

Randolph County Commissioners

December 16, 2013

The Randolph County Commissioners met at their regular meeting at 9:00AM in the Commissioners and Council Room in the Courthouse with the following members present: Board President William Terrell, Michael Wickersham and Gary Gitton. Also present was Randolph County Auditor Mary Ann Lenkendorf, Sheriff Ken Hendrickson and County Attorney Meeks Cockerill.

Pledge of Allegiance

William Terrell, President presided over the meeting.

Kent Irwin, Waggoner, Irwin, Scheele and Associates

Kent Irwin and Addie Rooker introduced themselves stating they have worked with the County for several months updating personnel policies and believed the intent was to get this adopted before January 1st. The issue we are looking to get some resolution to involves overtime and comp time. The memo is intended to clarify some of the rules in how the Fair Labor Standards Act (FLSA) applies to jobs in Randolph County. There are three tests – Executive, Administrative and Professional that are part of the FLSA wage rules to make a position exempt. Exempt positions under the FLSA are not required to receive overtime or comp time. These are positions such as Department Heads, elected officials or anyone who meets these three tests are exempt under the FLSA which means they have to be paid a salary. Their primary duties are managing and supervising others or professional positions such as a county attorney. These tests have been applied to new job descriptions that have been prepared for the County. One other exemption that is unique to the public sector is personal staff of an elected official. Meaning chief deputies in various offices of politically, appointed positions will be classified as exempt. This is because they perform duties when the elected official is absent. Most Indiana counties have elected to make those positions exempt. The non-exempt positions under the FLSA have to receive either overtime pay at an hour and a half rate for all hours over 40 or instead of pay, they may receive overtime in the form of compensatory time off. The one exception in the FLSA for the Sheriff Department is called 7-K exemption where Sheriffs merit officers can be put on a 28-day cycle and if they work over 71 hours within that cycle, they are paid overtime for all those hours giving law enforcement flex their schedules through those weeks. It only applies to a small amount of employees relative to the workforce. Other rules with comp time are caps or limits to the amount of accrual for a non-exempt, non-public safety employee can accrue up to 240 hours before they have to be paid monetarily. If they work more than 240 hours they have to be paid at time and a half monetarily. Sheriff's deputies and correction officers can go up to 480 hours. It does not include EMS, dispatch or non-emergency personnel. It only includes sheriff officers, law enforcement, merit officers and correctional officers if they choose to use that option but that does not include anyone else. FLSA establishes a minimum that you have to meet but the employer can offer more than what is required. The other minimum requirement FLSA has is based on actual hours worked. The government states you only owe overtime or comp time if you perform work for over forty hours physically worked.

Kent Irwin stated after talking with Meeks and Jessica it sounds that you are going to make the chief deputies exempt and such as the Highway Superintendent. Our advice is to treat all exempts the same one way or the other. We cannot discriminate with which people we want to provide overtime to that is exempt without being subject to liability. You can't single out one exempt person and not pay overtime/comp time but you pay all other exempt individuals. Meeks Cockerill asked if we have a list of those individuals that we think are exempt to make them exempt. Since you can go beyond what is a minimum, they will be exempt and will be given compensatory time for time they worked. He feels the recommendation is to make those people exempt. Michael Wickersham stated that leaves one exempt department head now that qualifies for compensatory time. Irwin stated going forward we want to treat all classified people according to the rules one way or the other but understanding that if we are going to allow some people that are exempt to get comp time or overtime then we need to allow all people who are exempt to do the same thing. The time is based on actual time worked so the time off on comp time holidays, vacations and emergency closing shall not count in that calculation. That often drives the amount of comp time up when an employee is earning and with a non-exempt employee who is not only working 35 hours per week is required to work, then they are paid non-FLSA comp time hour for hour up to 40 hours. That is not something the government regulates but under the Indiana wage statute they have to either be paid monetarily or time off. Those first five hours for people working a 35-hour week would not be part of the cap under the Federal Government and a majority of the comp time would be those 35 to 40 hours because they are the first ones earned. The exempt positions have to be paid on a salary basis – not hourly. Non-exempt employees can be paid on salary or hourly basis. Irwin stated he knew in the thinking of these changes it was to reduce the amount of comp time if it exists and reducing comp time with a sliding scale for 2014, 2015 and thereafter. We have these choices, it is a matter of adopting the policy and moving forward, and making sure the department heads and elected officials understand how it is going to work. The hand out includes the exclusion policy from the FLSA that is used to designate the Chief Deputies position to be exempt. The last page of the handout is the Indiana Code 36-2-5-3 which

sets out the compensation of employees and the County Council's responsibility for fixing the number of employees, describing and classifying the positions and adopting a schedule for compensation. Michael Wickersham asked whose decision is it to determine who is exempt and non-exempt. Irwin stated he believes it is a collective decision between both boards, because the Commissioners set the policies and the policies need to reflect how the jobs are classified. There is now a job description for each position and on that description there is a FLSA status that says exempt or non-exempt. In the future, the Council during budget time would adopt the job descriptions and they would become the official descriptions of the County. If any changes need to be made they would go through the same process they did in the beginning.

