

REGULAR MEETING DUBOIS COUNTY COMMISSIONERS

NOVEMBER 1, 2010

The regular monthly meeting of the Dubois County Commissioners was held in the Commissioners' Room of the Courthouse Annex in Jasper, Indiana, beginning at 9:00 a.m. (EST) on November 1, 2010. Present were Commissioners Randall L. Fleck, John G. Burger and Lawrence M. Vollmer. Also present were County Auditor Janet L. Sendelweck, Highway Supervisor Steven L. Berg, Highway Engineer Jason T. Heile, and County Attorney Arthur C. Nordhoff, Jr. A quorum was declared present and the meeting was opened for business by President Fleck. Minutes of the October 2010, meetings of the Commissioners were approved as presented. The minutes were then signed. Incomes for the month of October 2010, were as follows: Recorder \$16,369.34; Health Department \$36,590.84; Auditor \$106.00; Clerk \$38,586.45. Claims against the County were examined and those found to be just, due and owing were allowed and those found to be not due and owing were disallowed, all as more fully set forth in the Claims and Allowance Docket of the County.

RE: SECURITY CENTER

Sheriff Tanner advised the Commissioners that the Center has replaced the kitchen deep fryer and desires to dispose of the same. Due to age, over 18 years old, the fryer is of little or no value. On motion duly made and seconded, the Commissioners authorized disposal of the surplus item through an informal sale method with quotes, after public notice of sale.

RE: JEFF MATTHEWS – REQUEST FOR EXCEPTION TO SUBDIVISION ORDINANCE

Jeff Matthews appeared to report that he intends to purchase a 20 acre tract off the County road, which is landlocked except for a roadway easement. He proposes to convey a three acre tract to his son for purpose of constructing a residence. He requests an exception to the Subdivision Ordinance without platting or use of a family farm exception. This request would establish a new policy for exceptions for one residence off a public road where no road frontage exists. The Highway Engineer proposed an alternate plan whereby the new policy would not be required. They will return to a later meeting after discussion of the proposal.

RE: GENE MICHEL – ROAD SIDE DITCH, CR 400 W CASS TOWNSHIP

Gene Michel appeared regarding a ditch which he had previously constructed adjacent to CR 400 W, an undeveloped County Road. The adjacent property owners had petitioned the establishment of a 50 foot wide 400 W over 70 years ago. The maintenance of the roadway had been assumed by the County as a dirt road and area farmers have provided some maintenance for the road. An area farmer, Elshoff Family Partnership, have previously objected to a change in water flow created by the new ditch and a replaced road sewer culvert. A question remains as to whether the new ditch is on County right-of-way. An inspection will be made of the ditch and new road culvert.

RE: AMENDMENT OF ORDINANCE 2010-04 SYNTHETIC CANNABINOIDS

The County Attorney advised that he was notified immediately following the last Commissioners' meeting that other Counties are adopting an Ordinance with progressive penalty clause and with violator being liable for expenses involved in testing, in the event of violation of Ordinance 2010-04, dealing with synthetic cannabinoids. Due to the expected changes, the original Ordinance was never advertised and therefore never became effective. The Commissioners agreed with the proposed changes and, on motion duly made and seconded, unanimously adopted the revised version of Ordinance #2010-04, terminated the version adopted at the Commissioners' meeting of October 18, 2010, and directed that the revised Ordinance be published as by law required.

AN ORDINANCE PROHIBITING THE SALE OF SUBSTANCES CONTAINING SYNTHETIC CANNABINOIDS OR THEIR USE IN PUBLIC FACILITIES

WHEREAS, the Board of Commissioners of Dubois County have been made aware that substances containing synthetic cannabinoids, which include substances containing one or more of the following chemical compounds:

- (1) (6aR, 10aR) – 9 – (hydroxymethyl) – 6, 6 – dimethyl – 3 – (2methyloctan – 2 – yl) – 6a, 7, 10, 10a – tetrahydrobenzo (c) chromen – 1 - ol, also known as HU-210;
- (2) 1-Pentyl -3-(1-naphthoyl) indole, also known as JWH – 018;
- (3) 1-Butyl -3- (1-naphthoyl) indole, also known as JWH – 073;

Or

- (4) Any other equivalent compound or derivative, (“Products”) have been marketed, sold, and offered for sale to the residents of Dubois County, including minors; and

