

## Benton County Commissioner Meeting December 15th, 2022

The Benton County Commissioners met at 8:15 a.m. in the Commissioners room at the Benton County Courthouse. Those in attendance were Commissioners Bryan Berry, Steve Cox, Mike Freeland, County Attorney, Jacob Ahler and County Auditor, Audrey Freeland

**Others in attendance were:** Kate Daily, Keith Daily, Steve Wallpe, Kevin Waibel, Gene Waibel, Angie Taylor, Mark Strasburger, Dianne Hubbard, Morgan Stevens, Mike Budreau, Bob Leburg, Gail Lange, Patrick Nally, Dave Gick, Kassandra Illiff, Collin Sullivan, Ron Glotzbach, Mark Doud, Pam Ishmiel, Lee Klemme, Derrek Fuerher, Sam Smith, Paul Jackson, Jason Fisher, Ron Shoup, Lucas Darling, Jon Charlesworth, Matt Hull, Beth Budreau, Ryan Besse, Bill Brost and Mike Wortham – please see attached sign in sheet for others not listed due to ineligible handwriting.

**Others in attendance via phone Conference Bridge:** John Cox (see attached)

### **Mike Budreau – Highway Supervisor**

- Still working on ditches, cleaning up brush and picking up dirt
- Trailer – Commissioner Berry asked how it was coming along, it is going well
- Town of Fowler – Commissioner Mike asked if the Town had reached out. Commissioner Berry stated that Randy did get the description completed. Commissioner Freeland stated that when he is at the Town Hall he will ask Sarah for an updated status
- Mack – Commissioner Freeland when did the highway take possession of the Mack. The first one was in May and as soon as the county takes possession we have to cover it on insurance. Commissioner Cox asked if there was any word on the second one, yes and it will probably be done in February or March
- Excavator – Commissioner Cox asked if Mike was able to get any quotes, not yet.

### **Morgan Stevens – ADA Coordinator**

- Evaluation – she shared the report with the board and reports by department
- Invoices – she has two invoices and is asking where they are going to be paid from. Commissioner Berry asked when they were to be paid by because he thought they would not be done until 2023 and they will determine where it is to be paid from at that time. Commissioner Berry stated that the invoice would have to be itemized as well before it can be paid also

They reviewed the evaluation and discussed the “red” items. The left side describes what all is wrong and then on the right it has them broke down by priority. Commissioner Berry asked what if any were the most pressing items to be fixed. Morgan replied assisted hearing devices for both the Courtroom and the Commissioners room. They asked her to get quotes on those items and report back to them. She continued on by saying that there are a lot of items, some are

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small but the biggest issue is the height of each offices service desks/counters and door handles. They are all higher than the regulated standard.

**Business:**

The November 15th, 2022 regular scheduled meeting minutes were approved with corrections, with a motion by Commissioner, Steve Cox, second by Commissioner, Mike Freeland and motion carried.

Commissioner, Mike Freeland made a motioned to approve both payrolls for 11.23.2022 and 12.02.2022, seconded by Commissioner, Steve Cox and motion carried.

The GIS/Public Data request was reviewed and then denied by the board. The denial was due to them being located in New York, and there was no description on how it would be used if approved. The denial was approved with a motion by Commissioner, Steve Cox, second by Commissioner, Mike Freeland and motion carried.

The promissory note for the Town of Oxford was reviewed and approved with a motion by Commissioner, Steve Cox, second by Commissioner, Mike Freeland and motion carried.

Auditor Freeland presented the annual attorney contract for County Attorney, Jacob Ahler which was approved as presented with a motion by Commissioner, Bryan Berry, second by Commissioner, Steve Cox and motion carried.

**Jason Fisher – EMA & DHS Director**

- Grant – camera tower / there are two options. If they go and pick it up it would save \$3750 in shipping cost but it would require out of state approval (Northeast corner of Texas). To haul it they would probably have to use a highway trailer and two people will be traveling for safety issues. Commissioner, Mike Freeland motioned to approve to pick up the trailer if beneficial, second by Commissioner, Steve Cox and motion carried.
- Rekeying – they will be back on site next week because they are waiting for more parts to come in. After that they will work on getting the Knox boxes mounted and Jason will work with Chief Burton on placement. Commissioner Berry asked if they have received any more push back with this process, no it is going forward without issues after some conversations.
- Drone footage – Commissioner Berry asked Jason if he could retrieve the information off of the flash drive if it was the Goose Creek ditch footage for their drainage board meeting.
- Radio – Jason spoke with John about the extra radio purchased for dispatch and he is going to look for any available funds to cover the expenses out of the sheriff budget

