

WARRICK COUNTY BOARD OF COMMISSIONERS MEETING  
REGULAR SESSION  
COMMISSIONERS MEETING ROOM  
107 W. Locust Street, Suite 303  
Boonville, Indiana  
September 23, 2013  
4:00 P.M.

The Warrick County Commissioners met in regular session with Don Williams, President, Marlin Weisheit, Vice President and Rick Reid, Member

President Don Williams called the meeting to order.

The minutes were recorded. Auditor, L.B. "Dixie" Dugan was in attendance.

PLEDGE OF ALLEGIANCE

**AREA PLAN COMMISSION**

**REQUEST FOR RELEASE OF SURETY**

C-12-039 – Kerstiens Homes & Designs, Todd Kerstiens, owner ~ Lot 15 Peachwood of Warrick Place IV ~ 7580 Peachwood Drive ~ Cashier's Check \$4,120.00

Don Williams: Sheila, we have one Area Plan Business, do you want to go ahead and take off on that?

Sheila Lacer: Alright, this is Commercial Driveway; it's a Request for Release of Surety, C-12-039, Kerstiens Homes and Designs by Todd Kerstiens, the owner. It's Lot 15 Peachwood of Warrick Place IV at 7580 Peachwood Drive. We're holding a cashier's check in the amount of four thousand one hundred twenty dollars (\$4,120.00). The county engineer has signed off, said the driveway has been completed according to approved plans and they are requesting that the surety be released.

Don Williams: Okay, Mr. Engineer?

Bobby Howard: I would recommend Release of the Surety.

Don Williams: Okay, any questions from the board? If not I'll entertain a motion.

Rick Reid: So moved.

Marlin Weisheit: Second.

Don Williams: Move to approve and a second. All in favor say aye.

Marlin Weisheit: Aye.

Don Williams: Aye. Motion carries three (3), zero (0).

**APPROVAL OF MINUTES**

**August 12, 2013 @ 4:00p.m...Regular Session**  
**August 26, 2013 @ 4:00p.m...Regular Session**

Don Williams: Approval of Minutes for August 12<sup>th</sup>, 2013 Regular Session and August 26<sup>th</sup>, 2013 Regular Session. Do you want to take them together or separately?

Rick Reid: Together.

Don Williams: Mr. Weisheit, is together okay?

Marlin Weisheit: Together is fine. Make a motion to approve both.

Rick Reid: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Motion carries three (3), zero (0).

**ITEMS FOR DISCUSSION**

**EMS Monthly Report**

Don Williams: EMS Monthly Report. Come on up, Sir..., Roger, you got our...?

Roger Emmons: It's next.

Don Williams: Okay, good. If you would go ahead and give us...

Pat Rauscher: Pat Rauscher for Warrick EMS, this is for August of 2013, our total ambulance runs are down just a little bit this month with three hundred fifty four (354), we had one hundred eighty four (184) that went to local hospitals, fifty seven (57) refusals, forty three (43) hospital transfers, we had twenty eight (28) in the others category, forty two (42)

private runs. All of our Customer Satisfaction Surveys were good and we had ninety nine percent (99%) success rate for our fractual response time within agreed limits.

Don Williams: Okay, any questions from the board?

Marlin Weisheit: I have none.

Rick Reid: None.

Don Williams: Okay, let's do the financials then.

Pat Rauscher: Financials we are showing about three thousand fifty four dollars and seventy eight cents (\$3,054.78) under budget for the month. However, for the year we're still showing one hundred twenty four thousand nine hundred dollars and ninety one cents (\$124,900.91) over. Our total expenses were thirteen thousand five hundred eighty eight dollars and seventy seven cents (\$13,588.77) under budget for the month. And then for the year we're looking at one hundred fifty five thousand three hundred twelve dollars and sixty three cents (\$155,312.63) under as well.

Don Williams: Okay. Any questions?

Rick Reid: None.

Marlin Weisheit: None.

Don Williams: I guess that's it then, thank you very much.

Pat Rauscher: Alright, thank you, guys, I appreciate it.

**Certificate of Appreciation for Rob Smith for being named American Legion 2013 EMS Person of the Year in Indiana**

Don Williams: Alright, next item, you have a Mr. Rob Smith with you?

Rob Smith: Good afternoon, everybody.

Don Williams: It's always good to see a smile.

Roger Emmons: Hi, Rob.

Rick Reid: Hi, Rob.

Don Williams: We have...the Board of Commissioners would like to present you with a Certificate of Appreciation for your accomplishment for your outstanding performance and lasting contribution to the Warrick EMS and you were named the American Legion Person of the Year in the State of Indiana.

Rob Smith: EMS Person of the Year, yes Sir.

Don Williams: What an honor.

Rob Smith: Second in what five (5) years for Warrick EMS in the entire State of Indiana so...

Don Williams: That's fantastic and congratulations and I don't think we have a photographer but the three (3) of us, the Board and the Office of the Commissioners would like to present you with that plaque, hopefully it'll...

Rob Smith: Thank you, I appreciate it. I tell everybody all the time I cut my teeth in Evansville, I spent a lot of years down at AMR, but when it came time to pick my place I want to work for the end of my career I did some research, talked to friends, and you know not to pat us all on the back cause I already work here but dang Warrick EMS really is...the people, the personnel, the protocols, the clinical abilities we have, I mean we really are, in my opinion, the shining star of EMS at least in the southern part of the state.

Don Williams: We agree.

Rob Smith: I appreciate you guys.

Marlin Weisheit: Proud of you guys.

Don Williams: We agree with you and we're not saying it just because you got a boss on each side of you.

Marlin Weisheit: Thanks to all of you.

Roger Emmons: Congratulations.

Rick Reid: Great job.

**DEPARTMENTAL REPORTS**

**COUNTY ADMINISTRATOR**

**Request for Consideration of SIRS Purchasing Fuel from County Garage**

Don Williams: Okay, County Administrator, let's go ahead and do our Departmental Reports.

Roger Emmons: Thank you, Mr. President. The request for consideration of SIRS purchasing fuel from the county garage was tabled from your August 26<sup>th</sup> meeting and my notes were that Adam was going to research the legality of this action. And I don't know if he's had a chance to do that, I'll refer to his comments.

Adam Long: I did have an opportunity to do some research with respect to this. Unfortunately I didn't find anything that was specific or directly on point. I can tell you how I categorized it in my mind as far as attempting to do the research. The way I perceive this issue is the county would be extending credit to a non-governmental entity and which credit would be funded by the tax payers. And I was looking for authority that would support the ability to do that without bearing in mind that they're local non-profits regardless of whatever service they provide I wanted to make the determination whether that was acceptable. I've not located anything that does support that, I think at this time without authority that allows it I would err on the side of caution in the fact that the credit would be extended by using tax payer dollars and I think that that could cause the county some liability. I hate to do it because I think that SIRS program is very beneficial to the community as well as any other entity that would be interested or has expressed interest in this. But at this time based upon my review of the materials, and lack of materials, I think that it's just something that should not be approved at this time.

Don Williams: Okay, you think we should table it for further research or you think we should just...?