Michael Wickersham stated the Indiana code seems to separate out the Health Department. Irwin stated anyone paid by county funds and receiving a county check needs to have their positions classified and salaries set by County Council even though the Randolph County Board of Health has made a recommendation. Irwin stated he thinks it would be good to use this past year as a benchmark for these positions becoming exempt and see how much comp time has accrued over the course of a year if offering any compensation. What is it really costing us? He also thought there needed to be some clarity in a flex schedule. There should also be allowances for holiday hours for those employees working ten-hour days. At that point, it would be better to convert that time to hours so that we are not getting any more or any less time. Wickersham stated there were two positions that were excluded from the exempt status, which was building commissioner and area planning director. It seems odd that they are not considered exempt. They do seem to operate the same as some of other positions. Irwin stated they are conservative in recommending exemptions when looking at the duty's test. If I am a working leader doing the work as everyone else in the department and not strictly supervising, that tends to push the category to non-exempt. It is not driven by the title but what the duties and responsibilities are. Addie Rooker stated that if the building commissioner was conducting inspections, that may have pushed that position to non-exempt. Wickersham stated it sounds that you are recommending that we accept the exempt positions before the end of the year and possibly offer them compensatory time. Meeks Cockerill stated that at that point you have a committee that will be looking at the job descriptions for compensation. Meeks and Irwin stated you exempt positions; you need to do all the exempt positions as recommended. Irwin stated it needs to be spelled out how you want to offer the comp time for exempt positions. If you give them comp time, you need to do it differently than the other employee positions. Irwin said it is important to have a good timekeeping system and a clear understanding of how comp time is earned. We need to have a clear policy, how it impacts is something you need to continually monitor, and it becomes a salary issue. T

Cockerill suggested paying hour for hour after the 35 hours for exemption positions because it would be easier and would be different from the other employees. Irwin hoped the discussion had been helpful.

Jeff Horn, Ohio Valley Gas- easement

Jeff Horn, Ohio Valley Gas Company asked Commissioners to get an easement for the property where the EMS building sits. The City easement is 20 feet on the south half and 20 feet on the north half of Greenville Ave. The reason we need the easement is that there is a water main, our old gas line and a fiber optic line. The water main and fiber optic is on County property. We normally ask for 15 feet but if we have 20 feet, they can move their gas line there and maintain it. The County nor anyone else can build within 25 feet to the edge of right of way so it should not cause any problems. The main reason for the easement is because underneath Greenville Ave, Panhandle Eastern crosses with Ohio Valley Gas. There is a small leak we want to replace. Michael Wickersham made a motion to allow Ohio Valley Gas to have a 20-foot easement along Greenville Ave. Gary Girtton seconded the motion. All aye votes cast. Motion carried. Horn left a check in payment of the easement for \$595.86 to the Randolph County Commissioners.

Bruce Hosier, REDC- incentive committee funding recommendation

Bruce Hosier executive director of REDC was present with Russ Hodges who is one of the owners of the Union City Assembly. A packet was presented for the REDC incentive recommendation for the project of Union City Assembly located on West Pearl Street in Union City. Russ Hodges stated they created the company in 1998 in connection with Workhorse Custom Chassis when it was moved from Detroit to Union City. Since then they have expanded on operations into sub-assemblies in Louisville but also have polishing, sanding, grinding and rework operations in their plant now. We have seen tremendous growth going forward and forecast that it continues to spiral upwards. Hodges contacted Hosier with a grant funding program that seemed to fit. The process is a little more intense than in the past but they felt like it would be a perfect fit for their company going forward. Bruce Hosier stated REDC completed a revision in a restructuring of the incentive committee funding program, which has been referred to in the past as a forgivable loan program. He thought it was important to have better controls in place regarding oversight accountability given the nature of the funding. We are pleased that process has taken place and in September and October of this year, the REDC approved it. REDC developed an application process for UC Assembly and all appropriate documentation that was required under the incentive funding program process was taken before the committee on November 26th. We are here today to present a recommendation to the Commissioners for the funding and approval of \$52,500 for UC Assembly. The breakdown is for \$12,500 for private training/ retention and new equipment of \$40,000. This will create 10-15 new jobs with the retention of existing jobs. The incentive program requests at least 10 new jobs be created in the next 18 months at \$11,00 or more per hour. Mr. Hodges will be required to present appropriate documentation at the required time to confirm the request has been met. A preliminary

