

# COMMISSIONERS' MINUTES

**JANUARY 19, 2021**

**PRESENT: ALL**

**BE IT REMEMBERED** that the White County Commissioners held a regular meeting on January 19, 2021, in the White County Building, 2<sup>nd</sup> -floor John C. Heimlich Conference Room beginning at 8:15 a.m.

Commissioners present were: President David Diener, Commissioner Steve Burton, and Commissioner John C. Heimlich. Also present was White County Auditor Gayle Rogers, White County Attorney George Loy, and the Commissioners' Assistant Donya Tirpak.

Commissioner Diener called the meeting to order.

## MINUTES

- Commissioner Burton made a motion to approve the minutes from the special meeting on December 28, 2020, and the minutes from the regular meeting on January 4, 2021, seconded by Commissioner Heimlich. **Vote: Unanimous**

## PAYROLL

- Commissioner Heimlich made a motion to approve payroll for January 11, 2021, seconded by Commissioner Burton. **Vote: Unanimous**

## CLAIMS

- Commissioner Heimlich made a motion to approve the claims as presented except for the White County Sheriff claim for \$26.00 for the Clerk's Office, seconded by Commissioner Burton. **Vote: Unanimous**

Commissioner Diener said that County departments do not have to pay for copies from other departments.

## EMA GRANT

EMA Director Chris Springer requested permission to accept grant funds from the Indiana Department of Homeland Security for the following grants:

Sub recipient Grant Agreement, Federal Fiscal Year 2020, Emergency Management Performance Grant Program Contract #49472. This grant reimburses the County up to \$18,000 for the salary of the EMA personnel.

Sub recipient Grant Agreement, Federal Fiscal Year 2020, Homeland Security Grant Program, State Homeland Security Program, Contract #48648. This grant is for \$31,200, with no match required. Director Springer said that the funds would address cybersecurity risks for the County. He will purchase firewalls and virus protection plans for all town governments within White County.

- Commissioner Burton made a motion to allow the EMA Department to accept grant funds from the Indiana Department of Homeland Security for Contract #49472 and Contract #48648, seconded by Commissioner Heimlich. **Vote: Unanimous**

## AREA PLAN

Director Rogers presented the following petitions for rezoning requests.

### Rezoning Petition #1134

Bio Town Ag., Inc., is requesting to rezone 55.646 acres, 10 acres, 5.495 acres, and 10.322 acres from an A-1 (General Agriculture) to an A-2 (Agricultural Industry). The property is located at 476 W. 100 N, Reynolds.

The Area Plan Commission held a public hearing on January 11, 2021, for this request. The APC voted 9 to approve and 0 to deny to recommend this petition to the Commissioners.

Director Rogers explained that there is a digester on the property that provides an on-site utility supplement. The property owner wants to expand the digester operation to sell utilities (gas and electric) back to the grid. To get this far, the applicant requested a variance to allow an A-2 district within 1 mile of an incorporated municipality boundary line and structures within 1,320 feet of a non-agricultural district. The variance request was heavily

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advertised, and there were three to four concerned citizens that appeared to the hearing with concerns about the variance. The BZA approved the variance on December 17, 2020.

Commissioner Diener asked if anyone was present to speak about the rezoning petition.

Chris Shelmon, Attorney with Gutwein Law representing Bio Town Ag., was present and said that this would legitimize the existing operation that is currently legally non-conforming due to the adoption of the 2008 Zoning Ordinance. This will allow them to create a second digester to produce electricity and pumping on the electrical grid to NIPSCO or take the natural gas and put it into the natural gas pipeline.

Attorney Shelmon pointed out that the concerned citizens who appeared at the BZA hearing did not appear at the APC hearing to file any remonstrance.

Commissioner Heimlich said that after the notices were sent out to everyone in the Town of Reynolds, he did receive some telephone calls. After he explained that the requests were to bring the operation into conformance, the concerned citizens were calmed down.

- Commissioner Heimlich made a motion to approve Rezoning Petition #1134 (Ordinance No. 624-21), rezoning property located at 476 W. 100 N, in Reynolds from an A-1 to an A-2, seconded by Commissioner Burton. **Vote: Unanimous**

### Rezoning Petition #1135

Bio Town Ag., Inc., is requesting to rezone 59.82 acres from an A-1 (General Agriculture) to an A-2 (Agricultural Industry). This property is located at 692 W. 100 N., Reynolds.

Director Rogers explained that there is a CAFO on the property, and the rezoning is needed to bring the property into compliance with the zoning ordinance.

The Area Plan Commission held a public hearing on January 11, 2021, for this request. The APC voted 9 to approve and 0 to deny to recommend this petition to the Commissioners.

Commissioner Diener asked if anyone was present to speak about this request.

Chris Shelmon, Attorney with Gutwein Law representing Bio Town Ag., was present to answer any questions or comments needed.