Adam Long: I would be willing to listen to whatever SIRS could come up with that would support it...or anybody for that matter, anybody that would have the ability to provide me with some...

Don Williams: State Statute...?

Adam Long: Anything, I mean, I looked and I just could not find Extensions of Credit to Non-related Government Entities in a situation that was similar to this and the lack of that precedent made me just concerned. I think maybe I could reach out...in the meantime maybe reach out to the State Board of Accounts, I've already spoke with Ms. Montgomery recently.

Don Williams: If we were able to do this I think we need to definitely sit down and plan out what we can and what we can't whether any non-profit can do it or just those who provide medical care or something like that. If we just open up the doors I can see every non-profit in the county lining up at our gas pumps looking for us to fill up their truck if it was needed so...

Adam Long: My one thought that I had, which may be a work around the credit issue, was if it was pre-paid to a particular dollar amount monthly, once that amount was hit then it's suspended that way it saves money for the entities up until that dollar amount is hit. When they have an overage, let's say they buy a thousand (1,000) gallons a month, they budget a thousand, the pre-pay a thousand (1,000) but they use eleven hundred (1,100), they only paid one hundred (100) gallons worth at the regular rate if they got it elsewhere and so then there is no credit associated with that, that was one possible solution.

Don Williams: Okay, further discussions?

Rick Reid: So what would you like the motion to...put it on hold for awhile...or at least table?

Don Williams: We could table it for thirty (30) days; we'll see if anything else comes forward that would okay that...

Rick Reid: We'll table until they find something...

Don Williams: Even then we need to set up some guidelines before...

Roger Emmons: A written policy.

Don Williams: Yeah, a written policy...

Adam Long: Absolutely.

Don Williams: Because, like I say if not, we've already had one instance where the tank got very low so...

Roger Emmons: In the meantime I have contacts for Kelly Mitchell at SIRS and Kathy Fark at Warrick County Council on Aging. Bobby would be able to advise me if there are any other non-county, non-profit organizations that are getting fuel from the County Highway Department. What about the...does Solid Waste...no, they get their own fuel now.

Don Williams: Yeah, they are government owned even though they're just cousins...

Roger Emmons: Right.

Adam Long: One question that I think might be helpful is if they are interested in doing this or continuing this what is the specific amount that they want monthly. And then we can do the math and ask them if they can budget to prepay that on a monthly basis and then it could be considered like a public/private fuel purchase arrangement or something like that.

Don Williams: It definitely would have to be worked out differently than it is now.

Adam Long: Yeah, I agree.

Don Williams: Is WATS...WATS isn't involved yet are they, Bobby?

Bobby Howard: No, not yet.

Don Williams: I didn't think so. Okay so we can either just go ahead and say no or we can do some further research and see if something pops up, whatever you all would like to do.

Rick Reid: I'll make a motion to table it until additional information comes in.

Don Williams: Indefinite or do you want to do for like a month?

Rick Reid: No, just indefinitely.

Don Williams: Indefinitely...

Roger Emmons: It's his right to make a motion, he said indefinitely, got a second?

Marlin Weisheit: We want to have a time frame on it don't we?

Roger Emmons: I mean I'll work on it right away; I'll at least solicit information from those sources.

Don Williams: I would like to go ahead and...

Rick Reid: Thirty (30) days?

Don Williams: Yeah, do a thirty (30) days, let's look at it again on our October 28<sup>th</sup> meeting and then if there's nothing out there maybe we ought to just go ahead and dismiss it and then we wouldn't have to worry about coming up with a policy.

Marlin Weisheit: Rick, did you change your motion to thirty (30) days then?

Rick Reid: Yeah.

Marlin Weisheit: I'll second that.

Rick Reid: Okay, motion to table it until October 28<sup>th</sup>.

Don Williams: Okay, just a point of order I need you to withdraw your first motion before you make a second.

Rick Reid: Motion withdrawn on the first one.

Don Williams: Okay and the second motion is?

Rick Reid: Table it until October 28<sup>th</sup>.

Don Williams: Okay.

Marlin Weisheit: And I'll second that.

Don Williams: I have a motion and second. All in favor say aye.

Marlin Weisheit: Aye.

Don Williams: Aye. Motion carries three (3), zero (0).

Roger Emmons: Thank you.

#### **Quotes for HAVA Grant Improvement Projects**

Roger Emmons: The next item, we are opening quotes for HAVA which is the Help America Vote Act Grant Improvement Projects. Warrick County Clerk Sarah Topper-Redman is here and she sent me information regarding this grant, I went ahead and filled out the one page where I listed myself is a contact and email addresses, phone numbers, etc. With that we have to include a project plan and a budget on a separate sheet for our accessibility improvements and that's what these are for. They'll consist of a couple of automatic doors here at the Courthouse and rails here at the Old Courthouse and at the Judicial Center so with that I'll proceed. I don't know if Sarah has anything to add while I'm opening these but feel free, Sarah. Is it correct that...?

Don Williams: This is your brain child; I thought you might want to say something...

Roger Emmons: Twenty five thousand dollar (\$25,000.00) grant?

Sarah Redman: Yes, up to twenty five thousand dollar (\$25,000.00) grant...Sarah Redman, Warrick County Clerk, the grant is up to twenty five thousand (\$25,000.00) and I believe there's a two hundred fifty thousand dollar (\$250,000.00) pot...

Roger Emmons: Yes.

Sarah Redman: And when I last spoke to the HAVA Administrator for the State of Indiana she did say that I think only three (3) or four (4) had turned in applications at that time and that was a little over a week ago so we have...

Roger Emmons: We kind of got the sense...

Sarah Redman: Almost positively we're getting that.

Roger Emmons: Sarah's communication that we would get this grant.

Sarah Redman: Absolutely, we just need to...

Roger Emmons: I think we've got until October but you'd like to get it in sooner.

Sarah Redman: She really wants it in this week because of the federal requirements.

Roger Emmons: Okay, the first quote I've opened is from Heidorn Construction, there are two different totals I'll be recording. One is for the ADA Compliant doors including the first total with steel railing at the Old Courthouse and the second will be a total with aluminum rails throughout, meaning both buildings would have aluminum railing. The first total with steel railing at the Courthouse is forty two thousand seven hundred eleven dollars even (\$42,711.00).

Don Williams: Seven eleven (711)?

Roger Emmons: Yes. I might add that they have submitted the Non-Collusion Affirmation and the Equal Employment Opportunity Certification. The second total is with aluminum rails throughout, that is forty two thousand eight hundred sixty one dollars and no cents (\$42,861.00).

Don Williams: Question. Now these aluminum rails would they replace the steel rails or are they two (2) separate things all together?

Roger Emmons: Would what now?

Don Williams: First you said the Courthouse...

Roger Emmons: The first one with steel railing is at the Courthouse; the aluminum would be on the Judicial Center.

Don Williams: Okay...

