

REGULAR SESSION RUSH COUNTY BOARD OF COMMISSIONERS SEPTEMBER 1, 2017

The Rush County Board of Commissioners met in regular session Friday, September 1, 2017 with Commissioners Paul Wilkinson, Mark Bacon, Bruce Levi, Jodi Harr, Auditor, and Leigh Morning, County Attorney, in attendance.

Paul Wilkinson called the meeting to order at 9:00 a.m. with the Pledge to the flag. He expressed thoughts and prayers to the citizens and first responders in Houston during the devastation of Hurricane Harvey. There is an effort underway to collect items of need to send to Houston. Items can be dropped off at the Chamber of Commerce.

Minutes of the August 21, 2017 regular meeting were approved with a motion from Mark Bacon and seconded by Bruce Levi. Motion carried.

CLAIMS

Auditor, Jodi Harr, presented the biweekly claims docket for September 1, 2017 in the amount of \$273,739.96. Mark Bacon moved to approve the claims. Bruce Levi seconded the motion. Motion carried.

Payroll ending September 8, 2017 in the amount of \$184,961.34 was presented. Bruce Levi made the motion to approve. Mark Bacon seconded. Motion carried.

EXTENSION OFFICE

Gracie Marlatt informed the commissioners that Audrey Neuman has been hired to fill one of the full time positions open in the extension office. She will start on Tuesday, September 5.

HIGHWAY

Jerry Sitton, Highway Superintendent, requested the commissioners sign the Bridge Inspection Book for Rush County. They should be ready to print within thirty days. Bruce Levi made the motion to approve. Mark Bacon seconded. Motion carried.

Sitton notified those in attendance the State of Indiana will be closing State Road 44 in Homer to replace the bridge over Mudcreek. It will close approximately in February and be closed for six months.

SHERIFF

Dave Sliger, Chief Deputy, notified the commissioners that department activity reports will be emailed to them. There are currently 72 inmates housed in the jail.

The sheriff department has found two new Ford Explorer patrol cars that they would like to trade the 2010 white Tahoe in on. Both vehicles are road ready. Mark Bacon made the motion to approve the trade and for Commissioner Chairman Wilkinson to sign the title of the 2010 Tahoe. Bruce Levi seconded. Motion carried.

COUNTY AMBULANCE

Commissioner Wilkinson asked for discussion on county ambulance services operated within Rush County. Currently the county pays four services to operate ten ambulances within the county.

Commissioner Levi gave a brief history of where we have come from with the ambulance service. The Rush Memorial Hospital ambulance was established because private paramedic services would not stay here and the prices kept increasing. RMH agreed to start an ambulance service which was subsidized by the county. There are currently four geographic territories for EMS services within Rush County. He hears from constituents that they appreciate and want to continue to have paramedic services available. The law does not require the county to provide paramedic services; however, the county is not going to do away with ambulance services.

Commissioner Wilkinson continued by stating there have been two EMS services within the county that have recently had issues covering their territory. The county is spending approximately \$600,000 per year for ambulance coverage. The commissioners need to decide

what the county can afford and what services are needed. They need to make a recommendation to the county council. County Attorney, Leigh Morning, noted the commissioners can wait for the county council to decide how much money they will appropriate for EMS services at their September 12 budget meeting.

The commissioners will conduct a special commissioner meeting on Friday, September 15 at 2 p.m. to discuss this issue further. They did ask the sheriff department to provide EMS call statistics to them prior to this meeting.

WEST FORK WIND/NEXTERA

Leigh Morning brought forth a request from West Fork Wind/Nextera asking the commissioners for support of their BZA application. She reminded the commissioners that they are under contract to provide support in obtaining zoning permits. They are asking for a letter of support from the commissioners, for the commissioners to show up at the BZA meeting to show support or to provide notice to their BZA appointee of the commissioner's support. She also noted that this application is not for a WECS project. Commissioner Levi commented that our contract was for a WECS project so we are not bound by the contract. Morning commented that yes the commissioners are under contract. Commissioner Wilkinson asked how long this letter of support would have to last. Morning believes that once the switchyard and WECS projects are approved and the appeal time has passed the letter of support would end. She further stated that Nextera has agreed that if the project is approved and no appeals are filed, Nextera will drop the judicial review and release the county from the economic development agreement currently in place with the commissioners. Commissioner Bacon noted that the switchyard is only to bring electricity over from Fayette County to put the energy on the grid. There will be no wind towers in Rush County. Morning stated that is correct. Wilkinson commented that the county does not have any control over if or who files appeals, so when would the letter of support end. He has accountability issues with Nextera due to in the past Nextera not having all landowner approvals when they said that they did. He does not want to commit future commissioners by having this support agreement. The commissioners have to make a decision today on a future risk for Rush County. Wilkinson also reminded everyone that whatever decision is made today, it is not going to be popular either way. Morning commented there are only two land owners involved at this time and their consents have been filed with the Area Plan office.

