

## COMMISSIONERS' MEETING

April 18, 2016

The Bartholomew County Commissioners met in regular session on April 18, 2016 in the Governmental Office Building, 440 Third Street, Columbus, Indiana. Commissioners Rick Flohr, Larry Kleinhenz, and Carl Lienhoop were present. County Attorney J. Grant Tucker and County Auditor Barbara Hackman were also in attendance.

Chairman Flohr called the meeting to order and Commissioner Lienhoop gave the Invocation and led the Pledge of Allegiance.

The first item on the agenda was the approval of the April 11, 2016 Commissioners' Meeting Minutes. Commissioner Lienhoop made a motion to approve the minutes. Commissioner Kleinhenz seconded the motion that passed unanimously.

Next was the approval of claims. The final **claim to Demolition Excavating** in the amount of \$18,972.28 was to be delayed until all documentation has cleared. Commissioner Kleinhenz motioned to approve the claims except the final claim to Demolition Excavating, Inc. Commissioner Lienhoop seconded the motion which passed unanimously.

The next item was weekly reports. Chairman Flohr read the New Permit Report dated 4/11/16 to 4/15/16. Forty-two (42) permits were issued with fees collected of \$9,332 and estimated construction costs of \$12,304,573.

Next, Commissioner Kleinhenz read the following **proclamation**:

*Whereas: linemen are often first responders during storms and other catastrophic events, working to make the scene safe for other emergency responders; and*

*Whereas: linemen work with thousands of volts of electricity high atop power lines 24 hours a day, 365 days a year, to keep electricity flowing; and*

*Whereas: linemen must often work under dangerous conditions far from their families to construct and maintain the energy infrastructure of the United States; and*

*Whereas: linemen put their lives on the line every day with little recognition from the community regarding the danger of their work.*

*Now Therefore, Be it resolved that we, the Bartholomew County Commissioners, do hereby proclaim, April 18, 2016, as*  
***“Lineman Appreciation Day”***

*in Bartholomew County and thank the linemen of the electric utilities serving Bartholomew County for all they do for our citizens.*

Commissioner Kleinhenz made a motion to approve the proclamation. Commissioner Lienhoop seconded the motion that passed unanimously.

County Engineer Danny Hollander gave the Highway Weekly Crew Report which included the following work: patched roads; put up signs; ground stumps; ditched in Jackson and Wayne Townships and on 950S; ditched and put in field entrance pipes on 450N, 600E and 950S and driveway pipe on Old Nashville Road; and crack-sealed. He also submitted the March, 2016, Monthly Crew Report, including crew work, status of bridge and road projects and upcoming crew priorities for April.

Mr. Hollander then gave his recommendation to accept the low bid of \$567,386.70 from Duncan Robertson, Inc. for the **replacement of Bridge #16** on 750E over Little Sand Creek in Rock Creek Township. Commissioner Kleinhenz motioned to award the bid for the Bridge #16 Project to Duncan Robertson, as recommended. Commissioner Lienhoop seconded the motion that passed unanimously.

Mr. Hollander then requested permission to give **Notice to Bidders** for the **2016 Road Overlay Program**. The public notice will be advertised in the April 21st and 28th issues of The Republic Newspaper. Sealed bids will be accepted until 10:00 a.m. on May 9, 2016 and will be opened during the Commissioners’ Meeting. Commissioner Lienhoop motioned to give notice to bidders for the annual overlay project to be opened May 9th. Commissioner Kleinhenz seconded the motion that passed unanimously.

The next item consideration of an **Ordinance Establishing a Public Defender Board** (*See attached*). Judge Joe Meek, Magistrate of Superior Court 2, presented the request on behalf of Judges Coriden, Heimann and Worton in support of the ordinance. The U.S. Constitution and the State of Indiana Constitution require anyone charged with