Roger Emmons: The second one is with aluminum rails for both buildings. The second bid I have is from Midwest Contracting Incorporated, they are out of Evansville, and they have Certificate of Liability Insurance, which isn't required unless they are the successful bidder, Equal Employment Opportunity Form, Non-Collusion Affirmation and Acceptance Agreement of Terms that again won't come into play unless they're awarded. Their bid with steel railings at the Courthouse thirty five thousand seven hundred fifty seven dollars even (35,757.00), with aluminum rails throughout, thirty six thousand seven ninety seven and no cents (\$36,797.00).

Marlin Weisheit: Was that a company?

Roger Emmons: That is Midwest...

Rick Reid: Construction?

Roger Emmons: Yes. Midwest Contracting Incorporated. Next we have the quote of Empire Contractors Incorporated, also out of Evansville. They have the required Equal EEOC and the Non-Collusion. Their bid with steel railings at the Courthouse is thirty seven thousand dollars even (\$37,000.00). The second is with aluminum rails for both buildings is thirty eight thousand even (\$38,000.00). We were hoping these would be twenty five thousand (\$25,000.00) or less weren't we, Sarah?

Sarah Redman: Yes.

Roger Emmons: Is there any way to increase their grant amount? Maybe?

Sarah Redman: She alluded that if there are less grants that they might give over twenty five thousand (\$25,000.00).

Roger Emmons: Okay.

Don Williams: Can we apply for more than one (1)?

Sarah Redman: No.

Roger Emmons: No.

Rick Reid: We got two (2) different properties...

Roger Emmons: Well, it's just one (1) grant.

Don Williams: Maybe we can get Boonville to apply for...

Roger Emmons: I don't know if we can divide them...

Sarah Redman: There's always the option of cutting back as well.

Roger Emmons: Yeah, we could get some change orders, you know, but we'll have to take them under advisement if that's the case. The fourth and final is from D&M Construction Incorporated, they're located in Chandler, Indiana. It looks like they've included all of the specifications. D&M Construction Incorporated with steel railings at the Courthouse forty three thousand three hundred thirty four dollars even (\$43,334.00). With aluminum rails throughout forty six thousand four hundred twenty even (\$46,420.00). They also have the required Non-Collusion Affirmation and Equal Employment Opportunity Form.

Sarah Redman: Hey Roger, now, on the specs that Joe sent out, was that for the one automatic door going into the Judicial Center also?

Roger Emmons: No. We can't do anything with the Judicial Center.

Sarah Redman: Yeah, I didn't think so, I wanted to make sure.

Roger Emmons: The automatic doors would be at the current elevator entrance on the north side ramp and the second one was going to be on the south side of the ramp. But it...we could eliminate the south side because...we were hoping to get them both because that enhances the building's ADA Compliance. We'll still be in compliance if we have the one on the north. That...we might be able to...I don't know...

Don Williams: That's the one that's primarily entered when they go anyway isn't it?

Roger Emmons: Yes it is. So, I would have to defer probably to Adam on this but it may take a rebid or I don't know if we could negotiate with each one saying 'can you give us the quote based on only one automatic door' I don't know.

Adam Long: I'd need to take a look at that because you'd be providing revised specs, everybody would need to have an opportunity and they'd want to be able to submit their sealed bids accordingly, but I don't...did their estimates have a breakdown of the cost per item or it was a flat fee?

Roger Emmons: Not that I saw, no, and the forms didn't provide for that.

Adam Long: You can do change orders downward so...

Don Williams: You can?

Adam Long: I believe so, yeah.

Roger Emmons: Yeah, we've done negative change orders in the past for different projects.

Don Williams: I was doing that for Brian's benefit.

Roger Emmons: You don't get them that often.

Adam Long: Yeah, I'd say that they're probably the unicorn of the change order.

Roger Emmons: But I think it would be simple for Joe, you know, he's on vacation this week but our next meeting is when October the 5<sup>th</sup>...?

Rick Reid: How fast do you want this done?

Sarah Redman: This week.

Don Williams: Now.

Adam Long: Oh, now, okay, yeah, thanks.

Roger Emmons: October the 14<sup>th</sup> so that's two days before they're due I think, the 16<sup>th</sup> by 5:00.

Sarah Redman: Okay, can I just request that you...can you scan those to me in the office in the morning?

Roger Emmons: Sure.

Sarah Redman: And I will go ahead and call the HAVA Administrator in the morning and just kind of feel out the situation to see if it would be damaging to wait that long.

Adam Long: I just have a question, maybe for the board's benefit. Once the two hundred fifty thousand (\$250,000.00) is exhausted it's done.

Don Williams: It's done. First come, first served. Nobody is turned away.

Adam Long: So...

Don Williams: It's a pay up front grant.

Adam Long: It would be better to do it today.

Roger Emmons: Right.

Sarah Redman: She has...

Don Williams: And we're looking at approving them both, right? Both the aluminum and the steel?

Roger Emmons: No, you just want to pick...I think Joe just wanted to see what it would be to have the aluminum rails throughout.

Sarah Redman: I believe his intentions were that there aren't already steel rails so it would be the same look over here at this building.

Roger Emmons: Right, but I think the specs were that they were all to be painted white weren't they?

Don Williams: Yeah, at least I think so.

Roger Emmons: So, regardless of material they're going to look similar. And it looks like the steel is the cheaper way to go to keep that steel over here at this building, which is consistent with what we have now, and aluminum at the Judicial Center. Those are the...with just looking at these quotes...

Don Williams: This is needed at least on the south door, I mean, the question is do we want to limit it to just the south door over here?

Roger Emmons: North.

Don Williams: I mean north door, right, where the elevator is. That would make it within the twenty five thousand (\$25,000.00). We would have to get it rebid but we know...or maybe it would be cut in half?

Roger Emmons: Once I get these to Sarah and she gets them up to her HAVA point of contact I think Sarah's got a pretty good relationship with this person that...

Don Williams: Any chance they'll do thirty seven (\$37,000.00)?

Roger Emmons: We got to wait to see what she says.

Sarah Redman: I will call her in the morning and see what possibilities there are but I wouldn't count on it.

Roger Emmons: I'll scan these before I leave today.

Don Williams: This would come cause this is a grant that you have to pay upfront then you're reimbursed, this would come out of non-tax dollars Discretionary Fund and then it will be paid back after the grant money comes in.

Sarah Redman: Right, she said you'll at least have to begin the work or have the contract in place. Not necessarily have it paid up front.

Don Williams: I mean it'd be cheaper if we had them all done at one time, that's for sure. We could do that.

Marlin Weisheit: Do we need to take these bids under advisement for today then?

Don Williams: No, she needs the answer.

Marlin Weisheit: Okay, do we need to pick one? I mean, I'm okay with the low bidder, I mean they're all good bids.

Don Williams: I agree.

Marlin Weisheit: We might need to scale it back but I'm okay with Midwest Contracting Inc.

Don Williams: The low bidder.

Marlin Weisheit: The low bid on steel for thirty five seven fifty seven (\$35,757.00).

Roger Emmons: That's the low bidder.

Marlin Weisheit: I'll make that a motion.

Rick Reid: Second.

Don Williams: Motion and a second. All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Aye. Motion carries three (3), zero (0). And you can go ahead and tell her that we've selected that so you can get more out of her.

