

Benton County Commissioner Meeting

June 4, 2024

The Benton County Commissioners met at 8:15 a.m. at the Annex Building. Those in attendance were Commissioners Bryan Berry, Mike Freeland, John Fields, County Attorney, Jacob Ahler and Chief Deputy Auditor, Beth Budreau.

Others in attendance were: Mike Budreau, Kelly Balensiefer, Latisha Provo, Derek Fuehrer, Jasmine Bice, Matthieu Hoaks, Jonathon Devers, John Cox, Colin Sullivan, Pat Harvey, Tracy Tatge, Renee Deno, Lilly Deno, Alyshia Goley, Stephen Goley, Anthony Deno, Kenny Deno, Sharon Townsend, Robert Vaughn, Shane O'Malley, Deb Scherer, Stephanie Scherer, Julie Scherer, Ryan Elliott, Bryan Benner, Joe Senesac, Leslie Fisher, Jon Charlesworth, Jordan Young, Arianna Arredondo, Amy Wilkinson, Domingo Arredondo, Lana Wallpe, Ron Coats, Gina Byer, Ashley Bice, Justin Bice, Don Reifel, Patrick Wetli, Gavin Bice, Hannah Bice, Matt Hull, Matt Washburn, Greg Adwell, Rene Adwell, Sandy Tabert, Mike Sondgeroth, Kenneth Deno, Sara Niccum, Judy Flook, Jan Douglas, JR Niccum, D. Caswell, Judd Burgett, Doug Camden, Sam Smith and Dave Fisher.

Mike Budreau – Highway Supervisor

- Road – Spraying Oil – started at 300 E and will end up on 1200.
- Patching has been done.
- There is 1 gutter that needs to be put on the new building – Mike said he could reach out to someone or see what Deno's had to match and they'd put it on themselves.
- 400 E Bridge – got an email that said they could open it – they opened it Friday morning.
- The new mower is working great.
- Bridge 125 on County line road south of Templeton – put in for a grant, they got reports from United & BFS. Since there were two reports submitted, one of the reports needs to be chosen to move forward. Need to do something within the next week or so.

Commissioner John Fields asked Mike if there were any interviews lined up and Mike said no, the highway has 2 open positions right now. Commissioner Bryan Berry asked if everyone else is working out and Mike said yes. They did find help for mowing this summer.

Commissioner Bryan Berry asked Mike if he wanted to make changes to the CDL contract to maybe help with employees staying longer, Mike said he agreed that it might help.

Kelly Balensiefer – Assessor

Kelly came in to discuss her employee turnover. She has lost her second deputy to a higher paying job, again. She tried to get Sarah Cantu to come back, since she is already a level 3, but she is making over \$40,000 so she isn't going to come back.

Kelly will be losing her 1st deputy in late July or early August; she will be moving out of state. Kelly's dilemma is even if she fills the positions, she will not have anyone certified to do field work. Hiring someone and getting them certified will take time and money.

Kelly is coming before the board to ask to take bids on contraction out, only the field work and appeals. She will continue to do the yearly trending and ratio studies, and doing this will cut costs tremendously.

She has checked on contracts and has been in touch with her consultant. Contracts range from \$26,000 to \$31,000 per year of a 4-year contract. The current salary of the 2nd deputy is \$32,063. If contracting out goes through, she would like to hire someone to be her 1st deputy and move the 2nd deputy position to part

Benton County Commissioner Meeting

June 4, 2024

time. Over time she would like to get the 1st deputy certified as it is required by law. They must be certified level 3, in the event something happens to her, then can fill Kelly's position at least temporarily.

Kelly would like to budget for the part time person in her next budget as well as the contracting out if the commissioners would give her permission. Kelly asked the commissioners if it would be out to put out bid specs for the contracting, the commissioners said yes she could get bids for contracting out field work and appeals.

John Cox – Sheriff

John talked about the jail study; it is still moving forward. They had one more engineer take a look, the next step from RQAW is they are going to try to set up a meeting with employees to understand their daily functions and see how things specifically work back in the jail. The structural engineer is the last one to come up and take a look at everything. From John's understanding they will have to go off what they can see from inside the jail, John assumes they will get with an engineer that is familiar with the water table.

John stated that the jail is pretty full at 32 inmates this morning, only 8 extra beds. Everything is going well in the jail.