- Commissioner Heimlich made a motion to approve Rezoning Petition #1136 (Ordinance No. 625-21), rezoning property located at 692 W. 100 N., in Reynolds from an A-1 to an A-2, seconded by Commissioner Burton. **Vote: Unanimous**

### AREA PLAN – HEARING OFFICER

Director Rogers said the Area Plan Commission reappointed Joe Rogers as the Hearing Officer and the Hearing Examiner until December 31, 2021. The Commissioners are responsible for approving the appointment.

Commissioner Heimlich made the motion to approve the appointment of Joe Rogers as the Hearing Officer and the Hearing Examiner for the Area Plan Commission until December 31, 2021, seconded by Commissioner Burton.

**Vote: Unanimous**

### REQUEST TO ALLOCATE DEDUCTIONS FROM NEW HIGHWAY GARAGE PROJECT

Michael Preyss, CFO for Garmong Construction, appeared to report that the White County Highway Department qualifies for certain tax deductions under Section 179D of the Internal Revenue Code. Since we are a government entity and do not pay tax, we can allocate the accrued tax savings to the business responsible for the energy-saving enhancements, which is Garmong.

Mr. Preyss requested that White County assign the tax benefit to Garmong on our behalf for 2020.

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Commissioner Diener asked if the tax deduction is something that we could sell. Mr. Preyss confirmed that we could not sell it.

- Commissioner Heimlich made a motion to allocate the tax deduction under Section 179D to Garmong as requested, seconded by Commissioner Burton. **Vote: Unanimous**

### **ZORICA SUBDIVISION - TWIN LAKES REGIONAL SEWER DISTRICT**

Dick Leis, President of the TLRSB Board, appeared to ask the Commissioners what their thoughts are on installing sewers on new subdivisions. He said that the Zorica subdivision became developed years ago, and sewers were not installed because the district did not receive funding. The Zorica subdivision owners are now attempting to sell the lots and put in on-site septic tanks. The TLRSB board has received letters from the Area Plan Director Joe Rogers stating that the County may be looking to allow individual sewer systems in that subdivision, right on the Big Monon.

Mr. Leis said that Mr. Zorica built the subdivision with intentions to install a sewer line under the Big Monon Bay to the other side, but Mr. Zorica has never done this. The subdivision has sat there for 20+ years, and now they want to start selling the lots. The district wants to know if it's still the County's opinion that this subdivision needs to be hooked up to the sewer district, and moving forward, whether or not other subdivisions will be allowed individual septic permits within the sewer districts.

Commissioner Heimlich said that since the Zorica subdivision has lots on the lake, it would seem that the Commissioners would want it hooked up to a central sewer system and not separate sewer systems that will fail in the future.

Don Tribbett, attorney for the Twin Lakes Regional Sewer District, appeared and said that Mr. Zorica attended the sewer district meetings. He remembers how anxious he was to get the sewers put into the addition. Mr. Zorica even hired an engineer to draw up plans to cross Big Monon Bay and apply for IDEM permits to connect the sewers to his subdivision. He expects that his failing health is why Mr. Zorica never completed the job.

Attorney Tribbett said that there is a regulation with IDEM that prohibits site septic tanks within 200 feet of the lake; so, the lots on the lake can't have on-site septic tanks. He reminded the Commissioners that they are the ones who created the Twin Lakes Regional Sewer District and determined the boundaries. This addition is within those boundaries, and there's no reason why this area shouldn't be connected to the sewer district.

County Attorney George Loy asked if the district is requesting from the Commissioners an advisory opinion.

Attorney Tribbett said that a year ago, the district received a letter from Area Plan asking what the district's position would be concerning the Zorica subdivision development. He said that he responded with a lengthy letter. Recently, he discussed with Area Plan about the possibility of allowing the lots to be developed with on-site septic tanks. The district isn't appearing today asking for a specific action but to get input from the Commissioners so everyone can work together.

County Attorney Loy asked if the Commissioners have jurisdiction to forbid on-site septic tanks.

Commissioner Diener asked how the County can refuse to issue a building permit if someone refuses to hook-up to the sewer district and they meet all the standards to install on-site septic tanks.

Attorney Tribbett said that the district would serve the Zorica subdivision because it's within the boundaries, and they could probably come up with the financing. The subdivision needs to get a line to the sewer district. He said other communities tell the developers of subdivisions that they are responsible for putting in lines that will connect them to the sewer district.

Lisa Downey said that she attended the sewer district meetings with her father, Mr. Zorica, and explained that he never connected because the district put in a 2" sewer line, which was too small for the subdivision. If the district would've put in a 3" sewer line, he would've completed the subdivision. The pipe that is there now can't be tapped

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into. The subdivision is platted to hold on-site septic tanks because it was platted before the sewer district was ever in the area.