a crime be represented by a lawyer, if not funded by their own means, then provided by the court at a reduced cost or no cost. As the volume of cases continues to increase, the courts are looking to effectively and economically serve this need of representation. The purpose of the board would be charged with devising a comprehensive plan to facilitate the process. The board would be comprised of 3 members: one appointed by the commissioners and two by the judges; persons having judicial or law enforcement background would be excluded, and; not be of the same political party. Currently, the county contracts with local private attorneys using their time, staff and resources to serve in the public defender program. One thing the board could do is recommend the creation of a full-time public defender's office which could ultimately receive 60% of its funding from the state. The state requires the existence of a public defender board for a county to receive such funding. The board would explore this and other options and make recommendations. Chairman Flohr opened the meeting for public comment. Forty-four Indiana counties have public defender boards that have proposed programs personalized to their counties' needs. An audience member asked how much would be the savings for the county. Judge Meek did not have specifics, as that would be part of the investigation and consideration of the board. The county's expense under the current public defender contracts was not available for consideration. Commissioner Lienhoop motioned to pass the ordinance on first reading. Chairman Flohr seconded the motion that passed by majority vote (2 to 1: Kleinhenz cast the one nay vote). Commissioner Kleinhenz asked for additional financial information to be presented for consideration.

Next was consideration of a proposal for **two (2) cooling units for the EOC**. The additional cooling units are needed because of the amount of computer-generated heat. Maintenance Department Rick Trimpe had considered two proposals and recommended the quote from South Central Company, Inc. for two (2) Mitsubishi ceiling units for \$5,089.59. Chairman Flohr made a motion to approve the expenditure. Commissioner Kleinhenz seconded the motion that passed unanimously.

County Attorney Grant Tucker then read the bids for **Hot Mix, Cold Mix and Liquid Asphalt**. The following three companies bid the price per ton on hot mix:

<i>Item Description</i>	<i>Globe Asphalt</i>	<i>Milestone</i>	<i>Dave O'Mara</i>
25 mm Base	\$40.00	\$44.00	\$46.00
19 mm Intermediate	--	\$44.50	\$48.00
12.5 mm Intermediate	\$43.00	\$46.00	\$48.00
12.5 mm Surface	\$44.00	\$46.00	\$50.00
9.5 mm Surface	\$45.00	\$46.75	\$50.00
HPCM 300	\$130.00	\$130.00	--

Commissioner Kleinhenz made a motion to take the bids under advisement. Commissioner Lienhoop seconded the motion that passed unanimously.

Mr. Tucker then read the one bid for cold mix materials from **US Aggregates**.

#11 Pug Mill Mix	\$48.00 per ton
#9	\$48.00 per ton
AWP 300	\$85.00 per ton

Commissioner Lienhoop motioned to take the bids under advisement. Commissioner Kleinhenz seconded the motion that passed unanimously.

Mr. Tucker then read the two bids for liquid asphalt materials priced per ton.

<i>Item Description</i>	<i>Asphalt Materials, Inc.</i>			<i>Terry Asphalt Materials</i>		
	<i>Job Site</i>	<i>Co. Storage</i>	<i>Plant</i>	<i>Job Site</i>	<i>Co. Storage</i>	<i>Plant</i>
RS-2 (Chip & Seal)	\$304.80	\$303.60	--	\$376.80	\$376.80	--
AE-90 (Dura-Patcher)	\$304.80	\$303.60	--	\$412.80	\$412.80	--
AE-PL	\$328.80	--	\$325.00	\$338.40	--	\$302.40
SS-1h/AE-T (Tack Oil)	--	--	\$384.00	--	--	\$340.80
AE-90S (Chip & Seal)	\$444.00	\$442.80	--	\$484.40	\$484.80	--
AE-F (Fog Seal)	\$281.04	\$279.84	--	\$266.40	\$266.40	--
Terry Seal	--	--	--	\$393.60	\$393.60	--
Fas Black Fog Seal	--	--	--	\$352.80	\$352.80	--

Commissioner Lienhoop motioned to take the bids under advisement. Commissioner Kleinhenz seconded the motion that passed unanimously.