WHEREAS, the citizens of Dubois County and various elected and law enforcement officials have noted an increased use of such Products, currently marketed and sold under the name of K2, Spice, Pep, Zohai, Yucatan, Fire and/or Genie; and

WHEREAS, Indiana law provides that the County Executive may enact Ordinances to promote and protect the safety, health and welfare of its citizenry; and

WHEREAS, the Products containing synthetic cannabinoids have not been tested by the Food and Drug Administration (U.S. Department of Agriculture) or other governmental agency for human consumption and may contain chemicals detrimental to the health and welfare of those who may ingest them; and

WHEREAS, medical studies and treatises note deleterious health risks and adverse effects associated with synthetic cannabinoids and the Products; and

WHEREAS, several states and municipalities throughout the United States have banned the Products and synthetic cannabinoids as a danger to public health and welfare; and

WHEREAS, the smoke emanating from the burning or incineration of the Products may cause adverse effects on bystanders or those in the vicinity of such activity; and

WHEREAS, the Board of Commissioners of Dubois County believe it is in the best interests of its citizens to prohibit the sale, marketing, or offering for sale of the products within Dubois County, Indiana, to protect the health, safety and welfare of the citizens and children of Dubois County.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Dubois County, Indiana, as follows:

Section 1. Products containing synthetic cannabinoids (“Products”), such as K2 / Spice, or similar products which contain one or more of the following chemical compounds:

- a. (6aR, 10aR) – 9 – (hydroxymethyl) – 6, 6 – dimethyl – 3 –(2methyloctan – 2-yl) -6a, 7 ,10, 10a – tetrahydrobenzo (c) chromen – 1 – ol, also know as HU – 210;
- b. 1- Pentyl – 3 – (1 – naphthoyl) indole, also known as JWH – 018;
- c. 1 – Butyl - 3 – (1 – naphthoyl) indole, also known as JWH – 073; or
- d. Any other equivalent compound or derivative shall not be sold, marketed, offered for sale, used, possessed or purchased within Dubois County, Indiana; and

Section 2. Products containing synthetic cannabinoids (“Products”) may not be burned, incinerated or ignited in any public place or on any property owned, leased or controlled by Dubois County.

Section 3. Any person or entity found in violation for the first time of any provision of this Ordinance shall be subject to the penalty imposed for a Class B infraction, as set forth in Indiana Code 34-28-5-4. Accordingly, this Ordinance shall be enforced by the provisions of Indiana Code 34-28-5.

Section 4. Any person or entity found in violation for the second and subsequent time of any provision of this Ordinance shall be subject to the penalty imposed for a Class A infraction, as set forth in Indiana Code 34-28-5-4. Accordingly, this Ordinance shall be enforced by the provisions of Indiana Code 34-28-5.

Section 5. In addition to the foregoing, any person or entity found to be in violation of any provision of this Ordinance shall also be responsible for the reasonable costs associated with the enforcement thereof, including, but not limited to, attorney fees, laboratory fees, expert witness fees, other personnel costs, and court costs, in any action taken to enforce the provisions of this Ordinance.

Section 6. Each violation of any provision contained in this Ordinance shall constitute a separate violation.

Section 7. Each portion of this Ordinance is hereby declared to be independent of each other portion. If any portion of this Ordinance, or the application thereof to any person, entity, or circumstance, is held to be invalid, the remaining portions and the application of such sections or provisions to any person, entity, or circumstance other than that to which it is held invalid shall not be affected thereby.

Section 8. This Ordinance shall be in full force and effect after publication pursuant to Indiana law.

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Dubois County, Indiana, this 1st day of November, 2010.

RE: COUNTY PRESCRIPTION DRUG PLAN – TRUE RX

Mark Williams of True RX, the administrator of the County Prescription Drug Plan, appeared to request a policy whereby Plan participants would be required to use generic drugs where available rather than the more expensive name brand drug. These should be substantially the same at a much lower cost. Also, as to name brand drugs, some are at a higher cost than others with the same medical results, and it is proposed that the lower cost drug be used. This policy is known as a three tier process. On each case, the participant's doctor may override the use of the three tier process. On motion duly made and seconded, the Commissioners approved the proposed policy, effective January 1, 2011.

