

Owen County Board of Commissioners
Minutes-May 17, 2023

Meeting was called to order by President Gary Burton with the Pledge of Allegiance and Opening Prayer given. Members Present: Gary Burton, Bob Curry, and Joel Lowe. Also, attorney Dana Kerr and auditor Sheila Reeves. Public Sign in sheet attached for permanent record.

A motion to approve the minutes from May 1, 2023, was made by Curry; seconded by Lowe. Carried 3-0.

A motion to approve Payroll-\$248,100.74 was made by Curry; seconded by Lowe. Carried 3-0.

A motion to approve Regular Claims-\$608,049.00 was made by Curry seconded by Lowe. Carried 3-0.

Burton explained the high amount was due to a \$250k BBP Ck and ARPA-Hwy claims.

A motion to approve Out of Cycle Claims-\$106,991.81 was made by Lowe; seconded by Curry. Carried 3-0.

It was agreed by members to add the Attorney Claims to the Out-of-Cycle process.

Copies of the Payroll, Absence Balances, Monthly LOW Financial Report were provided for review.

Old Business-None

New Business-

Jennifer Abrell presented a Coroners Beautification Proposal on behalf of the 4-H Garden Club in the amount of \$841.64. The landscaping project was approved with a motion made by Lowe; seconded by Burton. Motion carried 3-0. The project is to be funded from Cum Cap Fund#1138.

EMAC Advisory Board President Shelley Edwards and Vice-Mike Spinks presented a letter specifically relating to an incident in question requesting for Jack White to provide generator/emergency lighting at Patricksburg School on January 19th by Deputy Rhinehart due to power outage. The issue was questioned by Commissioners Burton and Curry as to it being a county issue. Burton began with relating that it was a payroll time sheet that he seen 1 ½ hour comp-time claim in February and didn't know about the emergency and that this is where the problem started. He also added that he had sent an email to White saying proceed as he has been doing and he doesn't have a problem with White. He further stated that they need to be made aware of any emergencies to know what is going on in the county. Spinks wants to make sure that they are addressing all emergencies including the schools. All agreed on better communication.

The second issue listed in the letter was pertaining to IC10-14-3-17(d) and the Advisory council interprets this language to mean that they have the general supervision and control over emergency management and disaster program of the county and that the director is responsible to the chairman of the advisory council. IDHS Holly Bryan provided authentication of this statutory provision. Thus, the issuance of the letter. It was asked for commissioners acknowledge that Jack White is to respond to all emergency alerts which involve Owen County School Corporation activities and with the coordination of the EMAC Board evaluation of other activities at emergency scene.

Attorney Dana Kerr read the Code referenced IC10-14-3-17(d) and that they the EMAC Members are incorrect with the reading of the law and that he is not under them, he is under the executives of the county. The commissioners oversee and he is an employee of the county, and his job description says that the incumbent reports directly to them. EMAC is over the Program. Also stated was that White does have the authority to act when there is an emergency and use his discretion and may be held accountable later for it. There is no requirement that he should consult with the commissioners but notifying them is important as quickly as possible.

In looking at the EMA Job Description he saw some language in there that he hadn't seen in others; that is the sentence about being permanent and that only EMAC can remove for cause. He explained that the former attorney had added a sentence to the job description, and he recommends to council and commissioners to take out the added verbiage that was erroneously (non-conforming) added by prior legal-Bryan as the

Ordinance 1994 had been repealed in Ordinance 2004-17. He recommends that they take it back to the prior description as it takes away from commissioner authority over the employee. Burton confirmed that he was using the Indiana Code. Spinks referenced the same code-section (B) the general supervision and control over emergency management and disaster program for the county and that the director is responsible to the chairman of the emergency advisory council.

Kerr says White is responsible to the Chairman for his actions during a disaster and that is what the EMAC Program is. When it comes to his employment, he is responsible to the Commissioners. Spinks clarified that it is their interpretation of the Code that it is their responsibility over the EMA Director. Burton noted that it was the Indiana Code, not Owen County and that it is what they must abide by. He asked for a motion to approve that Code and put it back as to what it was. Motion made by Burton; seconded by Curry. Carried 2-0-1 Abstention-Lowe who wanted to look further into it more. Edwards asked for confirmation of which one they are reverting to; Kerr said the one prior and the new revision date will be today's date. Burton wanted to comment on the meeting that Bryan presented the job description, and he said it didn't matter what the county had that Indiana Codes over road whatever the county had at that time.

Lowe added that until currently he was White's liaison and now, he is not. Until he sees it in black/white to know what code is right. Jack is a county employee and has always been good about keeping them informed until this recent incident. He just wants the codes to be reviewed and everyone to understand what is right. Burton said his issue was only with the comp time. A memo will be issued summarizing. Sam Hobbs asked about the ordinances in question and wanted to know how it ever got put in. Burton added it never came to the commissioners. Kerr assumed Bryan didn't know about the 2004 Ordinance and it was an honest mistake.

AECOM Technical Services-Landfill Contract for post closure of the Patricksburg Landfill was presented. A motion to approve the Contract in the amount of \$39000 for Project Management, Semi Annual groundwater monitoring and reporting, quarterly methane monitoring and reporting, semiannual landfill inspection and reporting and safe work plan preparation. Motion made by Curry; seconded by Lowe. Motion carried 3-0.