Sarah Redman: I'll try.

Don Williams: Five grand (\$5,000.00) would be good, ten grand (\$10,000.00) would be better.

Rick Reid: Fifteen (\$15,000.00) would be even better.

Sarah Redman: Thank you.

Don Williams: No, we don't need quite that much.

Roger Emmons: Thanks for coming, Sarah.

Marlin Weisheit: Thanks, Sarah.

**Proclamations - 200<sup>th</sup> Bicentennial of the Founding of Warrick County**

- a. Museum of the Coal Industry's Coal Museum Days – Proclamation 2013-12
- b. Islamic Center of Newburgh's Food Festival – Proclamation 2013-13
- c. Thresherman's Park 50<sup>th</sup> Anniversary – Proclamation 2013-14

Don Williams: Alright, we have some Proclamations...why don't you just...they all read the same pretty much...

Roger Emmons: Yes.

Don Williams: We got one here...while you're getting them out, I guess they need to be read and we already got proclamation numbers here.

Roger Emmons: Yes.

Don Williams: This is proclamations that are concerning our 200<sup>th</sup> Bicentennial of the Founding of Warrick County. We had three (3), we'd already done I think six (6) or eight (8) of them, maybe more. This is the one that's for the Museum of the Coal Industry, Coal Museum Days Proclamation 2013-12. And there's another one that is the Islamic Center of Newburgh Food Festival Proclamation 2013-13. And then Thresherman's Park 50<sup>th</sup> Anniversary Proclamation 2013-14.

Rick Reid: Can we do all these at the same time?

Don Williams: I think we can do them all at the same time, um, Counselor...cause they are the same except for the names.

Roger Emmons: And there may be different dates, I'm sure there are...

Don Williams: And there are different dates but all the meat of it is exactly the same at least everyone I've read is the same.

Roger Emmons: Yeah, they're all for the 200<sup>th</sup> Bicentennial Celebration of the Founding of Warrick County.

Don Williams: Do we need to read all three (3) of them into the record?

Adam Long: I think that you could read one (1) and use the three (3) names and the three (3) dates simultaneously and say 'as it relates to 2013-12 for the Coal Industry, as it relates to 2013-13 for the Islamic Center' in that fashion.

Roger Emmons: Warrick County Commissioners Proclamation 2013-12 as it relates to the 200<sup>th</sup> Bicentennial Celebration of the Founding of Warrick County in the Museum of the Coal Industry. Coal Museum Days, October 4<sup>th</sup> – 6<sup>th</sup> this year at the Museum of the Coal Industry located just west of Lynnville Indiana.



200<sup>th</sup> Bicentennial Celebration of the Founding of Warrick County  
and the  
MUSEUM OF THE COAL INDUSTRY  
COAL MUSEUM DAYS  
Proclamation 2013 - 12



WHEREAS, the Indiana Territorial Legislature passed an act that formed two new counties in southwestern Indiana, namely the Counties of Warrick to the South and Gibson to the North, effective April 1, 1813; and

WHEREAS, Warrick County was named after Capt. Jacob Warrick, a personal friend of General William Henry Harrison, who fought Tecumseh's Indiana Confederation at the Battle of Tippecanoe in 1811, where he was mortally wounded and died as the battle was turning in favor of Harrison's troops; and

WHEREAS, the citizens and communities of the great County of Warrick have banded together and have elected to honor the pioneers of the County and its founding in 1813, and have initiated a year long celebration of the 200<sup>th</sup> Anniversary of the founding of Warrick County; and

WHEREAS, the Warrick County Bicentennial Steering Committee has recognized as an Official Bicentennial Event the MUSEUM OF THE COAL INDUSTRY'S COAL MUSEUM DAYS to be held on October 4-6, 2013, at the Museum of the Coal Industry located just west of Lynnville, Indiana; and

WHEREAS, during the Coal Museum Days, visitors will be able to experience a simulated underground mining display, will be able to enjoy the Company house/store currently under construction, and tour the Museum, geocache, and the Wall of Miners killed in the line of duty. A special Friends and Family Breakfast will be offered on Saturday starting at 7:00 am and special entertainment will be offered throughout the weekend.

THEREFORE, the Commissioners of the County of Warrick, Indiana, in recognition of the 200<sup>th</sup> Anniversary of the founding of Warrick County, hereby proclaim the weekend of October 4-6, 2013, as COAL MUSEUM DAYS IN WARRICK COUNTY and thanks its citizens and communities throughout the County for joining in the celebration and attending the Coal Museum Days and supporting the Museum of the Coal Industry in Lynnville, Indiana, this month and hereafter.

In testimony hereof, we have hereto set our hands and caused to be affixed hereto the great seal of Warrick County at the County Commissioners' Chamber in Boonville, Indiana, this 23<sup>rd</sup> day of September, 2013.

WARRICK COUNTY COMMISSIONERS

Don Williams  
Don Williams, President

[SEAL]

Marlin Weisheit  
Marlin Weisheit, Vice-President

Richard Reid  
Richard Reid, Member

ATTEST:

L. B. "Dixie" Dugan  
L. B. "Dixie" Dugan  
Warrick County Auditor



Roger Emmons: Warrick County Proclamation 2013-13, same celebration in conjunction with the Islamic Center of Newburgh's 12<sup>th</sup> Annual International Food Festival that will be held at and sponsored by the Islamic Center of Newburgh on Sunday, October the 6, 2013 from 11:00 AM to 4:00 PM.



200<sup>th</sup> Bicentennial Celebration of the Founding of Warrick County  
and the  
**THE ISLAMIC CENTER OF NEWBURGH'S**  
**12<sup>TH</sup> ANNUAL INTERNATIONAL FOOD FESTIVAL**  
Proclamation 2013 - 13



WHEREAS, the Indiana Territorial Legislature passed an act that formed two new counties in southwestern Indiana, namely the Counties of Warrick to the South and Gibson to the North, effective April 1, 1813; and

WHEREAS, Warrick County was named after Capt. Jacob Warrick, a personal friend of General William Henry Harrison, who fought Tecumseh's Indiana Confederation at the Battle of Tippecanoe in 1811, where he was mortally wounded and died as the battle was turning in favor of Harrison's troops; and

WHEREAS, the citizens and communities of the great County of Warrick have banded together and have elected to honor the pioneers of the County and its founding in 1813, and have initiated a year long celebration of the 200<sup>th</sup> Anniversary of the founding of Warrick County; and

WHEREAS, the Warrick County Bicentennial Steering Committee has recognized as an Official Bicentennial Event the 12<sup>TH</sup> ANNUAL INTERNATIONAL FOOD FESTIVAL which will be held at and sponsored by the Islamic Center of Newburgh on Sunday, October 6, 2013, from 11:00 am to 4:00 pm; and

WHEREAS, the 12<sup>TH</sup> ANNUAL INTERNATIONAL FOOD FESTIVAL is an opportunity to promote education and understanding between faiths, and over 1,000 people will gather to enjoy a variety of international cuisine items and an International Bazaar including clothing, jewelry and art, and all proceeds are being donated to the Tri-State Area Food Bank;

THEREFORE, the Commissioners of the County of Warrick, Indiana, in recognition of the 200<sup>th</sup> Anniversary of the founding of Warrick County, hereby proclaim October 6, 2013, as **INTERNATIONAL FOOD FESTIVAL DAY** and thanks its citizens and communities throughout the County for joining in the celebration and attending and supporting the International Food Festival in Newburgh, Indiana, on October 6, 2013.