Attorney Tribbett said that when Rural Development provides the funding, they send their engineers to look at the project. They will not pay for a sewer line to be put in that's oversized for what the current needs are. He feels that it would be a mistake to allow this subdivision to put in on-site septic tanks.

Director Joe Rogers said that the Zorica subdivision was platted and approved to have on-site septic tanks under the 1972 Zoning Ordinance. The subject of hooking up to the sewer district is an after-the-fact matter. He asked if he has the authority to deny a permit with a legal basis as an administrator of an ordinance. There is nothing in the Building Code, the 1972 Zoning Ordinance, or the current Zoning Ordinance prohibiting him from issuing a permit under these circumstances. He doesn't see where moving forward with this subdivision is an issue.

On behalf of the past Commissioners and the current ones, Commissioner Diener said that they support having the sewer district servicing every place possible to create issues, particularly with our lakes and streams. He encouraged the two parties to get together to try to reach an agreement. He also made it clear that the sewer district can't put the burden on the Area Plan Director to stop the development of a subdivision just because the district doesn't have service in that area.

Attorney Loy said that he didn't think that the Commissioners have jurisdiction to weigh in on this matter.

Commissioner Heimlich asked what the estimated cost would be to run the line. That information wasn't available.

Attorney Tribbett disagreed with Director Rogers because he said that he looked at the Zorica subdivision plans. There wasn't anything written at all about septic tanks, besides a general statement that stated you couldn't put a septic system in that violated state statute. He questions whether or not the plat should've been approved in the first place because there weren't specific plans in there on how sewage collection and treatment was going to be taken care of.

Director Rogers said that the Area Plan Commission couldn't deny a plat when there's no sewer system to hook-up to.

Commissioner Diener encouraged both parties to work together to get the sewer district in the Zorica subdivision and stated that the district couldn't put the Area Plan Director or the Commissioners in the enforcement of something that is retroactive.

### **NIPSCO AGREEMENT**

County Attorney Loy submitted an agreement between White County and NiSource for a rebuild project that will take place between Monon and Monticello. The NIPSCO project consists of replacing 356 existing electric utility poles with new poles and replacing the existing conductors of approximately 13 miles of a current overhead electric transmission line in White County, between Monon and Monticello.

The project will entail hefty equipment on our county roads. With this agreement, NiSource will pay a predetermined cost of repair to any roads and drains damaged throughout the project. They will also be restricted to use designated county roads.

- Commissioner Heimlich made a motion to approve the NISOURCE Inc. agreement for Use, Repair, and Improvement of White County Roads and Repair of Drainage facilities during the 2021 NIPSCO Monon – Monticello rebuild project, seconded by Commissioner Burton. **Vote: Unanimous**

### **SHERIFF'S DEPARTMENT – TELEPHONES & HVAC SERVER**

Sheriff Brooks appeared before the Commissioners to discuss quotes received for a new telephone system at the Jail. They are currently paying \$600-\$700 for service repair on their current system with CenturyLink because the system is outdated. Quotes were received from the following:

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- 1. INdigital \$28,000
- 2. CenturyLink \$55,000 - \$58,000

Sheriff Brooks recommended accepting the quote from INdigital because the E911 Department just purchased a new telephone system from them and wanted the systems to be compatible.

- Commissioner Heimlich made a motion to accept the quote and enter into a contract from INdigital for the new telephone system at the Jail, seconded by Commissioner Burton. **Vote: Unanimous**

Sheriff Brooks said that for security purposes and the recommendation from ESolutions and Ameresco, they would like to move the server for the HVAC system to the Jail. The server currently holds the HVAC system for the Courthouse, Jail, and Ivy Tech. He would like to separate the Jail's information and keep it at the Sheriff's Department. The cost will be \$800 and \$60 - \$80 per month.

Commissioner Diener said that he would like the IT Dept. or the Maintenance Dept. to have access to the HVAC system at the Sheriff's Dept. if it is moved.

Sheriff Brooks said that ESolutions and Ameresco recommended that their server not be connected to any other building. There will not be a connection to the Courthouse or the Ivy Tech building. ESolutions and Ameresco will be able to access the system by invitation and remotely.

Commissioner Diener said that if the County cancels the service with ESolutions or Ameresco in the future, they will have no access to monitor the system if it needs repairs and your trained employee is no longer around. The Commissioners worked hard to get this system set up and the employees trained for all three buildings, and he doesn't want to lose that connection.