The last item of business was to discuss the recommendations made by the Plan Commission ("PC") regarding CFO/CAFOs zoning requirements. Planning Department Director Jeff Bergman presented a chart of the zoning recommendations, as follows:

Bartholomew County Zoning Ordinance CFO/CAFO Revisions Summary			
As Recommended by the Bartholomew County Plan Commission on March 9, 2016 (General Resolution 2016-01)			
Prepared by: City of Columbus - Bartholomew County Planning Department			
Standard / Question	Current Zoning Ordinance Requirement	Plan Commission Recommendation	Effect
1 Should CFO Regulations be based on the number and type of animals?	No	No	No Change
2 Should CFOs be Limited to only the AP (Agriculture Preferred) Zoning District	No	No	No Change
3 Minimum Setback: CFO to Residential Zoning District	1/2 Mile (2,640 Feet) (CFO Property to Zoning Boundary)	1/2 Mile (2,640 Feet) (CFO Structure to Zoning Boundary)	Decreased Requirement
4 Minimum Setback: CFO Structure to School / Health Care Facility Property Line	None	1/4 Mile (1,320 Feet)	Increased Requirement
5 Minimum Setback: CFO Structure to Worship Facility Property Line	None	1/4 Mile (1,320 Feet)	Increased Requirement
6 Minimum Setback: CFO Structure to Recreational Facility Property Line	None	1/4 Mile (1,320 Feet)	Increased Requirement
7 Minimum Setback: CFO Structure to Residential Lot in Ag. Zone (5 acres or less) Property Line	None	500 Feet	Increased Requirement
8 Minimum Setback: CFO Structure to a Residence in an Ag. Zone (on a lot of more than 5 acres)	None	500 Feet (CFO Structure to Residential Structure)	Increased Requirement
9 Minimum Setback: CFO Structure to any Well	None	500 Feet	Increased Requirement
10 Minimum Setback: CFO Structure to a State Highway	None	None	No Change
11 Minimum Setback: CFO Structure to Lot Line of Property on which it is Located	100 Feet	100 Feet	No Change
12 Minimum CFO Lot Size	5 Acres	10 Acres	Increased Requirement
13 Should CFOs be Considered Permitted Uses, Conditional Uses, or a Combination of Both?	Conditional Uses Always	Conditional Uses Always	No Change
14 Should there be a "Good Character" Requirement for CFO Operators?	No	No	No Change
15 Should there be a "Financial Responsibility" Requirement for CFO Operators?	No	No	No Change
16 Should an IDEM Permit be Required Prior to Local Zoning Compliance Approval?	No	No	No Change
17 Should Notice to Neighboring Property Owners be Provided, in Addition to any Conditional Use Notice?	No	No	No Change

With the presentation of the PC's proposed zoning revision recommendations, Mr. Bergman reminded that the deadline for acting on them is June 7th (90 days from PC's March 9th meeting). If no action is taken, then the PC revisions become effective by default. If the Commissioners choose to make changes, those changes will go back to the PC for consideration. Passage of the ordinance ends the process.

Any CFO facility falls under Bartholomew County Zoning Ordinance as a Conditional Use and are subject to case-by-case review and discretion by the Board of Zoning Appeals. The PC recommendation is primarily to expand the setbacks. Only one recommendation decreased the setback with regard to residential zoning by measuring from the CFO structure instead of from its property line. There was additional discussion over the revisions listed on the chart. The audio recording of the entire 50-minute discussion can be accessed via the county's website at [www.bartholomew.in.gov](http://www.bartholomew.in.gov).

The next Commissioners' Meeting will be held on Monday, April 25, 2016 at 10:00 a.m. in the Commissioners' Chambers. There being no other business the meeting was adjourned at 11:35 a.m.

BARTHOLOMEW COUNTY  
COMMISSIONERS

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RICHARD A. FLOHR, CHAIRMAN

ATTEST:

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LARRY S. KLEINHENZ, MEMBER

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BARBARA J. HACKMAN

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CARL H. LIENHOOP, MEMBER

ORDINANCE NO. 2016- \_\_\_\_\_

**AN ORDINANCE ESTABLISHING A BARTHOLOMEW  
COUNTY PUBLIC DEFENDER BOARD**

**WHEREAS**, I.C. 3340-7-1 et seq. authorizes the establishment of county public defender boards, and

**WHEREAS**, the Board of Commissioners deems it advisable that Bartholomew County establish such a board with all the rights and duties that attend thereto, as per state statute.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF BARTHOLOMEW COUNTY, INDIANA that:**

**Section 1. Board Established.**

The Bartholomew County Public Defender Board is hereby established for the purpose of providing legal representation to indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support, civil commitments and other proceedings where the right to counsel has been established by law.

