

Board of Commissioners

March 2, 2010 – 8:45 am

Meeting called to order by President Rininger. Commissioners Rininger, Logsdon, Gogel, and Board Attorney Lueken were present.

Claims

Logsdon made a motion to approve the claims. Gogel seconded. All in favor.

Minutes

02/1/2010 & 02/16/2010 minutes; Logsdon made a motion to approve. Gogel seconded. All in favor.

Banking Presentation

Shelton stated that Integra Bank requested permission to give a brief presentation to county employees regarding the accounts available since the county has direct deposit with the bank. Gogel stated he was not comfortable with allowing a presentation. The commissioners agreed to allow Integra to distribute brochures with the information but not have a presentation.

Highway Report

SR 245 Closing – Logsdon discussed the meeting with INDOT regarding the impact of closing SR 245 on local businesses. More discussions with the state will be held.

SR 245 Unofficial Detour – Discussion was had on a letter distributed by the Town of Santa Claus attorney stating incorrect information regarding the official and unofficial detours during the closing of SR 245. Contact will be made with the attorney to make clarification.

Road Conditions – Logsdon discussed the decision made with North Spencer School Corporation to keep buses off gravel roads until after Spring Break. He said an adjustment might be made if the weather continues to stay dry. Logsdon further clarified statements made in the letter sent to the papers regarding the county budget and the application of rock to county roads. He said when he stated that the price of rock has increased he should have also added that the prices of labor, fuel and equipment have also increased. Everything is more expensive. He did not intend to disparage Mulzer Crushed Stone in any way.

Mulzer Crushed Stone – Dan Pitt of Mulzer Crushed Stone discussed pricing to make delivery to each of the three districts directly, to help save the county empty truck miles. He stated Mulzer wants to be part of the solution. Discussion and research will be needed with Superintendent Painter. Pitt also stated Mulzer does not intend to replace county workers, just supplement where it is needed. The commissioners thanked Pitt and Mulzer for their help.

Budget – Painter discussed a comparison of the 2010 budget for the highway in general and the rock budget more specifically with the budgets of 1999.

	Hwy	L.R.&S.	Total
2010 Budget	\$1,833,015	\$206,000	\$2,039,015
1999 Budget	\$1,810,822	\$350,000	\$2,160,822
	\$22,193	-\$144,000	-\$121,807
2010 Rock	\$135,000	\$100,000	\$235,000
1999 Rock	\$180,000	\$170,000	\$350,000
	-\$45,000	-\$70,000	-\$115,000
2010 Rock \$	\$11.55		
1999 Rock \$	\$7.75		

2010	\$235,000	at \$11.55 =	20,346 tons
1999	\$350,000	at \$7.75 =	45,161 tons

Painter also discussed the snow removal for 2010 and a wage comparison. Logsdon stated the county has to make do with much less. Gogel added that highway labor has been cut by 20% over the last couple of years.

Legal Report

Attorney Lueken discussed the request from David L. and Linda Sue Scarbrough to come up on a parcel of land owned by the county. Scarbrough has met all of the requirements set out by the county. Logsdon made a motion that David L. and Linda Sue Scarbrough, of P.O. Box 94, Hatfield, Indiana, having furnished a certificate of liability insurance naming Spencer County and Spencer County Board of Commissioners as additional insureds and being the owners of the parcel # 74-18-10-100-016.000-016, identified as parcel # 16 on the map, which adjoins parcel # 32 owned by Spencer County, are hereby given personal permission to come upon parcel # 32 on foot, to tie up a boat on the shore of the Ohio River, and to bring upon parcel # 32 a tractor and mower to keep the vegetation mowed on parcel #32. The personal permission hereby given does not run with the land and may be revoked at any time should there be any illegal activities or damage occurring on parcel # 32 or for any other reason. Gogel seconded. All in favor.

Engineer Report

Project Questionnaire – Engineer Lloyd reported that she completed the project questionnaire requested from Representative Baron Hill.

Unofficial Detour Release – Lloyd and Painter approved the release of the unofficial detour for SR 245 on CR 550 E and CR 1675 N.

New Unofficial Detour – Lloyd stated the papers were submitted to have the unofficial detour for the SR 245 project listed as CR 1200 N to CR 600 E to CR 1450 N into Santa Claus.