John has been getting a lot of complaints of the speed on county roads and more of the heavy populated areas in the county. People are running 55-60 mph, John stated that 55 is the speed that is allowed. Indiana has a law that governs unincorporated county non posted roads – so any road that is not posted is automatically 55 mph. John said that he talked to Attorney Ahler, about any ordinances that are in place for speed limits within the county. Commissioner Berry said that they did that in Wadena, it was lowered to 40mph. John is recommending just reducing the speed on county roads countywide to 45-50 mph. Doing this would help the Sheriff's department be able to enforce it where there are those higher populated areas and people aren't following the speed limit.

John said the last conversation about the public safety tax, he is going to redo the document like Commissioner Berry asked him too. He said he will knock it down to about half, his focus will be on the back of the jail. John would also like to talk about salary increases for the future for his deputies to stay competitive since they take most of the calls within the towns as of right now. He would like to meet with the town marshals and deputy marshals to see if they'd be able to adjust their shifts/hours to have more coverage throughout the day in the towns.

John is going to decommission one of the trucks and sell it.

He is done with the Economic Developments vehicle.

John Cox - Fairgrounds

Plumbing is beginning – Brouillette's will be in there the first of next week. Then they will be ready to pour the slab on the new building. Johnson sewer was over and did some work on the tank on the other side of the track, the bacteria was dead in it so they got that restarted.

Tractor Pull went good, they did a lot of work out at the fairgrounds. There was a little fire on the pole from a light, Lyle came out and bypassed it and took the light down.

Benton County Commissioner Meeting

June 4, 2024

Waiting to hear back from the Benton Community Foundation for 2 grants that were filled out, one for the new horse and pony arena and new lights on the fairgrounds. John should find out by June 20th on that. He said the fair is packed full this year; they have a total of 15 vendors now.

Mike Budreau had the highway guys put in a fire lane that backs into the pond. John was very appreciative of that.

Commissioner Berry asked if the poles got moved, John said yes. John has requested for 3 phase power out to Nipsco, he is waiting for a call back.

Business:

Minutes were presented and approved with a motion by Commissioner, John Fields, seconded by Commissioner Mike Freeland and motion carried.

Monthly Claims were presented and approved with a motion by Commissioner, Mike Freeland, Seconded by Commissioner John Fields, and motion carried.

Pay at once Claims were presented and approved with a motion by Commissioner, Mike Freeland, seconded by Commissioner John Fields and motion carried.

Payroll was presented and then approved with a motion by Commissioner, John Fields, seconded by Commissioner Mike Freeland and motion carried.

Chief Deputy Auditor Budreau presented the question with timeclock edits; there have been an excessive number of edits by certain departments within the county that consist of them forgetting to clock in and out. She would like to know what the plan is and does there need to be a handbook change. Commissioner Bryan Berry stated that he thought that Auditor Freeland and Attorney Ahler were discussing that, Attorney Ahler told Auditor Freeland that if its going to be a policy, it needs to reflect the handbook. Attorney Ahler said that he could prepare that for her.

Co-Location Agreements were signed by the commissioner. It is for the broadband wireless project.

- Otterbein Council
- Boswell
- Blue Ridge Farms
- Oxford Council

Chief Deputy Auditor Budreau presented a grant policy and asked Attorney Ahler to look it over, State Board of Accounts are pushing for it to be put in place.

Commissioner Bryan Berry tabled the grant of easement in gross until next meeting, Mr. Smith has not gotten back with Commissioner Berry.

Friends of Big Pine Creek – Proposed Dairy

Johnny Klemme presented a formal letter of intent for a public park along Big Pine Creek that he has personally received. He has a property for sale on 300 S which is approximately 1 mile downstream from the proposed dairy. The proposed dairy is on 150 S and 800 E, the proposed park site is located on E 300 S, Ellsworth Family Farm. The Benton County Soil and Water Conservation District in association with the Big Pine Creek Watershed Project, is seeking to acquire land along the Big Pine Creek. The intention

Benton County Commissioner Meeting

June 4, 2024

of this acquisition is to secure a permanent education site to work with local farmers and landowners in understanding conservation practices that provide both agronomic, economic, and environmental benefits to the community. The Benton County SWCD is working with the Economic Developer and Benton Community Foundation and are applying for grants to acquire a site. As an SWCD they work with the county to ensure that the site would provide multiple benefits to the entire Benton County community, including access to the outdoors, a public green space, a public event site, creek access for paddlers on Big Pine Cree, a trail system, and educational opportunities. This wooded property is in a ideal location to accomplish our goals and is located just down the road from our local middle school & high school. It is the Benton County SWCD's intent to present a purchase agreement for the acquisition of these 34 acres more or less of woods and creek frontage. It is also their intent to work with Johnny Klemme for this purchase agreement, pending their grant approval.