Highway Department Greg Melton provided copies of various road(s) information and updates. He began with the Emergency Closure of State Highway 46. Its taxing county roads with the alternate routes having to be taken. Reduced speed limit signs and no trucks have been placed. Stating it is a huge public safety issue and has talked with all emergency personnel. Burton related he had spoken with INDOT and is expecting to be reimbursed for road wear and tear and instructed everyone to keep track of all expenses related to the situation. Reopening has been tentatively scheduled for June 7th.

He next provided a yearly Operations Report for their review and signatures, he will then be submitting it to LTAP and SBOA as required. Motion to accept/approve was made by Curry; seconded by Lowe. Carried 3-0. He next requested for approval of an Alternate Plan for Ramona Road. Terry Fender with Fender Excavating understands that it needs to be re-bid. Kerr related he can withdrawal the obligation. Motion to allow was made by Lowe; seconded by Curry. Carried 3-0.

E3 Bridge, CLR, and Reynolds Construction had been provided with information to submit Bids. Reynolds Construction is not interested. E3 Bid was \$30000 and CLR was \$56080. Kerr read both quotes that were provided. Mr. Melton requested to step out and review and come back with a recommendation, allowed. He next related that the Surplus Auction had taken place with their items being sold. The County Maintenance supervisor had multiple items left and was agreed/motioned to remove items sold from the list by Lowe; seconded by Bob. Carried 3-0. They will work with maintenance on remaining items.

Community Crossings Bid Packets were due today for awarding. Only one packet had been received from Milestone for Fidler Road, Beech Church Road, and Johnson Road in the total amount of \$1051872. Melton asked the board to approve the bid. Motion made by Lowe; seconded by Bob. Carried 3-0.

Pump Station Road was the next item presented, relating that a huge drainage problem and issues with neighbor quarrels. He is asking what direction to go with repairs. Burton clarified water being held with logging and erosion, Melton confirmed. Kerr related legal options and it was determined that the best solution was to close. Melton asked for two weeks and to be readdressed at the June Meeting, agreed. Melton provided a copy of a letter received from INDOT regarding the intersection improvement project on SR46 and CR350East, 1.0 mile east of SR43. It will be reviewed by Kerr and addressed at the June Meeting. Melton took a break to review the bids received. He later returned and requested approval of E3 Bridge bid to be approved. A motion to approve the Bid-\$30000 was made by Lowe; seconded by Curry. Carried 3-0. He added that the Concord reclamation process and a delay due to the eruption of two springs.

Elected Officials

Councilwoman Polly Chesser requested reimbursement for the funds they had approved from their Council budget for the Coroners Van. It was related that ARPA money is not allowed for vehicles, but could it be used to offset other expenses? Lowe related they are looking into the opioid funds that have been received. Burton suggested maybe LIT Edit, but they assured her that will look at options.

Jack White presented information regarding the FEMA Declaration-Public Assistance was needed. Holly Bryan IDHS was present also relating to the joint preliminary assessment and tracking. Currently there are seven people requesting assistance in the second round. The question was, does the County need a third round? It was agreed that a third round was not necessary and close out would end June 16th. A letter will be provided and signed by Burton. Motion to end made by Lowe; seconded by Curry. Carried 3-0. Also addressed was the Owen County Multi-Hazard Mitigation Plan needing approval. Following discussion and confirmation from Mr. White; Attorney Kerr read Resolution 2023-005 and a motion to approve was made by Curry; seconded by Lowe. Carried 3-0.

Public

Sam Hobbs commented about the SR46 closure and asked if the lights were going to be put up. Concern with the stability with the other lane was being looked at this time.

The auditor asked for clarification on what she was to do with an EMA job description that she was handed by the attorney. He related that it is to be presented to the Council at their next meeting.

Commissioners

Lowe gave an update on the Courthouse Generator Project and noted that Melton was helping with the installation process.

He then noted that the County Trash Day was good and that 6 ½ dumpsters were filled. Agreed that reaching the community through Facebook was how most people said they had heard about it. They hope to make it an annual event.

Curry had received notice of the yearly appointment that is needed for the Region 8 Economic Growth. A motion to re-appoint Curry was made by Burton; seconded by Lowe. Carried 3-0.

Burton added for the first time out he felt the trash day was a success. He thanked Health Dept. John Reeves and Republic Kenny Depasse for their help.

He next presented quotes that had been requested for construction of a new EMA Office. Quotes had been received from Machango Construction-\$70,278 and Carrell Construction-\$56,024.46. The office will be solely on its own HVAC and generator system. A motion to approve the quote for Carrell Construction-\$56024.46 and paid from Cum Cap Fund#1138 was made by Lowe; seconded by Curry. Carried 3-0.

Maintenance Steve Gray had provided two quotes for power washing the Courthouse. Received was on from

Power Plus-\$8400 and Quicks-\$8000. Gray was familiar with Quicks as he had worked with them prior. A motion to approve and to be paid from contract services was made by Curry; seconded by Lowe. Carried 3-0. The work will be done on weekends while the courthouse is closed.

Public Victor Vaillette asked to speak, it was noted he had an opportunity when public comment was up. He made a statement that the attorney is responding as he is told. He asked specifically about an executive session notice and a copy of it. It was related that it was attorney-client privilege and he disagreed with them.

No other business was made.

A motion to adjourn was made by Burton; seconded by Lowe. Carried 3-0.