Jobs Bill – Lloyd reported she is in the process of gathering information for the possible jobs bill.

Luce Township Regional Sewer

LTRSD Attorney Lindsey reported to the commissioners that the project is rapidly moving forward. With the income survey complete, the district was approved for a 60% OCRA Grant. Funds are also being offered by the State Revolving Fund. Lindsey also stated LTRSD can only be a sub-recipient of the grant; Spencer County would have to be the main recipient. He would like to be on the agenda to make a formal request when the papers are complete. LTRSD will be put on the agenda for the meeting on the 23rd. Lindsey also stated a public hearing on the project will be held on March 9 at Luce Elementary at 6:00 pm.

Engineer Lloyd drafted the following letter regarding the use of the county rights-of-way:

Luce Township Regional Sewer District
Board of Trustees
c/o Attorney Jeff Lindsey

The Spencer County Board of Commissioners would like to thank you for your recent update concerning the Luce Township Regional Sewer District (LTRSD). In accordance with the unanimous approval of the motion at the October 20, 2009 Commissioners meeting, this letter is being issued to place in writing the conditions on which the Board of Commissioners is allowing the LTRSD to use and work within the county road rights-of-way. The allowed purpose is for installation of sanitary sewers to cross under those county roads or when necessary because the LTRSD has been unable to acquire easements from landowners adjoining those rights-of-way.

That installation of sanitary sewers under and along county roads where necessary is subject to the following list of expectations that would need to be followed:

1. Boring and encasing of sanitary sewers must be utilized in crossing under county roads as much as possible, and cutting of county roads shall be proposed only where necessary. LTRSD or its engineer must document to the Spencer County Engineer each necessary road cut and the reason for it.
2. Wherever a county road must be cut, LTRSD or its engineer must require its contractor to repair the road per our specifications, a copy of which are attached.
3. If sanitary sewers are installed along a county road, the road ditches must be put back in their original condition and any damage to the road must be repaired to our specifications.
4. Pursuant to Spencer County Ordinance 1999-01 and consistent with the requirements placed upon other utilities, LTRSD must apply for a Permit to Work in County Road Rights-of-Way, post a minimum annual Permit Bond of \$25,000, execute the attached Agreement to Defend, Hold Harmless, Indemnify, and Insure, and furnish a Certificate of Liability Insurance naming Spencer County and Spencer County Board of Commissioners as additional insureds.
5. LTRSD, its engineer, and its contractor must assume full and sole responsibility for compliance with all environmental and any other applicable state and federal laws and regulations regarding its activities, because the Spencer County Board of Commissioners is assuming no such responsibility.
6. Should any Spencer County road for which permission is granted to work within its right-of-way have to be moved or expanded in the future, LTRSD shall be responsible at its sole cost for the relocation of its sanitary sewers lying within or under that right-of-way to a new location determined by the Board of Commissioners.
7. LTRSD or its engineer shall provide its as-built mapping showing the location of its sanitary sewer system, both within and outside of county road rights-of-way, to the Spencer County Board of Commissioners in an electronic format which can be uploaded on the county's GIS system.

We appreciate your cooperation in this matter. Please do not hesitate to contact Tara Lloyd, P.E., at the Spencer County Engineer's office if you have any questions.

Sincerely,
Dan Rininger
Thomas A. Logsdon
David Gogel

Commissioner Meeting 03/02/2010 cont.

After brief discussion, Gogel made a motion to sign the letter as presented. Logsdon seconded. All in favor.

Legal Report

ATV Legislation – Lueken discussed the progression of the ATV Liability legislation in the state senate.

Storage Tanks at Highway Garage – Lueken discussed the possibility of putting an “environmental restrictive covenant” (ERC) on the portion of the ground at the highway garage that is affected by the underground storage tanks. Lueken recommended the commissioners pass a motion to accept the concept, and then he and Painter can research it more completely. Logsdon made a motion to accept the concept of agreeing with IDEM to place an ERC on the “affected area” at the highway garage, details to be developed by the Highway Department, the County Attorney, and Hinderliter.

The meeting was recessed at 10:01 am.

The meeting was reconvened at 10:15 am.

Wink Properties – Re-zoning

Rininger asked those present to come forward if they have a statement to make regarding the petition to re-zone the property located at 963 N CR 275 W, Rockport, Indiana, starting with the front row and moving back.