Johnny Klemme goes on to state that the Big Pine Creek is a special place, he said he's not opposed to a CAFO in Benton County, but he is opposed to one on the Big Pine Creek. He asks the commissioners to search for an alternative location.

Commissioner Bryan Berry asked Johnny if he had reached out to the Dairy to ask them about an alternative location, Johnny said he had not, but he will.

Commissioner Mike Freeland wanted everyone to understand that the commissioners did not pick this spot for the proposed Dairy.

Sara Niccum stated on 3 separate occasions over the last 2 and half weeks the friends of big pine creek have submitted records requests. The first request was partially filled but was missing some documents. The second request was denied after Commissioner Berry instructed county employees not to fulfill the request. After the 3rd request friends of big pine creek were instructed to contact the county attorney and the county attorney would contact the appropriate departments. Sara Niccum said due to this, friends of big pine creek are requesting to cancel the BZA hearing scheduled for Friday June 7th. She goes on to say that due to the fact that the drainage plan and transportation plan have not been approved. There also has not been an IDEM permit issued, and no environmental impact study has been completed. Sara stated that all these are requirements that are spelled out in section 8-10 conditional uses. Sara paused to allow the commissioners time to motion to cancel the hearing on Friday if they so choose. Commissioner Berry stated they have not received a drainage plan back from BF&S, which BF&S have not received anything from Greenwillow. Sara asked how they could have even had a meeting on Friday then, Commissioner Berry stated that they aren't they will have it on June 18th if the BZA passes it. Attorney Ahler goes on the so that he wanted everyone to understand that the Commissioners & BZA are two separate legal bodies. So, they have two separate areas of jurisdiction. The Commissioners may have a feeling about it one way, but the BZA is the deciding factor. Attorney Ahler said he has been in contact with Brooke Scherich the BZA attorney, Attorney Ahler said we could have all the discussion in the world about the road use agreement or drainage plan, but if the BZA doesn't grant the proposed dairy's request the other two are dead in the water. Attorney Ahler encouraged the friends of Big Pine creek to attend the BZA meeting on Friday June 7th so their feelings could be heard. Attorney Ahler when on to state that in his opinion he doesn't think the commissioners have the ability to override the BZA before they've had the opportunity to review everything first. The BZA must make that decision. If the road use or drainage plan need to be addressed that is separate from the BZA. Attorney Ahler just wanted to reiterate if the BZA doesn't approve the proposed dairy's request, the drainage plan and road use agreement are null and void.

Tim Wilkinson asked who sits on the BZA – Commissioner Berry stated – Paul Schutter, Tom Suiter, Gary Clifton, Aaron Meredith, Jim Lawinger is on the BZA but he can't vote because he works for the dairy and Tim Barrett was put as his alternate. Sara Niccum asked how Tom Suiter could be on there and

Benton County Commissioner Meeting

June 4, 2024

Commissioner Berry said he didn't know if he would be able to vote or not. Sara also asked about Gary Clifton, Commissioner Berry said the same thing, he wasn't sure if he'd be able to vote. Commissioner Berry stated himself as being the same way. Shane O'Malley asked when they were going to make that determination of whether they could vote or not. Commissioner Berry said he didn't know, they can vote if they want too, but they shouldn't. Shane asked who was going to tell them not too, Commissioner Berry said he thinks they were already told that by the BZA Attorney. Commissioner Freeland mentioned them needing to find alternatives as well. Sara Niccum went on to state that as the friends of big pine creek, they have hired an attorney as well and they are going to make sure that all the T's are crossed, and all the I's are dotted. Commissioner Berry said that that was a good idea, Sara went on to state that they do not want this dairy on Big Pine Creek. She said they don't care if it goes somewhere else, she said even spoke with someone that was working on the comprehensive plan years ago and they thought that all these things were supposed to stay in the western part of the county where it was less populated, Sara asked what happened to that. Commissioner Berry said that was never discussed when he was there. The biggest issue was not having the CAFO's on top of each other, for fear of competition of feed and biosecurity. Commissioner Berry went on to state that on March 27, 2018, the CAFO's were discussed more, and he didn't recall Sara Niccum being there, but only 24 people showed up, everything wasn't represented by you the people. Sara stated that the people didn't have this type of publicity back then, Commissioner Berry stated it was advertised 3-4 times. Commissioner Berry stated it was finalized on July 6, 2018.