In testimony hereof, we have hereto set our hands and caused to be affixed hereto the great seal of Warrick County at the County Commissioners' Chamber in Boonville, Indiana, this 23<sup>rd</sup> day of September, 2013.

WARRICK COUNTY COMMISSIONERS

Don Williams [SEAL]  
Don Williams, President

Markin Weisheit  
Markin Weisheit, Vice-President

Richard Reid  
Richard Reid, Member



ATTEST:  
L. B. "Dixie" Dugan  
L. B. "Dixie" Dugan  
Warrick County Auditor



Roger Emmons: Warrick County Commissioners Proclamation 2013-14, same celebration as it relates to Thresherman's Park 50<sup>th</sup> Anniversary Celebration and Antique Steam and Gas Engine Club's Fall Show. That will be held on October the 11<sup>th</sup> – 13<sup>th</sup> this year at Thresherman's Park which is North of Boonville.



200<sup>th</sup> Bicentennial Celebration of the Founding of Warrick County  
and the  
**THRESHERMAN'S PARK 50<sup>TH</sup> ANNIVERSARY CELEBRATION AND  
ANTIQUÉ STEAM AND GAS ENGINE CLUB'S FALL SHOW**  
Proclamation 2013 - 14



WHEREAS, the Indiana Territorial Legislature passed an act that formed two new counties in southwestern Indiana, namely the Counties of Warrick to the South and Gibson to the North, effective April 1, 1813; and

WHEREAS, Warrick County was named after Capt. Jacob Warrick, a personal friend of General William Henry Harrison, who fought Tecumseh's Indiana Confederation at the Battle of Tippecanoe in 1811, where he was mortally wounded and died as the battle was turning in favor of Harrison's troops; and

WHEREAS, the citizens and communities of the great County of Warrick have banded together and have elected to honor the pioneers of the County and its founding in 1813, and have initiated a year long celebration of the 200<sup>th</sup> Anniversary of the founding of Warrick County; and

WHEREAS, the Warrick County Bicentennial Steering Committee has recognized as an Official Bicentennial Event the ANTIQUÉ STEAM AND GAS ENGINE CLUB'S FALL SHOW AT THRESHERMAN'S PARK to be held on October 11-13, 2013; and

WHEREAS, at the FALL SHOW AT THRESHERMAN'S PARK educational events and demonstrations for Warrick County and regional visitors to enjoy will include steam sawmilling and threshing, soap and apple butter making, a Tractor Drive and Tractor games on Saturday, and a dance on Friday nights. Visitors may also visit the One Room Schoolhouse, Old Boonville Depot and Museum, and the Restored Old Fletcher Chapel where church services will be held on Sunday at 9:00am.

THEREFORE, the Commissioners of the County of Warrick, Indiana, in recognition of the 200<sup>th</sup> Anniversary of the founding of Warrick County, and the 50<sup>th</sup> Anniversary of Thresherman's Park, hereby proclaim the weekend of October 11-13, 2013, as THRESHERMAN'S PARK DAYS in celebration of its 50<sup>th</sup> Anniversary and thanks its citizens and communities throughout the County for joining in the celebration and attending the Thresherman's Park Days and supporting Thresherman's Park in Warrick County, on October 11-13, 2013, and hereafter.

In testimony hereof, we have hereto set our hands and caused to be affixed hereto the great seal of Warrick County at the County Commissioners' Chamber in Boonville, Indiana, this 23<sup>rd</sup> day of September, 2013.

WARRICK COUNTY COMMISSIONERS

Don Williams [SEAL]  
Don Williams, President

Marlin Weisheit  
Marlin Weisheit, Vice-President

Richard Reid  
Richard Reid, Member

ATTEST:  
L. B. "Dixie" Dugan  
L. B. "Dixie" Dugan  
Warrick County Auditor



Don Williams: We don't need to read anymore than what he read there you think?

Adam Long: I think that would be sufficient. I have not seen them but I think that sufficiently identifies them.

Don Williams: Okay, what's the will of the board? We have Proclamation 2013-12, 2013-13 and 2013-14 which have to do with the Museum of Coal Mine Industry Coal Museum Days number 12, number 13 is Islamic Center of Newburgh Food Festival and number 14 Thresherman's Park 50<sup>th</sup> Anniversary. What's the will of board?

Rick Reid: Motion to approve.

Marlin Weisheit: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Don Williams: Motion carries. Okay, item 4.

Roger Emmons: Thank you, Mr. President.

**Discuss Sale of Old Lillpop Building**

Roger Emmons: The next item I have is to discuss the sale of the Old Lillpop Building. On September 18<sup>th</sup> Joe Grassman and I and then Don came in a little bit later with our auctioneer Johnny Ray Dimmett. Mark Maier is the only person that's indicated any interest in purchasing that building. I ran into him Friday on my way to lunch and explained the situation with him that the Commissioners would be discussing this at today's meeting. He told me he would like to get the keys to go look at the building, I called him this morning, had the keys ready for him, he did not pick those keys up. He wanted to inspect the building and have his construction estimators take a look at it to see if it was economically feasible is what he told me. So, at this point he's not inspected the building that I'm aware of. The point I was making was...that when Joe Grassman sent you a Summation in August of the various methods by which you could implement the Indiana Code on Sale or Disposal of Real or Personal Property. Number five (5) was a negotiated sale of the building. Must be a sale to promote economic development or facilitate compatible land usage and I think obviously economic development, if Mr. Maier was going to buy he was going to turn it into a business and perhaps some housing. We must get an appraisal, we've already done that. We have to negotiate the sale, not less than the average of the two (2) appraisals which we know what the joint appraisal was, and then published notice of the sale pursuant to Indiana Code 5-3-1. So I think it's up to the Commissioners to decide whether you want to do the negotiated sale or continue with the auction but Mr. Dimmett had some misgivings about the auction.

Don Williams: Yeah...

Adam Long: For the purposes of the statute the accepting of bids you don't have to use an auctioneer, we can leave those open for sixty (60) days. If the board doesn't like any of the bids they can all be rejected.

Roger Emmons: That was the first method I recommended.

Adam Long: And that's what I would recommend as well.

Marlin Weisheit: It sounds better all the time.

Adam Long: It maximizes the purchase price of the building. You do a negotiated sale you're locked into the price that is negotiated but if there is a possibility somebody might not get the building that they want then they may be willing to pay more for it which would be a benefit to the county.

Roger Emmons: Well, given what we've done now we've published notice of the public hearing but wouldn't we have to start the process over for the sixty (60) day sale? I think that sale goes on from day to day for sixty (60) days until or unless terminated by the Board of Commissioners in thinking that they've reached their maximum bid.