Eric Ayer, attorney for South Spencer School Corporation, stated the school is responsible for the safety and education of the students. It is not appropriate to have a manufacturing area next to a school. He reminded the commissioners the vote would permanently re-zone the area and the concern is for what could move into the building next. He also expressed concern with Wink complying with the zoning ordinance.

Michael Robinson, Superintendent of the South Spencer School Corporation, stated his main concern is safety. The re-zoning would increase semi-truck traffic in an already congested area. The officers who direct traffic in the morning and afternoon have had many close calls. He also expressed concern over the increased traffic because the school uses the front of the school for cross-country, soccer, tennis, and P.E. He said there should be an aesthetic buffer between industry and schools.

Attorney Jeff Lindsey stated he has been involved in economic development for many years. In 1989, the area was zoned light industrial. The five-acre lot was changed to B-3, but the remaining 75 acres are still light industrial. Re-zoning the five acres to light industrial puts it back to what it was originally. Lindsey asked what message the county wants to send. If the vote is no, then Wink will go to Owensboro, taking with it the tax revenue and the jobs.

Don Schulte stated he has worked in economic development for 30 years, and worked to bring in jobs. People have been after him to stop industry from going wherever it wants. A plan is needed to have controlled growth. He said the area should have been re-zoned Residential and Commercial when it was purchased but it was not a concern because the owners had control of the land. Most of the growth in Ohio Township has been in housing in the Reo area. The study done for the county showed that industry should be located to the North. Re-zoning the five acres industrial will hurt potential housing growth. The owners do plan to request the remaining property be re-zoned commercial.

Gogel stated B-3 and I-1 are actually very close; there are not many differences.

Schulte state the owner of the five acres is from out of state, and if Wink moves to a different facility later, the owner could do anything he wants with the property.

Dr. Arnold Braun asked the commissioners to decline the re-zoning request. He said he feels an obligation to Freedom Bank to keep the area free of industry. Money was spent on the road that runs past Freedom Bank and heavy trucks would damage the road. Braun further stated that he has turned down other opportunities in order to keep the area a first class commercial development. Braun said he admires Wink and is not concerned about him, but he is concerned about what will happen to the property when he leaves.

Bruce Cissna, attorney for Reo Development Corporation, stated the people present at the hearing all have a vested interest in the issue, because the public is not aware of the re-zoning. Rininger stated all of the proper and required notifications were made. Cissna said long-term investments have been made to make it a

residential area. If it is re-zoned, it sends a message that long-term investment is not as important as the immediate. He also expressed concern about heavy trucks driving through a commercial subdivision and using a heavily traveled intersection with no turn lanes. He questioned whether Wink would follow the zoning ordinance in place because he is currently out of compliance with the state in his other company. He stated the zoning board did not pass the request and the fire department was in opposition.

Christina Sandage, who owns one-half interest of Reo Development, discussed her connection with the property and she and her sister have not had the opportunity to work with Braun to develop a strategy for the area. She asked the commissioners to consider the possible costs of upgrading the roads adjacent to the property. She is also concerned about the first impression of the community when people come to the school for athletic events. She said she respects Wink, and she does want jobs in the area, but she is concerned with how it will end up when Wink moves the business out. She said future buyers in the area, may have concerns that the county may re-zone the land next to theirs to industrial.

Nathan Held, President of the Plan Commission, stated the county would be better served to let the area develop as commercial. The county has a place set up for industry.

Councilman Jim Ebert stated the council approved abatement for the business in good faith not realizing the other issues, but hoping to bring in jobs. The numbers in the county are going down and jobs are needed in the county. He said he understands the concerns and does not want both sides to lose. He said housing areas will not grow without jobs. He said school enrollment is down. He would hate to see any hard feelings come out of this.

Rininger asked if anyone else had any statements, hearing none, he asked Jimmy Wink if he would like to make a statement.

Jimmy Wink stated he respects the landowners' oppositions and will try to address all of the concerns.