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**Jon Charlesworth and Jeff Cummins – Extension rep and Policy Director for Farm Bureau**

He came to discuss or answer any questions on the projected project regarding the carbon sequestration. He presented a presentation put on by Kay Nelson. Commissioner Berry asked when he talked about energy and how they are they figuring CO<sub>2</sub>'s energy. Jeff explained that it really starts with the production; so with BP they have the refinery and there are a couple of operations talking about hydrogen which has CO as an output. You have ethanol facilities that have CO as an output. On the production side and then carbon dioxide as an emission that they are capturing that so it is in the full value chain. Commissioner Berry asked for clarification that they are not saying that CO<sub>2</sub> is a renewable energy, no they are not.

Farm Bureau's involvement steams from a property rights issue, let me explain further. Jeff said in additional to what has been said of what BP is doing in the area there is another company called Wabash Valley Resources that are the west side of Terre Haute they wanted to establish a pilot for hydrogen production which have some CO off take. It has become more lucrative to do hydrogen, the federal tax credit has tripled in the infrastructure and jobs act. It allotted several billion dollars for hydrogen hubs, now that is in the infrastructure investment bill.

There are the tax credits that tripled and then the hub funding; the difference was they had a bill in legislation that would denied the landowners the right to sue for trespass or nuisance. So in other words you would have to suffer actual tangible damages from their project to have a claim in court. Farm Bureau got involved and fought that bill and was able to defeat it. It stood to allow them to claim the pilot status, not negotiate with land owners as they injected the CO<sub>2</sub> below and moved horizontally under what they believe to be approximately 727 parcels. That is what their EPA permit application showed. It would have been two injection sites those collectively would expand under those parcels and those landowners would not have received any notification, no recourse and no compensation. From Farm Bureau's perspective, pore space (sub surface) it is owned by the surface estate but it had not been ligated. The general common law states the same but it had not be codified. Farm Bureau supported HB1209. Commissioner Berry asked if the HB1209 was a specific bill for BP only, yes it is. Commissioner Berry asked if Farm Bureau fighting the home rule because that is what sets us apart from other states around us and if they get that 70% then eminent domain will come into play and is what he is concerned about. He said during HB1381 that is one of the big things FB fought for us, so he is a little disappointed that the legislators have their foot in the door. Where will they stop at as far as dictating what they will force the county to do? Once the 70% threshold is reached the DNR can issue an order pooling the other 30% in and that is what they will call the storage unit. Commissioner Berry said that DNR says that they do not know anything about this. Jeff said maybe not locally but they were heavily involved.

1. EPA permit is for safe drinking water
2. Application to DNR to operate
3. Indiana Regulatory Commission will handle if additional pipeline is needed the safety of that

After further discussion, Commissioner Berry asked why the pilot project was not happening in Lake where there is already a refinery. Jeff stated that it comes down to the geology.

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Jeff spoke about the three major pockets where they can store CO several thousands of feet below with the most pours open cavities for a great length.

1. Dakotas
2. Indiana & Illinois line
3. Gulf of Mexico

Commissioner Berry asked if there is any chance that the legislation will revisit this or changes will be made. Wabash Valley Group have said that they would like to because they do not want to have to pay for pore space but beyond that Jeff is not sure.

DNR is asking for rulemaking to get the program lift off and get some rules in place. Commissioner Berry asked if they were going to make those public before it goes to session. Jeff replied that they do not have the rule making authority yet so they cannot do anything yes, but yes that is the plan. They would have a public notice and public hearing. Commissioner Berry asked if that would be by county. Jeff said that they would not have to but it is definitely something they can ask for. The DNR counsel is currently Dave Bowsmen.

Commissioner Freeland said that he feels that the meetings have been lacking and that BP has dropped the ball and put the cart before the horse on this one. Commissioner Cox said that his understanding that they want to pump this down for 20 years and release their obligation, is that when the state has taken over, why BP would not want to keep control. Jeff is not sure but he talked about the \$0.08 per ton liability fee that will be used to maintain the wells and believes they have an option. He believes that it is a 50 year monitoring.

