primary reason for the increase in this project was the last item, Maumee Center Rd. at Loves Truck Stop. There is a portion of the road that we are relinquishing to the property owners and the resurfacing of that finalizes that relinquishment agreement. Commissioner Brown made a motion to approve Change Order # 1 and Final for Bid Ref # 10-18, 2018 HMA Resurfacing Package # 5; in the amount of \$ 34,893.86 increase. Commissioner Beck seconded the motion. Motion carried 3-0.

- 12. Consider approval of Project Acceptance for Bid Ref # 10-18, 2018 HMA Resurfacing Package # 5 with the Final Contract amount of \$1,352,469.86.** Commissioner Beck made a motion to approve Project Acceptance for Bid Ref # 10-18, 2018 HMA Resurfacing Package # 5 with the Final Contract amount of \$1,352,469.86. Commissioner Brown seconded the motion. Motion carried 3-0.

- 13. Consider approval of Sign Request for a Stop sign at Stonebridge Rd at Fogwell Parkway.** Commissioner Brown made a motion to approve Sign Request for a Stop sign at Stonebridge Rd at Fogwell Parkway. Commissioner Beck seconded the motion. Motion carried 3-0.

- 14. Consider approval of Sign Request to post Speed Limit 30 MPH for Gondola Parkway at Carroll Rd in Tuscany Subdivision.** Commissioner Brown made a motion to approve Sign Request to post Speed Limit 30 MPH for Gondola Parkway at Carroll Rd in Tuscany Subdivision. Commissioner Beck seconded the motion. Motion carried 3-0.

15. Consider approval of addition to the Allen County Code Title 8 (Public Safety) – Article 30 (Sexually Oriented Business Licensing).

Chris Cloud, Chief of Staff, explained that in 2018 the City of Fort Wayne was sued by a sexually oriented business concerning the granting of a variance though the suit was ultimately thrown out. After the lawsuit was resolved, staff thought a review of the County zoning ordinance was warranted. County staff, plan commission attorney and attorney Scott Bergthold, who is co-counsel and assisted with Fort Wayne's successful defense of its zoning ordinance, reviewed Allen County's zoning ordinance. This legal review identified areas in the zoning ordinance that needed to be addressed as well as additional areas related to the operation of sexually oriented businesses that needed to be addressed by separate Allen County ordinances. While there are no legally permitted sexually oriented businesses in any area which Allen County has planning or land use responsibility, there are still several ordinances recommended for your consideration today.

Attorney Bergthold, who is co-counsel with Attorney Ehereman and who has been working with staff over the last several months on these ordinances in light of the litigation that came about in Fort Wayne last year, did a very thorough presentation about this item and the next few items on the agenda.

All cases referenced in the presentation are on file in permanent records.

Commissioner Brown made a motion to approve addition to the Allen County Code Title 8 (Public Safety) – Article 30 (Sexually Oriented Business Licensing). Commissioner Brown seconded the motion. Motion carried 3-0.

16. Consider approval of addition to the Allen County Code Title 8 (Public Safety) – Article 31 (Live Sex Act Business). Attorney Bergthold did a presentation on this item. All cases referenced in the presentation are on file in permanent records.

Commissioner Beck made a motion to approve the addition to the Allen County Code Title 8 (Public Safety) – Article 31 (Live Sex Act Business). Commissioner Brown seconded the motion. Motion carried 3-0.

17. Consider approval of addition to the Allen County Code Title 8 (Public Safety) – Article 32 (Penalties and Enforcement for Violations of Sexually Oriented Business Licensing Ordinance and Live Sex Act Business Ordinance). Attorney Bergthold explained that this is a penalty provision ordinance that is going to be passed under a separate ordinance so that the ordinances just voted on can take effect immediately. A penalty ordinance has to be published over a two week period pursuant to Indiana law. Commissioner Brown made a motion to approve addition to the Allen County Code Title 8 (Public Safety) – Article 32 (Penalties and Enforcement for Violations of Sexually Oriented Business Licensing Ordinance and Live Sex Act Business Ordinance). Commissioner Beck seconded the motion. Motion carried 3-0.