Adam Long: I think that you would need to have your notice of the sale.

Roger Emmons: Okay.

Adam Long: Then at the conclusion I think you have your notice of a public hearing to approve the high bidder.

Roger Emmons: What we've advertised now is the public hearing for October 15<sup>th</sup> for the Commissioners to approve disposal of the property.

Adam Long: Okay, well, then that would be efficient and then could publish notice of the sale requirements or terms and conditions of the sale and the dates and times that the sixty (60) days will run.

Roger Emmons: Okay. If that's the Board's wish then I will do that.

Don Williams: What's the boards' wishes? Do you want to go with the sixty (60) day?

Marlin Weisheit: As long as we can close it at anytime during that, I mean, if gets stagnant and we don't get any...but if we got a reasonable offer that we are all three (3) willing to accept we wouldn't have to go the entire sixty (60) days then would we?

Roger Emmons: No, I don't think so, I mean, that's how I read it the last time we did it. We tried to sell the old Carquest Building, obviously that didn't sell so we tore it down but Adam can confirm that but I believe that's what it states in there when you're doing that sixty (60) sale as I explained. We would have an opening date of bids submit and then everyday somebody could come in and say what's the bid now and you'd have a chance to increase that bid.

Adam Long: Yeah, they're subject to public inspection and amendment by the bidding parties.

Roger Emmons: Right, I assume that bid...say a second or third bid any bid that would increase has to be in writing, can't just come in and say 'I bid such and such', it's got to be in writing. But I'll research that for you and I'll get the required legal to Adam.

Rick Reid: We need a motion to approve it for sixty (60) days.

Don Williams: Yeah, I think I need a motion for the sixty (60) day sale.

Marlin Weisheit: I'd make that a motion.

Rick Reid: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Don Williams: Motion carries.

Roger Emmons: Okay.

Marlin Weisheit: Thanks, Roger.

Roger Emmons: Thanks very much.

Don Williams: Do you have anything, Sir?

**Yankeetown Fire Department ~ Request to Close Old SR66 for Annual Street Dance**

Roger Emmons: I do have one (1) item that takes your action; I didn't get this until Friday the 20<sup>th</sup>, it is from Yankeetown Fire Department Chief, Terry Snodgrass, he wants to know if the Commissioners would approve their request, which is the same request as in previous years, to temporarily close Old State Road 66 in front of the Fire Station west of Yankeetown Road on Saturday, October the 5<sup>th</sup> from approximately 2:00 PM to 9:00 PM.

Don Williams: Yeah, we've done this every year that I can remember so... Entertain a motion.

Rick Reid: Motion to approve.

Marlin Weisheit: Second.

Don Williams: Motion and a second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Motion carries. Three (3), zero (0).

**Carquest Demolition Grant**

Roger Emmons: And then the other regarding the Carquest Demolition Grant, the grant's closed out now, you're free to proceed with that vacant lot as you see fit.

Don Williams: Right, just for discussion, fellas, I don't see a need to do anything other than fill that hole in with dirt. I'd like to go ahead and fill that hole in for the Old Carquest just to alleviate some safety...if we can find some dirt so we'll let Bobby look. I know he gets some out at the landfill or wherever but there ought to be some that we can use. Bobby, if you'd look and see if you can find some.

Bobby Howard: We can get it.

Don Williams: Okay, anything else, Mr. Administrator?

Roger Emmons: That's all, Mr. President, thank you very much.

**COUNTY AUDITOR**

**Claims**

Don Williams: Mr. Auditor, you have some claims for us, Sir?

L.B. "Dixie" Dugan: Yes, Sir, Mr. President, I have claims in the amount of one million three hundred three thousand one hundred and forty dollars and fifty four cents (\$1,303,140.54).

Don Williams: Okay, we have claims one million three zero three, one four zero five four (\$1,303,140.54), correct. What's the will of the board?

Rick Reid: Motion to approve the claims.

Marlin Weisheit: Second.

Don Williams: Motion and second. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Motion carries three (3), zero (0).

**COUNTY ATTORNEY**

**Ordinance 2013-\_\_\_: Ordinance Modifying 135.18 of the Code of Ordinances Concerning Tattoo Parlor Permit Fees**

Don Williams: County Attorney, you have one (1) item?

Adam Long: Yes I do.

Don Williams: We need an ordinance number.

L.B. "Dixie" Dugan: 2013-25.

Adam Long: Let me find this in here...

Don Williams: While he's doing his search, this is an ordinance apparently, I was always under the impression that we did not have any Business Permit Fees at all but back in 1998 it had passed one (1) concerning Tattoo Parlors which by state ordinance also covers permanent makeup. And permanent makeup is becoming I guess quite popular with those who can afford it where they put permanent eye liners in and things like that. A lot of money folks do that I understand so that when they wake up in the morning they're already partially made up and ready to go and we had a fella call who...I can just tell you the story, when you find it say 'I found it', I can quit talking, who came from Oregon and he said 'look, I have a real problem' he says 'I have no problem with being controlled by the government because I'm from Oregon' and he says 'government regulations aren't a problem' he says 'but I have a problem when I have to pay a five hundred dollar (\$500.00) business permit fee in September and another five hundred dollar (\$500.00) permit fee in January' so we've asked our attorney to draft it where it'd be five hundred (\$500.00) if the permit is drawn January thru March, three hundred seventy five (\$375.00) April thru June, two fifty (\$250.00) if it's July thru September, then October thru December it'll be one hundred twenty five (\$125.00), numbers look pretty good...the steps. And I think I covered it here, you got your...?

Adam Long: I believe that to be correct.

Roger Emmons: I've got one here, I'm sure you've got one too.

Adam Long: Yeah, and I can read this in and as always with respect to the Area Plan Ordinances, their Counsel and Ms. Rector have identified that they don't necessarily follow the same rules that we do as the Comprehensive Zoning Ordinances are not passed in the same manner so as normal, I apologize for the required motions that I put out there.

Don Williams: We don't have to do this all tonight.

Adam Long: Sure, sure, what I could do if it's the will of the board I could read it into the record and vote that it be introduced and passed on the first reading and then set to the second...

Don Williams: Next meeting.

Adam Long: Read for the next meeting, yeah, alright, is it the will of the board that this be read into the record.

Don Williams: Yes. Do you want a vote? Do you want a vote on that?

Adam Long: No, we can take care of that with respect to the passage.

**Warrick County Ordinance #2013-25  
AN ORDINANCE OF THE BOARD OF COMMISSIONERS  
OF WARRICK COUNTY AMENDING SECTION 135.18  
OF THE CODE OF ORDINANCES**

WHEREAS, §135.18 (A) of the Warrick County Code of Ordinances (hereinafter "Code") currently requires permits to be acquired for tattoo parlors; and

WHEREAS, permits acquired under § 135.18(A) expire December 31st of the year of purchase; and

WHEREAS, the Code establishes a permit fee of Five Hundred Dollars (\$500.00) and said amount is fixed at said rate, regardless of what time of year the permit is acquired; and

WHEREAS, the Board of Commissioners deems it appropriate to establish a pro-rated cost schedule for the permit required under § 135.18(A).