**Section 2. Definitions.**

When used herein the following words and terms shall be defined as follows:

- (1) *Board* means the Bartholomew County Public Defender Board created by this ordinance.
- (2) *Indigent defendant/respondent* means a person who requests legal representation and is determined by the court to be entitled to legal representation as public expense.
- (3) *Legal representation* means the services of an attorney provided to a defendant/respondent in a matter originating in a state court in Bartholomew County involving:
  - (a) a person charged with a crime as defined in IC 35-31.5-2-75;
  - (b) an act of delinquency as defined in IC 31-37-1-2;
  - (c) a violation of a condition of probation established as a part of a sentence in a juvenile or criminal matter;
  - (d) detention of a person subject to extradition to another jurisdiction;
  - (e) proceedings to collect unpaid child support pursuant to IC 31-16;
  - (f) civil commitment and contempt proceedings; or
  - (g) other proceedings where the right to counsel at public expense has been established by law.

The term *legal representation* includes services in connection with all pre-trial, trial and appellate proceedings in which an indigent defendant/respondent has a right to counsel.

### **Section 3. Board membership and appointment.**

- (a) The Board shall consist of three (3) members: one (1) member appointed by the county commissioners; and (2) members from different political parties appointed by majority vote of the judges who exercise felony or juvenile jurisdiction.
- (b) Appointments shall be for three (3) year terms. Members of the Board shall serve until their successor is appointed. An appointment to fill a vacancy shall be made by the authority appointing the member vacating the position and shall be for the remainder of the unexpired term.
- (c) The following persons shall be ineligible to serve a members of the board: a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.
- (d) Board members shall serve without pay but may receive reimbursement for expenses incurred in connection with the member's duties if approved by the Board.
- (e) Two members of the Board shall constitute a quorum for the purpose of conducting the business of the Board. Decisions of the Board shall be approved by a majority of the members present.
- (f) The Board shall meet at least quarterly or upon call of its chairperson or any two members of the Board.
- (g) The Board shall elect its chairperson by a majority vote of the Board.

### **Section 4. Powers and duties of the Board.**

The Board shall have the following powers and duties:

- (1) Prepare a comprehensive plan for providing legal representation to indigent defendants/respondents in the county in accordance with I.C. 33-40-7-5. The comprehensive plan shall, at a minimum, provide for:
  - (a) legal representation to an indigent defendant/respondent at the earliest possible point in time;
  - (b) legal representation to an indigent defendant/respondent by the same attorney or attorneys through the pendency of the matter to the greatest extent possible;
  - (c) professional development, continuing legal education, and malpractice coverage for public defenders; and
- (2) Establish policies and procedure for the provision of competent legal representations for indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support and criminal contempt, and other matters pursuant to the comprehensive plan.



- (3) Establish guidelines and procedures for the determination of indigency and for the appropriate reimbursement for legal representations provided at public expense in accordance with I.C. 33-40-3.
- (4) Recommend an annual operating budget for the Agency and monitor the expenditures of funds.
- (5) Prepare and submit to the County Council and the general public an annual report on the operation of the Agency.

**Section 5. Authority of Judges.**

Nothing contained herein shall be deemed to abridge the authority of any judge of a state court of this county from appointing counsel for any person entitled thereto under the Constitution of the United States or the Constitution of the State of Indiana.

**Section 6. Effective Date.**

This ordinance shall be in full force and effect upon passage, approval, and publication.

PASSED ON FIRST READING THIS 18<sup>th</sup> DAY OF April, 2016.

**BOARD OF COMMISSIONERS OF  
BARTHOLOMEW COUNTY, INDIANA**

Richard A. Flohr

Richard A. Flohr, Chairman

Carl H. Lienhoop

Carl H. Lienhoop, Member

Larry S. Kleinhenz

Larry S. Kleinhenz, Member

**ATTEST:**

By: \_\_\_\_\_  
Barbara J. Hackman, Auditor  
Bartholomew County, Indiana