Commissioner Levi asked if the economic agreement was signed with Nextera or West Fork Wind. He has creditability issues with Nextera also and does not understand why they keep changing their name. Morning explained that the agreement is with Nextera. The organization is still in existence it has just been assigned to West Fork Wind. NextEra assigned its rights and obligations and agreements to West Fork Wind and the original agreement is still effective.

Levi asked if the moratorium currently in place applies to Nextera. Morning stated it does not because these agreements were already in place at the time of the moratorium.

Commissioner Wilkinson then opened the floor for public comment.

- Tom Monka asked why West Fork Wind is continuing with judicial review if they are not going to put up wind turbines. He also reminded the commissioners that Nextera was not denied permission for the wind turbines. They simply did not like the stipulations put on them by the BZA.
- Jim Wainwright asked if this is not part of a WECS project, why is the commissioners obligated to keep the contract already in place. He also referred the commissioner to page 29 of the Rush County Zoning ordinance which gives the definition of a wind energy conversion system. A switchyard is mentioned here. If the commissioners agree to this, he would like to see it in writing from Nextera that the judicial review would be dropped.
- Ralph Adams asked does the wind energy have to come through Rush County instead of Fayette County. Commissioner Wilkinson commented he was told it was a matter of economics. Adams noted he believes the commissioners are at a juncture to determine their decision on threats or what is best for the county.

- David Hiner noted that according to the economic agreement, the county has to be notified of any changes. Was the county notified of the LLC changes?
- Gordon Hall asked will Nextera do if the BZA allows the switchyard. Morning responded that Nextera will dismiss the judicial review and release the commissioners from the economic agreement for not support the WECS project.
- Kevin DeWitt asked if the commissioners sign the letter of support, Nextera will only dismiss the judicial review if it is approved by the BZA. Morning commented yes. Dewitt commented so if the BZA does not approve the switchyard, the economic development agreement stays in effect? He believes that gives Nextera more leverage to file a lawsuit.

Gregg Duke, Area Plan Director, stated that the Rush County Zoning is based on Rush County land use, not on other county's land uses. He views this as a public utility so it should go to the Indiana Utility Regulatory Commission (IURC). He will his recommendation to the BZA. IURC has declined to review another similar situation and referred them back to their county zoning board. He feels like our BZA should have Nextera take this to the IURC for their consideration. Commissioner Levi asked for a brief clarification of public verses private utility. Duke commented this application is for a private utility and is set to be heard by the local BZA on September 12, 2017. The application is in the name of West Fork Wind, LLC. Levi asked why they are applying as a private verses a public utility. Duke does not know. Wainwright asked Duke if there is a difference in the rate that can be charged for energy coming through Rush County verses Fayette County. Is it possible for Nextera to make more money by going through Rush County? Duke cannot answer that question. Commissioner Wilkinson commented that Nextera is a business and will do what they can to make the most money possible.

Levi asked what does this support include and for Morning to clarify the options once again. Morning explained the three options once again. He then asked if it is required for the commissioners to respond to Nextera. Morning stated no. Levi does not like the "if you do this, we will do that" way of business. He will be in favor of offering support through the commissioner appointee to the BZA board.

Wilkinson commented that we need to give a recommendation prior to the BZA meeting September 12. If the commissioners give support, he wants a definitive time of support. If time expires, they can come back to the commissioners and ask for an additional support letter. He asked to consider these two questions: Would we approve this if it were a switchyard being applied for by another company? What are we basing our decision on? He asked Morning that if they agree to send a letter of support, are they admitting that they have breached the economic development agreement. Morning said it is not. It can be a simple one line statement.

Mark Bacon made the motion to sign a letter of support of the BZA application 2017-53 as the application stands on today's date. Paul Wilkinson seconded. Wilkinson and Bacon voted in favor. Bruce Levi noted nay commenting that he still has questions as to the legal ramifications of what the county could spend in future litigation. Motion carried.

EMPLOYEE TIME KEEPING

Auditor, Jodi Harr, presented a plan in auditing current payroll time sheets to ensure compliance with state and federal laws for employee and employer compensation. Bruce Levi made the motion for the auditor to collect any needed information from employees and department heads. Mark Bacon seconded. Motion carried.

EMPLOYMENT CONCERN

A contract verses employee issue has been brought to the attention of the commissioners. A special meeting of the commissioners will be held on Tuesday, September 12 at 8 a.m. to discuss this concern.

The next regular Commissioner's meeting will be held on Monday, September 18, 2017 at 9:00a.m.

Mark Bacon moved to adjourn. Bruce Levi seconded the motion. Motion carried.

/Paul Wilkinson/
Paul Wilkinson Chairman

/Mark Bacon/
Mark Bacon

/Bruce Levi/
Bruce Levi

ATTEST:

/Jodi Harr/
Jodi Harr, Auditor