**IT IS THEREFORE ORDAINED BY THE BOARD OF COMMISSIONERS OF WARRICK COUNTY, INDIANA, AS FOLLOWS:**

1. Subsection (A) of Section § 135.18 of the Code of Ordinances entitled "PERMITS", is hereby struck in its entirety and shall hereby be replaced with the following:

“(A) *Business*. Each tattoo parlor operation shall obtain a permit from the County Health Department. The permit shall provide the name and address of the owner of the business and the name and address of each and every tattoo artist located at each location. The cost for this permit shall be as indicated on the table below and shall not be transferable. The permit expires on December 31 of each year. Any holder of a permit shall be subject to inspection as set forth herein. The County Health Department shall provide the appropriate forms for this permit. Said permit shall be posted at the tattoo parlor in the place where the tattoos are performed and shall be clearly visible to the public.

1. Permits acquired January 1 through and including March 31 shall be \$500.00.
2. Permits acquired April 1 through and including June 30 shall be \$375.00.
3. Permits acquired July 1 through and including September 30 shall be \$250.00.
4. Permits acquired October 1 through and including December 31 shall be \$125.00.”

2. This ordinance, amending the Code of Ordinances of Warrick County, Indiana, will become effective upon passage.

**PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF WARRICK COUNTY, STATE OF INDIANA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

BOARD OF COMMISSIONERS OF  
WARRICK COUNTY, INDIANA

\_\_\_\_\_  
Don Williams, President

\_\_\_\_\_  
Marlin Weisheit, Vice President

\_\_\_\_\_  
Richard Reid, Commissioner

ATTEST:

\_\_\_\_\_  
L.B. Dugan, Auditor  
Warrick County, Indiana

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
S. Adam Long  
LONG & MATHIES LAW FIRM  
A Professional Corporation  
County Attorney

Adam Long: Under the normal form we'd need a motion to introduce and pass the Warrick County Ordinance number 2013-25 after first reading.

Don Williams: Okay, do I have a motion?

Marlin Weisheit: So moved.

Rick Reid: Second.

Don Williams: Second? Is that a second?

Rick Reid: Yes.

Don Williams: Okay, I have a motion and a second to pass ordinance 2013-25, its introduction of first reading today. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Motion carries three (3), zero (0).

Adam Long: And a motion to set this for second and final reading on whatever meeting the board would deem appropriate.

Don Williams: That would be our first meeting in October which is the 15<sup>th</sup>.

Roger Emmons: It's a Tuesday.

Adam Long: Columbus Day is the 14<sup>th</sup>, is that right?

Don Williams: Right, so we're having our meeting on the 15<sup>th</sup>. Entertain a motion...I'm not sure it's Columbus Day, that doesn't sound right.

Roger Emmons: Yeah, it is. Columbus Day is on the 12<sup>th</sup>, but that's on a weekend.

Don Williams: Okay, this is a non-election year.

Roger Emmons: Right.

Marlin Weisheit: I'll make a motion to...for this to be on the 15<sup>th</sup>, next meeting.

Don Williams: Okay, we have a motion and a second for the second reading and pass on the 15<sup>th</sup> of October, our next meeting. All in favor say aye.

Marlin Weisheit: Aye.

Rick Reid: Aye.

Don Williams: Aye. Motion carries three (3), zero (0). Thank you.

Rick Reid: So Don, what's going to happen to that story you were telling? Do they have to pay five hundred (\$500.00) twice then?

Don Williams: What's that?

Rick Reid: On that tattoo permit.

Don Williams: The one that did it this year did. Couldn't wait on us I guess.

Rick Reid: Yeah, that's right.

Roger Emmons: Adam, I have a question on the Passing Adoption by the Board of Commissioners. Should that be in this meeting or wait until they actually finalize it?

Don Williams: Next meeting.

Adam Long: Yeah, that would be the meeting where it's actually passed, I apologize, I did insert those dates but you are correct. And, Roger, under number one (1) does your copy say subsections plural?

Roger Emmons: Yes.

Adam Long: I'll need to fix that for the next version.

Roger Emmons: Okay.

Adam Long: I'll make a note of that.

Don Williams: Anything else, Counselor?

Adam Long: Just for discussion purposes we circulated the Purchasing Ordinance and I am as always open for comment with respect to that, um, just for heads up purposes, Mr. Dugan, Ms. Wilder and Ms. Brooks need a contract with Manatron, I sent some revisions through the Auditor, Assessor and Treasurer to that contract, I would suspect that we would hear back on that the next time we're up.

Don Williams: Okay, that's good.

## **COUNTY ENGINEER**

### **COUNTY HIGHWAY**

#### **Request to Declare as Surplus for Auction**

- a. 1998 Jerry James Trailer #3BXVC2039W5007099
- b. 1993 International 4900 Tandem Dump #1HTSHN2R8RH546525

Don Williams: So you don't have anything as Engineer, Bob, you have some Highway stuff for us?

Bobby Howard: Yes, one item under Highway is to Request to Declare a Surplus for Action. It's a 1998 trailer, it's got the number there and then a 1993 International tandem dump with its number there as well and I'd just like to send these to auction. Both of these items are not being used and we have additional heavy trailers that we don't use this one, it's not worth fixing and my understanding is that International dump truck has been parked for about three (3) years.

Don Williams: What's the will of the board?

Marlin Weisheit: I make a motion to declare those two (2) item surplus for auction. The 1998 Jerry James trailer and the 1993 International dump truck.

Rick Reid: Second.

Don Williams: Motion and a second. All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Motion carries three (3), zero (0).

Bobby Howard: That's all I have.

## **COUNTY SHERIFF**

Don Williams: Sheriff, do you have anything?

Sheriff Brett Kruse: No, Sir.

## **COUNTY PROSECUTOR**

#### **Amended Ordinance (Warrick County Prosecutor Bad Check Restitution Program)**

Don Williams: County Prosecutor, Amending Ordinance.

JoAnn Krantz: Good evening, JoAnn Krantz, Warrick County Prosecutor.

Rick Reid: Good evening.

Don Williams: Good evening.

Marlin Weisheit: Hi, JoAnn.

Don Williams: Yes, Ma'am.

JoAnn Krantz: The agenda indicates there's an ordinance before you, we were here two (2) weeks ago and Adam was not here, it was tabled until today.

Don Williams: Comments, are you ready for that, Adam, or...?

Adam Long: Yes.

Don Williams: Why don't you...or are you wanting the prosecutor to go ahead and introduce her comments?

JoAnn Krantz: This is amending the Ordinance 1989-12.