- He said his other company's status with the state has been resolved and he is in compliance.
- He said the look of the school is impressive but having empty buildings surrounding the school is worse. He said he has taken the old Eck Miller building and cleaned it up and kept it nice.
- I-1 zoning was passed around the same time as when the school was built and was not a problem.
- B-3 and I-1 are not that different and many things in B-3 would actually attract more traffic than I-1.
- He said there is currently very little I-1 in the county and a balance is needed.
- He said he has always adjusted deliveries and shift starts around the school schedule in his other company and will do the same here.
- He said there are three different ways to come in and out of the property so trucks would not need to be driven through the subdivision and he plans on installing a gate.
- He said a culvert will need to be replaced at an entrance to the property but it would be done at his expense.
- He said he has always complied with zoning regulations with his trucking company and will continue to do so.
- He stated he obtained all of his education at South Spencer High School. He does not have a college degree. He would like to be an example to students of what they can achieve. He plans on offering to bring students in for hands on experience.
- The company will be creating enough jobs that people will need to be hired from outside the county in addition to those who live here. These people will need to have places to live, purchase gas, and eat.
- He stated the property owner is very concerned with appearance and will work to maintain a positive appearance.
- He said he offered to work with the Fire Department, who was also originally bidding for the building.
- He stated when he originally spoke to Braun, he offered to sell him the corner lot and the property behind it, so he was surprised at his opposition.
- He said he wants the property to be a show place and the main building for the company, even if he expands into other areas.

Wink concluded by saying he is bringing in jobs, he is willing to work with the schools and work with the community. He respects the landowners and respects the decision of the board.

An attendee asked Wink to clarify the number of jobs he will be creating. Wink said he will put 15 people to work on day one. With the potential of the trailer, it could be 50 to 75 by the end of the year.

Chris Dawson, of Dawson Machine Shop, asked what the jobs will pay. Wink stated the job will start at \$15.50 per hour plus health insurance. He currently employs 80 people with his other company.

Cissna asked if he would be paying for the replacement of the culvert. Wink said yes.

Logsdon asked how many units Wink will have to produce per year. Wink stated he has calculated his break-even point at approximately 60 trailers.

Gogel discussed the businesses that could be done in the current zoning of B-3. He said the change to B-3 is very small. He said the school has discussed in the past, moving their entrance to the current light. He further stated that he does not see the appearance as being a reason to not re-zone the property. He said this could be a win-win for everyone. Traffic does need to be addressed as commerce develops. The county needs to find a reason to make things happen and solve the problems.

Logsdon asked John Wetherill, attorney for the Plan Commission, if conditions can be put on the re-zoning. Wetherill said no, the commissioners cannot place additional restrictions on the property. Logsdon stated he would prefer to add the restriction that Wink would not be allowed to use the east exit off the property.

Rininger stated when he was told about Wink's company he spoke with Wink and discussed the possible traffic issues. He and the other commissioners have received many phone calls regarding this re-zoning and have considered all of the opinions.

Gogel stated in other communities light industry, residential and commercial are intermingled. Transportation is expensive.

Logsdon asked Patrick Hayden, who is the son of the landowner leasing to Wink, what will happen to the property if Wink moves out. Hayden stated he takes great care to keep his other properties in good condition.

Logsdon stated the I-1 zoning requires a six-foot solid fence. Wink stated he plans on building a berm and then putting the fence on that, a total of about ten feet, plus landscaping.

Logsdon asked how long it will take to secure that patent on the trailers. Wink said if rushed through it will be about a year, and will be good for 20 years.

Logsdon stated no decision was made and no discussions have been had on any improvements to the roads adjacent to the property. Wink stated the council asked if improvement to the road would be necessary and he told them he would be replacing the culvert. Dust control will be needed on the road but he understands the county restraints and the company will pay for it if the county cannot.

Gogel made a motion to re-zone the property from B-3 to I-1 with Ordinance 2010-03. Logsdon seconded. All in favor.

Kravets Property – Rezoning

Samuel Kravets petitioned the Plan Commission to re-zone property located at 3310 S. SR 161, Rockport, Indiana, from B-2 to Ag. The Plan Commission voted to recommend the re-zoning to the Board of Commissioners. Logsdon made a motion to re-zone the property from B-2 to Ag with Ordinance 2010-04. Gogel seconded. All in favor.

Logsdon made a motion to adjourn. Gogel seconded. All in favor. The meeting was adjourned at 12:09 pm.

Board of Commissioners,

President
Attest:

Cindy Shelton, Auditor