It was asked if legally the Board of Zoning makes a recommendation to deny the CAFO, can the commissioners override the BZA denying it. Commissioner Berry said no.

It was asked where the current proposed dairy was advertised. Commissioner Berry asked as far as what, they said they didn't know there was going to be one on Big Pine Creek and knew nothing about it. Commissioner Berry said that they filed for the special exception, he doesn't think they advertise those. Cards go out to adjacent landowners.

John Campagna spoke and said that he is an adjacent landowner and he found out 2 weeks ago on his way to airport he got a call from John Boerman the project manager, Commissioner Berry stated the dairy has done a poor job in communication with landowners. Campagna proceeded to say when he talked to John Boerman, Campagna told him he heard a rumor that there was a proposed road to going in around 725 all the way to 18. John Boerman told Campagna no, then campagna said within 10 days he heard John had reached out to an adjacent landowner ask if they'd be interested in selling to build a road through there. Campagna stated that there is a change from last week, with the park being brought up and the road. Campagna is worried about traffic, with it being so close to the school and with bus traffic, he stated its not matter of now but when that someone is going to get killed on that road. John Campagna wanted to make it clear that the adjacent landowners have already decided not to do any business with the proposed dairy.

Sara Niccum also stated, it's not a matter of if but when there will be a manure spill, there has already been a spill into Mudd Creek.

JR Niccum spoke about the conflict of interest statue of Indiana, and asked about the BZA board members that are benefitting from the Benton Dairy Group and how they shouldn't vote, he then asked Commissioner Berry if he was benefitting from Benton Dairy Group and Commissioner Berry said he was not voting, JR said do you know that it is against the law to discuss any of the dealings with Benton Dairy Group, Greenwillow, aka Midnight Dairy. Commissioner Berry asked JR to direct the question to Attorney Ahler to have him review. Attorney Ahler stated Commissioner Berry cannot vote on the matter. JR states Commissioner Berry could influence the other two commissioners and BZA members, Attorney Ahler stated he is not influencing he cannot vote.

Benton County Commissioner Meeting
June 4, 2024

Attorney Ahler spoke, he has been in contact with the BZA attorney and in both of their opinions from a legal standpoint, the commissioners do not have jurisdiction to cancel a BZA meeting. Attorney Ahler suggested that they voice their objections to the BZA and the BZA may grant their request. Sara Niccum states that a lot of the friends of Big Pine Creek have contacted some of the members and gotten no response. Ashley Bice stated that the Board member list they received was not correct. There was still a past board members contact on the list. Sara Niccum stated when you do ask for records, it's frustrating when it's not correct. Justin Bice stated that it's irrelevant that one of the board members is no longer there but still included on the list, what the problem is receiving incorrect documents from our county government.

Sara Niccum stated the commissioners knew about the proposed dairy for 1 year and half. Commissioner Freeland stated no, and asked where she was getting that. Sara replied and said that it was from Commissioner Berry, he stood in the parking lot at Bears and told Sara and her husband that he had knew about it for 1 ½ - 2 years. Commissioner Berry stated January 20, 2023, is when they had gotten ahold of people in Raub area, which had nothing to do with this proposed dairy.

Ryan Elliott asked if the BZA was appointed or elected. Commissioner Freeland stated that they are appointed. Ryan goes on to ask for clarification that is the BZA's decision on the proposed dairy, if it supersedes the Commissioners, is the BZA says no it doesn't matter what the commissioners vote is. Attorney Ahler addressed the question – Attorney Ahler proceeded to explain there are currently 3 things in issue, the road use, drainage plan and the BZA special exception. If the BZA shoots it down and says no, then were done, there will be no dairy. Ryan asked the commissioners since they are elected, and they are here to represent the people of Benton County and friends of pine creek don't want the dairy so why can't they vote no. Commissioner Freeland stated that the misconception with this proposed dairy is the friends on pine creek think the commissioners are for it, Commissioner Freeland stated that he is trying to go through the proper procedures to gather the information to determine whether it is a good idea or not. Commissioner Freeland followed up with stating he does not believe the Pine Creek location is a good spot for it, he told John Boerman that and Commissioner Freeland also stated Commissioner Berry told John that as well from the beginning, that there was a lot of homes out in that area.