18. Consideration of request to Plan Commission to initiate text amendment to Allen County Zoning Ordinance regarding Sexually Oriented Businesses. Robert Ehereman, Attorney for Plan Commission, stated that based on the 3 ordinances that the Commissioners adopted this morning and in reviewing the zoning ordinance, they believe there needs to be a text amendment to the zoning ordinance. He stated that the goal is for himself to work with staff and to hopefully have that text amendment on file by this Tuesday. In order to do that the Commissioners authorization is needed to initiate that text amendment. It would go to Plan Commission at the August 15th public hearing and the Plan Commission would make its recommendation to the Commissioners on August 22nd. Commissioner Beck made a motion to approve request to Plan Commission to initiate text amendment to Allen County Zoning Ordinance regarding Sexually Oriented Businesses. Commissioner Brown seconded the motion. Motion carried 3-0.

- 19. Consider approval of amendment to Allen County Code Title 7 (Purchasing) – Article 2 (Purchasing Department).** Chris Cloud, Chief of Staff, stated our Purchasing – Article 2 lays out the schedule of purchasing that department’s follow. It covers things like when a purchase order is required but also when bids are required, whether that be formal or sealed bids or written bids or just over the phone. The change today increases the threshold for when a purchase order is required from \$500 to \$5000. That number has been around for decades. This is a fairly antiquated number and is really just causing departments to fill it out just because they have to not because it actually results in the oversight it probably did when this was first enacted when departments relied on Purchasing to look up the prices for things and have catalogs where they were more central to the purchasing process. These days departments are looking up these things on their own and they are able to purchase largely on their own. The purchase order process does not fill the same niche it used to fill. It largely takes away a procedure that wasn’t necessary in how we operate our Purchasing department today. Nothing changes on the bid schedule or the thresholds for requiring bids. This is just the internal non-state sanctioned requirement of purchase orders. Commissioner Peters asked do you feel that this limits in anyway the Purchasing Departments oversight? Chris responded no. Largely what was happening was because these don’t serve much of an oversight purpose, most p.o.’s were occurring afterwards when the department realized I forgot to get that checked box marked so they weren’t really on the front end. Commissioner Beck made a motion to approve amendment to Allen County Code Title 7 (Purchasing) – Article 2 (Purchasing Department). Commissioner Brown seconded the motion. Motion carried 3-0.
- 20. Consider approval of license agreement between the Board of Commissioners and Hurricane Soccer Inc for use of land near Byron for youth soccer.** Chris Cloud, Chief of Staff, stated that effectively this is Hunteertown youth soccer. They use to be housed at the fairgrounds and the fairgrounds did not renew the lease with them so until they can find another facility they needed a temporary location for the next 18 months. They will be paying us annually \$2400. There is indemnification in the agreement for us and it has been reviewed by County Attorney Fishing. Commissioner Beck made a motion to approve license agreement between the Board of Commissioners and Hurricane Soccer Inc for use of land near Byron for youth soccer. Commissioner Brown seconded the motion. Motion carried 3-0.
- 21. Consider approval of plat: Morgan Creek, Section VI, Lot 212.** Commissioner Brown made a motion to approve plat. Commissioner Beck seconded the motion. Motion carried 3-0.
- 22. Consider approval of vacation bank for the Surveyor’s Office.** Chris Cloud, Chief of Staff, stated this complies with County policy. Commissioner Brown made a motion to approve vacation bank for the Surveyor’s Office. Commissioner Beck seconded the motion. Motion carried 3-0.
- 23. Consider approval of claims for payment.** Commissioner Beck made a motion to approve the claims as submitted in the amount of \$749,071.60. Commissioner Brown seconded the motion. Motion carried 3-0.
- 24. Other Business:**
- 25. Approval to waive the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of June 28, 2019.** Commissioner Brown made a motion to approve the waiving of the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of June 28, 2019. Commissioner Beck seconded the motion. Motion carried 3-0.
- 26. Comments from the Public**
- 27. Motion to Adjourn.** Meeting adjourned at 11:01 a.m.

Allen County does not discriminate because of disability in the admission to, or treatment or employment in, its programs or activities. The Human Resources Director has been designated to coordinate compliance with nondiscrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided therein, and Allen County’s ADA policy is available from the ADA Coordinator. Suggestions on how the County can better meet

the needs of persons with disabilities may be submitted to the ADA coordinator at: Human Resources Department, 200 East Berry Street, Suite 380, Fort Wayne, IN 46802, or by phone at (260) 449-7217.