RE: SOLID WASTE DISPOSAL – KIM HARMON COMPLAINT #2009-016/017

Kim Harmon and Toni Lubbers appeared to present to the Commissioners the facts related to a complaint filed regarding Jeffrey and Kim Harmon for unlawful disposal of solid waste along a public road. It was determined that the trash involved was hauled by the same commercial hauler as Mary Burch and was not hauled by the Harmons. Based on the fact that the disposal was not caused by the Harmons, as with Mrs. Burch, the complaint was dismissed. The Auditor was directed to instruct the commercial hauler, VEOLIA, to appear before the Commissioners.

RE: HIGHWAY SUPERVISOR

County Highway Supervisor Beg discussed with the Commissioners the status of various Highway Department projects, including:

Unimen Road Usage Agreement	Old Agreement with Unimen Coal for use of 450 W, 100 S, 350 W and 150 S & Old Huntingburg Road will expire on 12-3-2010. A new agreement and bond will be required.
Noble Energy Usage Agreement	Company work in the Madison Township area has been completed and bond should be released. On motion duly made and seconded, bond was ordered released on CR 300N.
J.H. Rudolph Usage Agreement	Use of Airport Road for airport improvement has been completed and bond should be released from J.H. Rudolph. No road damage evident. On motion duly made and seconded, bond was ordered released on Airport Road.
Highway Vehicle Damage	A Highway Department Dodge pickup was involved in accident caused by other driver and settlement has been reached with insurance company. The Supervisor was given permission to advertise for proposals in classified ad in one newspaper, and to purchase a used ¾ ton Pickup truck as soon as possible due to Department need.
Dubois – Spencer Line Road Improvements – CR 1200 S, Spencer Co 500 E & 600 E	The Highway Supervisor reported on a request for improvement of CR 1200 and Spencer CR 500 E and 600 E, as a joint County project, with Dubois County being the lead agency and providing work. Spencer County will contribute \$15,000 to project and Dubois County will contribute labor. Multi County Agreement will be prepared. Property owners will pay material costs.
Sign – Post Driver	New post driver has been ordered and should be delivered within several weeks. A back log of new and repairs projects are on file.

RE: EMERGENCY MANAGEMENT – HOMELAND SECURITY TRAILER

Tammy Miller, EMA Director, reported on plans for delivery to the County of trailer from Homeland Security. There are training sessions being scheduled. The transportation of the trailer has been arranged and storage is in process. Tammy is attempting to have the Hospital involved in training.

RE: HIGHWAY ENGINEER REPORT

Highway Engineer Heile submitted his report of current Highway projects as follows:

Bridge #146 Kentucky Street – Holland CR 400 W – Huntingburg	Removed old deck and will remove abutment this week Drainage pipe has been replaced Asphalt overlay installed, some dirt work remains
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RE: 39 DEGREES NORTH GIS SYSTEM

Randy Smith and Chris Walls (owner) appeared to discuss the service currently being provided by 39 Degrees North to Dubois County. They explained that additional meetings have been held with County employees and it has been discovered that the County through Emergency Management, has been paying an additional \$10,000 to WTH, for GIS services. The 39 Degrees North proposal has been reduced to \$19,995 for a guaranteed three year period, which is substantially less than the current WTH contract, while offering more and better service than WTH. They explained the process which has been improved since their initial contact with the County. The Health Department is satisfied with the 39 Degrees North system. The Highway Department still has not seen the full application of the 39 Degrees North system as applies to their Department. The 39 Degrees company has been in operation for six years. The company will provide additional financial data within the next week.

RE: JASPER SANTA'S HOUSE

On motion duly made and seconded, the Commissioners authorized the Greater Downtown Jasper Business Association to place the annual Santa's House on the west lawn from the November 24 to January 8, 2011.

RE: O'TANNENBAUM DAYS

On motion duly made and seconded, the Commissioners granted the Greater Downtown Jasper Business Association the use of Courthouse restrooms for O'Tannenbaum Days on December 3rd from 5pm to 8pm, on December 4th from 8 am to 5 pm and on December 5th from noon to 4 pm.

RE: FUTURE MEETINGS

On motion duly made and seconded, the Commissioners November continued meeting will be on November 22, 2010. The Commissioners set the regular December meeting for December 6, 2010, and the continued meeting for December 20, 2010, both meetings to begin at 9:00 am at the Courthouse Annex.