Johnny Klemme asked about the BZA members that will recuse themselves because of the conflict of interest, who will replace them and when will the public know about their replacements. Commissioner Freeland stated there probably won't be anyone by Friday.

JR Niccum stated that the legality of this is that the friends of pine creek can not have contact with any of the BZA members within 5 days of a meeting/vote. So, the friends of pine creek won't have a chance to talk to any of the members until the day to share their feelings. Also, without having any of the documents on the proposed dairy, as far as what its going to look like, what the drainage is going to look like, what the road use is going to look like, how can the BZA make an educational vote, asked JR. Because the law is all these things need to be in place before you can vote, and they aren't.

It was asked what other sites the commissioners are aware of that the proposed dairy would be looking at, Commissioner Fields stated all he has heard of is they were looking at Morocco. Commissioner Freeland stated it was Newton County, the only other place he heard they were looking at. Commissioner Berry stated he just knew of areas they were looking at before Big Pine, which was Schlottman farm ground up around Raub, and then Schellenberger Family Farm up around 550 N. Sara Niccum asked Commissioner Berry if they had asked him to possibly expand onto Berry Farms around the Freeland Dairy, Commissioner Berry said no.

Benton County Commissioner Meeting

June 4, 2024

Commissioner Freeland stated that IDEM has not come back with their study yet, Sara stated that there hasn't been any type of permit applied for. Commissioner Freeland stated that they're going to have too, Sara stated that should have done that before the BZA meeting was even scheduled, and Commissioner Freeland stated that he understood that, but it wasn't the commissioner's responsibility it is the Dairy's.

Ryan Elliott asked Commissioner Fields what his thoughts are on the proposed dairy, Commissioner Fields said he does not want it. Ryan asked Commissioner Fields what is wrong with just making it public and saying we don't want it, Commissioner Fields stated that there is a legal process that they must follow. Attorney Ahler mentioned that by the Commissioners stating their opinions on the proposed dairy that is making it public.

In Closing, Attorney Ahler wanted to make sure that the friends of big pine understand that the commissioners only have jurisdiction over certain issues in front of them. The commissioners can't make a vote today on what the BZA should or shouldn't do, the BZA must do that, even if all 3 commissioners stood up and voted against it, they don't have jurisdiction to do it. As discussed before, Attorney Ahler reiterated if it was a road use agreement or drainage plan the commissioners would be able to vote yes or no. They cannot override the BZA prematurely.

With no further business the meeting was adjourned at 9:45 a.m. With a motion by Commissioner, John Fields, second by Commissioner, Mike Freeland, motion carried.

Following the drainage board meeting the Board of Commissioners reopened their regular meeting at 10:10 a.m. to discuss the following.

Mike Sondgeroth – Fowler Fire Department

Mike came in to ask the Commissioners about the dollar amount they were willing to give to the Fire Department for a new truck. Commissioner Berry said the county will give them \$25,000 to help with the purchase of a new firetruck.

Business Continued

Commissioner Berry stated that him and our Economic Developer have received phone calls from BP Lighthouse. He stated that they haven't started looking yet, but they have someone interested in doing some solar farms within the county. Commissioner Berry wants to look to see if there is an ordinance about them, Commissioner Berry stated we should not be allowing any solar fields to put on any county right of way or coming off ditches or tiles.

Commissioner Berry said that David Bourtoough with the AIC, he's been sending emails about the carbon sequestration. The DNR is going to have a mid-term rule in July, that we are going to be able to comment on. They won't allow Commissioner Berry to go to the meetings, but BP and Country Mark etc will be there.

Commissioner Berry stated that he heard the word on the street is that NextEra plans on doing a storage battery on their project down by Otterbein. He said we don't have any ordinances on battery storage, Commissioner Berry wants to get something in place because NextEra wants to come this fall for their road use, drainage plan and special exception.