Commissioner Berry asked if any other counties had reached out to them about this, no Benton County is the first but not sure if others are going too. Attorney Ahler and Jeff talked about the implied preemption. Commissioner Berry asked him to elaborate on that. Jeff said they have argued in the past that counties should not be regulating pesticides and other topics but has the state acted and given regulatory authority over to state agencies that it is implied that counties do not have authority; on this Jeff is not sure.

It was then opened to the floor for questions. Some of the questions asked or statements made are as follows;

1. Public does not trust the process
2. If they only need 70% to get this passed they need to be sharing information. Do the Commissioners stay before this? The County is trying to get ahead of it and encourage everyone present to read HB1209.
3. Most landowners are against this, if it goes by total acreage so will everyone be stuck with what those decide
4. Concern about absent landowners – the county is hoping to get something passed stating that they do not have a vote in this or other matters
5. What are the potential long term dangers? How would those be fixed
6. What is slurry – Jeff provided a non-science description
7. If there are two injection sites how many monitoring sites will there be. It will be monitored but at this time they are not sure how many
8. Liability factor –

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The board then stated that there will be a continuation of this discussion at the Benton County Government Annex building at 10:00 and they are hoping to have it recorded. The building is located at 410 S Adeway / Fowler, IN

### **John Cox – Sheriff Elect via Conference Bridge**

- Jail flooring – John would like to use Cum Jail funds to cover this expense so they can move forward with the repairs. The board approved the pay at once claim if the sheriff is ok with it and signs the claim. This was done with a motion by Commissioner, Bryan Berry, second by Commissioner, Steve Cox and motion carried.
- Custodian – John asked if he could possibly use the custodian or assistant custodian on a part time basis for some light cleaning in the jail. The board asked why a trustee cannot handle this; due to the requirements of them being overseen at all times. It was approved on a temporary basis with those hours to be paid for by sheriff funds with a motion by Commissioner, Steve Cox, second by Commissioner, Mike Freeland and motion carried
- Personnel policy – John asked the board if he can change some of the verbiage in the policy for his departments along with the work week (days). He would also like to change the verbiage on holiday pay from 8 hours to 12 hours for his staff. This topic was tabled
- Interview – John would like to get quotes for the interview room/reception area/juvenile holding area and the evidence prep area to be remodeled. He is looking to build a wall with a door to split the room. The board is ok with him getting quotes but nothing was approved at this time
- Jail – Heating and Cooling ducts need to be cleaned – board asked him to get quotes
- Pods – Number 3 & 4 have water damage to the tiles. The roof leaks and needs addressed before he can repair this issue. Commissioner Berry asked him to get bids.
- Sheriff donations – John would like a non-reverting fund for Sheriff donations for John to use to offset some costs as the fund builds revenue
- Cum Jail rate – John would like permission to request to seek an increase in the Cum Jail fund tax rate
- Door – North door needs repairs or replaced. The board asked him to get quotes
- Camera – there is a camera at the jail that is junked. FAS had come onsite and said that it needs to be replaced. It is ok to get quotes on this as well
- Roof repairs – the roof is showing lots of damage and John would like to see a pitched roof put on to stop this from reoccurring. The board agreed to him getting quotes
- Funding – John received some EMA grant funding to place the bad radios. They are currently using the 4000's and there are 5 areas where there is no coverage and this is a huge security and safety risks. He would also like for Duane to have jail access. Jason and John will share the cost of the radio's (total cost \$8,000).

John wanted to say thank you for allowing him to call in today while he is at conference. He wrapped by saying that he currently has 4 deputies and 6 jailers so he will be looking to fill the vacancies as well as the 2 new jailer positions. He looks forward to working with everyone in the coming year.

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**Business continued:**

The Commissioners had questions on the following claims;

1. Hart – for the Clerk’s office – Auditor Freeland asked Niccole to bring down the claim for review. – This one is for licensing and support during the election
2. Cornerstone – this was not paid twice was it, no it was not
3. Somers Plumbing and Heating – who is this at the jail. They are not listed on the approved who to contact
4. Sheriff – two \$4,000 payments listed is this a duplicate payment. No it was two separate charges
5. Prosecutor – two charges for same amount – that is correct it is part of the big rush to catch up
6. Recorder – what is the large amounts for. It was for the approval she got for binding earlier in the year.
7. Northern – he know they replaced the breathers on the radiators but did not know there was 60 of them. Auditor Freeland will have Niccole pull that one also
8. School – why are we paying the school? Auditor Freeland stated it is from the grant for them to do the monitoring for the public crisis. Berry thought that the money stayed here, no it is paid out as the school invoices us.