- Commissioner Burton made a motion to allow the HVAC server to be moved to the Sheriff's Department, seconded by Commissioner Heimlich. **Vote: Unanimous**

**At this time**, Council President Butch Kramer called the Council members to order in joint session with the Commissioners. Council members present:

President Butch Kramer  
Jim Davis

Vice President Denny Carter  
Janet Faker

Jim Annis  
Art Anderson

Casey Crabb

**REPORTS PRESENTED AND ON FILE**

- Airport
- Area Plan
- Council on Aging
- Economic Dev.
- Environmental Officer
- Highway Dept.
- HR Dept.
- EMA

**COVID-19 PUBLIC HEALTH LEAVE POLICY**

HR Director Leah Hull presented an amended Covid-19 Public Health Leave Policy extending the expiration date to March 1.

- Commissioner Heimlich made a motion to approve the amendment to the County's Covid-19 Public Health Leave Policy, seconded by Commissioner Burton. **Vote: Unanimous**

**PSYCHOLOGIST FOR EMERGENCY PERSONNEL**

HR Director Hull asked the Commissioners and Council if they would consider entering into a contract with Dr. Dardeen from Suncrest Psychological Services to provide counseling services to our first responders. It was

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everyone's consensus to enter into an agreement this year to see if anyone uses the service. Director Hull will present the contract at the next meeting.

### RECYCLE DEPARTMENT

Recycling Director Dawn Girard presented her annual report. She requested the \$32,000 grant funds from the Northwest Indiana Solid Waste District for 2021 be put in her budget.

- Commissioner Burton made a motion to approve the transfer of \$32,000 from the Northwest Indiana Solid Waste District fund into the Recycling Department's budget for 2021, seconded by Commissioner Heimlich. **Vote: Unanimous**

### IVY TECH – NEW SITE DIRECTOR

Patty Plantenga, former Site Director for Monticello Ivy Tech, attended the meeting virtually. She took a moment to express how much respect she has for Commissioner John C. Heimlich and thanked him for his commitment and dedication to the community and Ivy Tech.

Mrs. Plantenga introduced Krysten Hinkle as the new site manager for the Monticello Ivy Tech Campus.

### COUNTY ATTORNEY GEORGE LOY RECOGNIZES COMMISSIONER JOHN C. HEIMLICH

White County Attorney George Loy took the floor to publicly acknowledge his gratitude and thanks to Commissioner John C. Heimlich for his leadership and accomplishments that he's achieved over the past 24 years as Commissioner. He commented that John's fingerprints are all over White County, starting with the 6<sup>th</sup> Street Project, the Monticello Ivy Tech Campus, the Wolcott Corridor Project, aka the Mid America Commerce Park, the ongoing Wind Turbine Projects, and saving Indiana Beach. These projects either wouldn't have occurred or wouldn't have been successful, but for this man. John does these things quietly, without fanfare, or asking for any gratitude. He's the hallmark of leadership, and we are all fortunate to have had him for so many years.

Commissioner Heimlich took a moment to thank his wife of 47 years, Barb, for allowing him to be a Commissioner. He said that he will miss the joint meetings with the County Council and credited most of the success was due to the relationship that the Commissioners and Council have always had. If this continues, Commissioner Heimlich said the County would continue to prosper. He ended by saying thank you to George Loy and thank you to everyone; I will miss the people the most.

Commissioner Steve Burton presented a farewell cake to Commissioner Heimlich and said that he's enjoyed working the past 16 years with him. John has been a great role model; a great teacher, and he will miss him immensely.

There being no further business to come before the Council, their meeting adjourned.

### 2022 CALENDAR FOR HOLIDAYS, CLAIMS, PAYROLL & MEETINGS

Auditor Rogers presented the 2022 calendar for holidays, claims, payroll, and meetings.

The Commissioners requested a change to the Holiday schedule.

### TREASURER – CD RESOLUTION

White County Treasurer Barb Nydegger submitted the following resolution requesting approval.

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RESOLUTION NO. \_\_\_\_

A RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF WHITE COUNTY, INDIANA  
AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS  
PURSUANT TO IC 5-13-9-5

Whereas, White County, Indiana (the "County") desires pursuant to IC 5-13-9-5 to allow banks outside the political subdivision to submit quotes on public funds certificates of deposit;

Now, therefore, be it resolved that, pursuant to IC 5-13-9-5, the Board of Commissioners of White County hereby authorizes the investing officer of the County to invest in certificates of deposit of depositories that have not been designated by the local board of finance but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. This authorization expires one (1) year after the adoption date.

The Commissioners tabled this discussion.

**COMMUNITY CROSSINGS GRANT**

Highway Superintendent Kyburz requested the Commissioners to approve a letter of commitment for the County's portion of the funds, which will be \$333,000 for the Community Crossings Grant.

- Commissioner Heimlich made a motion to approve the letter of commitment for the Community Crossings grant, seconded by Commissioner Burton. **Vote: Unanimous**

There being no further business to come before the board, their meeting adjourned.

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David Diener, President

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Steve Burton, Vice President

\_\_\_\_\_  
John C. Heimlich, Member

ATTEST: \_\_\_\_\_  
Gayle Rogers, Auditor