Bridge 125

Commissioner Berry wanted to bring that back up, it's on county line, BF&S and United submitted, they're a little bit different approaches on things. United wants to build road up and put in 3 small culverts for the water on the north side. Multiple culverts like that will be a pain for cornstalks. Commissioner Berry recommends just doing 1 culvert because of debris.

Benton County Commissioner Meeting

June 4, 2024

Commissioner Berry said that BP does have a permit with the DNR on geo testing for a piece of property here in Benton County, for their carbon sequestration.

Commissioner Berry said he still hasn't resolved the escrow account with AES. Amazon did a decommission study and didn't use wood like we have done in the past. They don't really want to do it again. Commissioner Berry thought it was discussed to keep using wood, so everything was a little more repetitive. Commissioner Berry stated instead of issuing them a credit, he suggested doing an escrow account for them as well.

Commissioner Berry talked about the Community impact payment, he stated the checks probably been there for month and it would be nice to distribute to the other taxing units. Commissioner Freeland motioned to go 15%, Commissioner Fields seconded, motion carried.

Commissioner Berry also discussed that Commissioner Fields wanted to give some money to the fire departments, Commissioner Berry stated that he doesn't necessarily agree with that because the money was developed for the taxing units that were affected most by BP's AV taking that \$2.1 million away from us. Commissioner Berry understood where Commissioner Fields was coming from, however Commissioner Berry said that money needs to stay with those taxing units.

Commissioner Berry reached out to Rita Schutter to come in and give us some oversight on what to do with the County Home. Commissioner Berry said that Rita researched what other places were doing, Frankfort, Tippecanoe, and Carroll County. Rita said that right now we're only charging \$42 per day for room and board and Rita stated that the average is \$52 per day. She thinks that we should be at least at \$48 per day. She said that the assistant administrator should at least be making \$18 per hour and administrator between \$20-\$22 per hour and that the full-time attendants should be making anywhere from \$17-\$19 per hour, Commissioner stated that right now our girls are only making \$14-\$15 an hour and Chief Deputy Beth Budreau stated most of them are making \$11-\$12 an hour. Commissioner Berry asked if that was part time and Beth stated no they are all full time. Commissioner Berry said he didn't know why their salaries were so low, but he stated we need to make some decisions quick. Commissioner Berry stated that Frankfort can take all our residents now, she said Tippecanoe can take all of them in a couple of months because they are doing some remodeling.

Chief Deputy Auditor Beth Budreau had a question about the PTO of an employee because the department head did not catch that the employee went over her PTO time and was paid for that amount. Beth asked if that needed to be deducted from her next paycheck or if we could even do that. Attorney Ahler said Beth can do a deduction from the pay cycle, but she will need to give 30 days' notice to the employee that that is going to happen.

Commissioner Berry talked about the loaning the Town of Oxford, now that they have everything straightened out The Town of Oxford was wanting to start payments again for their water project. Commissioner Berry motioned to continue payments, Commissioner Freeland Seconded, motion carried.

Chief Deputy Beth Budreau presented an invoice from LLOW, they are wanting to move our software billing from bi-annually billing to annualized billing and merging optional fee invoices and summarized bills and emailing the bills in 2025. Commissioner Berry tabled it until the next meeting.

Judd Burgett asked Commissioner Berry his thoughts of if the BZA would take into consideration the number of landowners around Big Pine that aren't going to participate with the proposed dairy. Commissioner Berry said if they can't produce the acres for the feed and manure, then the BZA isn't going to give them a permit.

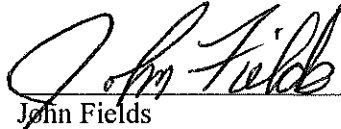
Benton County Commissioner Meeting

June 4, 2024

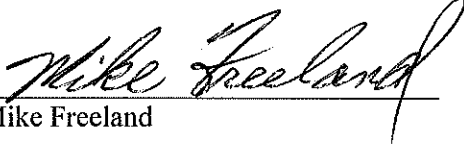
With no further business the meeting was adjourned at 10:48 a.m. With a motion by Commissioner, Mike Freeland, second by Commissioner, John Fields, motion carried.



Bryan Berry



John Fields



Mike Freeland



Attest: Beth Budreau, Benton County Chief Deputy Auditor