The pay at once claims were reviewed and approved with a motion by Commissioner, Steve Cox second by Commissioner, Mike Freeland and motion carried. Let the record show that Commissioner, Bryan Berry abstained from voting.

Auditor Freeland asked on behalf of the Assessor to get approval to replace some computers and be paid out as a pay at once so it can be paid this year. She would also like approval for a pay at once for the JD Power for licensing for 182.00 she has the funds for both. Commissioner, Steve Cox motioned to approve the purchase and to be paid as a pay at once, second by Commissioner, Mike Freeland and motion carried. Let the record show that Commissioner, Bryan Berry abstained from voting.

Niccole McGinnis presented the claims in question for review. Monthly claims were approved with a motion by Commissioner, Steve Cox, second by Commissioner, Mike Freeland and motion carried

Angie Taylor had a couple of match commitment letters she was requesting approval on. After review the board denied and asked Angie to relay to the individuals involved that the County is not going to participate in the project.

**Rueben, Mike, Ira and Leo – BP**

They come before the board today to discuss the Road Use Agreement and proposed routes and gain some county input.

They would like to discuss the setbacks and the three areas where they have encroachment process. Seeking permit clarification also.

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They are doing a technology upgrade, the clippers will be decommissioned and replaced with the new Vestas. The current status is that the main components are being manufactured currently, some of the blades are at the Remington site. They reviewed the timeline schedule. They would like to wrap up the civil package in December so they know what roads needs to be included and what roads will be affected by frost laws so they can begin in March 2023.

All components will go to each site, they will begin the decommissioning, the new items will be placed and then trucks will arrive on site to take everything to recycle. The project is expected to completed by September of 2023.

What time would the SNT's start coming down our roads, May. Commissioner Berry asked if they could push that back to late May so the farmers are not inconvenienced. Bp will look into that and adjust it back a couple of weeks. Commissioner Cox asked how many cranes would be used, there will be two.

Mr. Frasier spoke about the deliveries and that most will come down 41 and then come over on 300. They know that there is a bridge and asked if they could be given the capacities for it, yes they will. Commissioner Berry asked if they would be able to cradle it if possible or needed, yes they can. The map was then reviewed and discussed. Mike Budreau said that there are no windmills on the roads that the county removed it one being the cemetery road. This is a new road and they will not make the turns. Fraiser said that was to be for the smaller trucks. Mike Budreau said that all traffic must stay within and on the approved route only. Commissioner Berry asked about the turning radius being placed on both sides, yes it can they. Berry asked if they would prefer to use 200 instead of 300 due to 300 being a bus route. After further discussion it was decided that 300 would be the approved and best route just will need turning radius. BP is fine with using either. They will work the school transportation to make sure that 300 will not be conjested during school bus route.

The discussed the bonds and they have to have those in place prior to construction. They were informed that if the route outlined is not used there will be fines imposed. They will have possibly 8 to 10 loads a day and again traffic will be the concern. Trucks will be staged then directed by Town of Fowler on their route as well. The turning radius will be both cribbed and extended with pipe but they have not finalized all the details. The top speed will be 4 to 5 miles per hour and will be escorted.

The next steps were outlined by Commissioner Berry

1. BP to review maps and make sure they are ok with the routes
2. County will reach out to two contractors to get quotes on black top, chip and seal and gravel so the roads can be bonded
3. Once the bonds are in place they can get the RUA established
4. New decommissioning bond on those 40 turbines
5. Permits
6. Begin project

After further discussion on the plans and routes it was determined that the updated timeline might need to be moved to January. Commissioner Berry also let the BP reps that they will

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need to get a variance from the zoning board and that the fee is \$2750 per megawatt. He also asked them when they returned if they could make sure that in the documents the meters are converted to feet.

**With no further business the Commissioners closed their meeting at 10:31 a.m. with a motion by Commissioner, Steve Cox, second by Commissioner, Bryan Berry and motion carried.**

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Bryan Berry

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Steve Cox

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Mike Freeland

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Attest: Audrey Freeland, Benton County Auditor