Adam Long: I can talk about it for a few minutes. I do believe that 1989-12 is right for updating. I will say though the statute under which the diversion program or deferral program operates has been modified quite a few times since 1989. The statute book that I have from 2012 shows that since 2004 it appears to have been modified maybe three (3) or four (4) times. It's been modified quite a bit so I think the structure that it's created under in 1989 is probably incorrect at this time. I will say that the concern that I have with the draft of the ordinance as it's written is that Indiana Code 33-39-1-8 D indicates the prescribed method for withholding prosecutions. I was able to communicate with Ms. Krantz with respect to a possible alternative statutory authority which may be available to allow this to proceed. It's my understanding that one such statute on which the State or Prosecutor would rely on was the Home Rule Statute which is codified under 36-1-3. I took a look at it and I recognized that the state has granted to the counties or political subdivisions of the State of Indiana, any powers that are not specifically excluded by statute. But then if you look farther down in the statutes or that chapter which is 36-1-3 there's a subsection which is number six (6) under subsection A of that it indicates that, and I'm quoting "if there is a constitutional or statutory provision requiring a specific manner for exercising a power or a until wanting to exercise the power must do so in that manner". And so my opinion is that as written the proposed ordinance does not comply with 33-39-1-8 D, I believe that pursuant to 36-1-3-6 that we're required to follow the criteria established in the prosecutors' statute for deferral. I did have the opportunity to speak with Ms. Montgomery of the State Board of Accounts. I think that the way the accounting mechanism that the Prosecutors' Office used with respect to the program is acceptable to the State Board of Accounts but the suspicion that I had and something that I had discussed with Roger is confirmed that the State Board of Accounts is concerned primarily with the dollars and cents aspect...the collection aspect...the accounting aspect, but as far as the legality of it they do not intend to render an opinion. I think that that would be more appropriate for the Indiana Attorney General so I did reach out and speak with Ms. Montgomery about it and as I indicated I think that she was satisfied with the accounting side of it. But as I indicated earlier to make a long story short I think that in order to get my blessing I would just ask that the ordinance be written to comply with 33-39-1-8 D and then it would be totally fine.

JoAnn Krantz: And I would ask that your county attorney do that. We've had this discussion before, I brought this to you based on revising 1989-12 as directed by Barbara Montgomery, my understanding is it's an accounting issue but I defer to the county attorney with respect to the ordinance. I took the old ordinance and revised it. If it needs to be something other than that either a new ordinance or this 1989-12 be amended or revised in some other way once again I defer to the county attorney.

Adam Long: Based upon that, what I don't have a problem with doing at the Board's pleasure is coming up with a draft and forwarding it to Ms. Krantz for her consideration and then she can make revisions or requests as she deems appropriate and then I can submit it to the board.

Don Williams: Well, where is the...you just said we need a blessing of the Attorney General.

Adam Long: That would be for approving the ordinance as the revised version as it's written because the...let me make some specific points.

Don Williams: If we don't have to go there; I don't need to talk about it.

Adam Long: It's...okay, I've got it on my front sheet here, I've got this throughout, under subsection D of the statute that I'd indicated section 8 deals with withholding prosecution. Subsections A-C deal with exclusions and how this rule does not apply. Then subsection D says this is the rule and when subsection D indicates what the rule is, the first subsection under D is the person's charged with a misdemeanor under the way this ordinance is written, the person is not yet charged.

JoAnn Krantz: Cause that is the way the program...

Adam Long: Sure, sure, and I understand, that's just the way the ordinance was written, that was just the proposed version. Under subsection 3 the terms of the agreement that are recorded an instrument, signed by the person, the prosecutor and filed in the court where the charge is pending, that's another thing that's not met. So what I'll do is if the board is inclined to want me to do this would be just to revise it so it complies with D1 and then bring it back for consideration.

JoAnn Krantz: There is already a...we already have a deferral account set up between the Clerk and the Auditor and Barbara Montgomery told me that this revision was needed so the money from that program can go into the Infraction Deferral account which formally when there was misdemeanor diversion went into that account so...and I recognize that the statutes have changed and...

Don Williams: Is that the only account it can go in to?

JoAnn Krantz: That I don't know, if it can go into a separate account that's fine. Over the years though both the referral...

Don Williams: I'd like to send some of it to Drug Court.

Adam Long: Well, if I could interject, the statutes for the Prosecutor's Deferral Program are very specific. It can only be spent on like A-J or something like that, there's like twelve (12) things so even if you'd want to spread it out the rule is very clear the money is only used on these things.

Don Williams: Okay.

JoAnn Krantz: That money goes into a 2504 eventually and then it's appropriated by the Council. It goes into an account that it requires appropriations.

Adam Long: And it could be used for supplies, employees, continuing education, travel expenses, per diem expenses, you know, there's a list of things that it can be used for.

JoAnn Krantz: We presently pay all of our operating expenses for the criminal division out of our deferral account. Some twenty (20,000.00) to thirty thousand (\$30,000.00) a year.

Don Williams: Well, we need a motion for Adam to work on that change.

Marlin Weisheit: I'd make that motion.

Don Williams: Second?

Rick Reid: Second.

Don Williams: All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Okay.

JoAnn Krantz: Thank you. And I'll just be notified when it's back on the agenda? Is that how that works?

Adam Long: What I'll do is I'll forward it to you so you can take a look at it and then if you have any questions or anything ask and then as soon as I get your go ahead I send it to them for their consideration then they pick the time, that's usually how it works.

Don Williams: You want to just go ahead and set it up for the 28<sup>th</sup>, a month from today?

JoAnn Krantz: Whatever is convenient for Adam.

Adam Long: I usually can get these done pretty quickly so I don't have a problem with the 28<sup>th</sup>.

Rick Reid: Do you want to do it the 15<sup>th</sup>?

Don Williams: 15<sup>th</sup>?

JoAnn Krantz: Whatever is your schedule because...

Don Williams: Why don't we just table it that away if it's not ready by the 15<sup>th</sup> we can just put...

Marlin Weisheit: Just whenever you two get it worked out.

Adam Long: Okay.

Don Williams: Entertain a motion to table this on the agenda until the 15<sup>th</sup> of October.

JoAnn Krantz: Thank you very much.

Don Williams: Do I have a second?

Rick Reid: So moved.

Don Williams: I have a motion and a second. All in favor say aye.

Rick Reid: Aye.

Marlin Weisheit: Aye.

Don Williams: Aye. Motion carries.

Rick Reid: Thanks, JoAnn.

Marlin Weisheit: Thanks, JoAnn.

JoAnn Krantz: Good evening, thank you.

#### **COMMISSIONERS ITEMS FOR DISCUSSION**

Commissioner Williams: Commissioner Reid, do you have anything?

Commissioner Reid: No, not a thing

Commissioner Williams: Commissioner Weisheit, do you have anything?

Commissioner Weisheit: No, Sir.

Commissioner Williams: I need a motion.

Commissioner Reid: Motion to adjourn.

Commissioner Weisheit: Second.

Commissioner Reid: Have a safe trip.

Commissioner Williams: All in favor aye.

Commissioner Weisheit: Aye.

Commissioner Reid: Aye.

Commissioner Williams: We are adjourned.

\_\_\_\_\_  
DON WILLIAMS, PRESIDENT

\_\_\_\_\_  
MARLIN WEISHEIT, VICE PRESIDENT

\_\_\_\_\_  
RICHARD REID, MEMBER

ATTEST:

\_\_\_\_\_  
L.B. "DIXIE" DUGAN, AUDITOR  
WARRICK COUNTY, INDIANA