review will be done at the one-year mark to help determine the status of the project to make sure it is on the right course to meet the 18-month requirement, which the incentive committee is recommending. Also any new equipment purchased will be used as collateralization toward this loan. That will stay in place until the appropriate process is done to determine that UC Assembly complies with the requirements. The benefit to Randolph County is the return on investment. Russ Hodges stated they have 35 jobs currently and are still hiring to move forward. There had been 18 jobs originally when they started this process. Meeks Cockerill asked if they had a piece of equipment in mind at the present. Hosier said there would be several pieces of equipment. Michael Wickersham verified that \$12,000 would be used for work expansion. Hodges stated once this has been approved we will have room for another 5 – 6 employees and have already hired 10-15. The average wage now is \$10.33 with some starting at \$9.00 and progressing upward. We pay weekly with an 8-hour bonus every two weeks for attendance but no other benefits. Gary Girtton stated he is pleased in the improvements made with this program. He is more concerned more about criteria rather than cost of each employee. William Terrell stated he wants to be sure they are accountable to the people of Randolph County and to create jobs by keeping young people working in the county. Meeks Cockerill stated he would have the revised Edit plan for Commissioners to vote on at the next meeting.

Highway department-snow removal contract

Kevin Slick stated he had an emergency snow removal agreement that needed to be signed with Tom Delk for use of a bulldozer if conditions warrant. Gary Girtton made a motion to give the Highway Department permission to enter into a contract with Tom Delk. Michael Wickersham seconded the motion. All aye votes cast. Motion carried.

Ken Hendrickson, Randolph County Sheriff

Ken Hendrickson he wanted to address the comments made by Mr. Irwin. Irwin is advising you incorrectly when it comes to correctional officers. The correctional officers fall under the 240-hour comp time maximum and deputies fall under the 480-hour comp time maximum. Meeks stated this was discussed at the committee meeting and was corrected. Ken stated the Sheriff office has always been up to date on these items and just wanted that correction made.

Regular Claims \$777,299.22 and Payroll Claims \$199,731.19

Michael Wickersham made a motion to approve the claims of \$777,299.22 and payroll claims of \$199,731.19 as presented. Gary Girtton seconded the motion. All aye votes cast. Motion carried.

Minutes of November 4, 2013 and November 18, 2013

Michael Wickersham made a motion to approve the minutes of the November 4, 2013 and November 18, 2013 as presented. Gary Girtton seconded the motion. All aye votes cast. Motion carried.

Clerk's monthly report

Michael Wickersham made a motion to approve the Clerk's monthly report as presented. Gary Girtton seconded the motion. All aye votes cast. Motion carried.

Airport monthly report

Michael Wickersham made a motion to approve the Airport monthly report as presented. Gary Girtton seconded the motion. All aye votes cast. Motion carried.

Treasurer's monthly report

Michael Wickersham made a motion to approve the Treasurer's monthly report as presented. Gary Girtton seconded the motion. All aye votes cast. Motion carried.

Renovation claim with VIA \$18,015.40 server backup

Michael Wickersham made a motion for President William Terrell to sign the affidavit for the renovation claim with VIA server backup of \$18,015.40 as presented. Gary Girtton seconded the motion. All aye votes cast. Motion carried.

J & A vending lease

Modification for lease made and needs to be signed.

David Hendrickson-pasture lease tabled from 12/2/13 and Jeff Frazier- airport farm lease tabled from 12/2/13

Meeks Cockerill stated the \$38.00 per acre the same as before in the lease. Pasture lease amounts vary as it depends on the ground. Gary Girtton stated the rate depends on whom you talk to. David Hendrickson has been paying on 32.9 acres for pasture. With the airport lease, Jeff Frazier is paying \$150.00 per acre on 32.1 tillable. Gary Girtton would like to have acreages that are more accurate. Michael Wickersham made a motion to leave the rates the same for tillable ground for Jeff Frazier and pasture ground for David Hendrickson. Gary Girtton seconded the motion. All aye votes cast. Motion carried. Meeks stated there would be a more accurate acreage amount within two weeks.

Appointment of a Commissioner to review job descriptions

Michael Wickersham reported that the joint Commissioner and Council meeting talked about exempt and salary employee positions. We determined that it might be better to have a joint committee of the Council and Commissioners to review the job descriptions and make a recommendation regarding exempt employees. Two Council members have volunteered for that committee. Gary Girtton volunteered for the committee since he was on the personnel committee.

Letter of resignation-Jane Grove on the commemorative committee

Gary Girtton made a motion to accept Jane Grove's letter of resignation for the commemorative committee as of December 31, 2013. Michael Wickersham seconded the motion. All aye votes cast. Motion carried.

Michael Wickersham had a comp time report. In the last two weeks, 15 departments increased 132.04 hours. Public Safety increased 8 hours. Cynthia Acree's department increased from 262 ½ to 357 hours due to the holiday. The Highway Department increased 50 hours. The Health Department increased 30 hours.

Citizen Comments

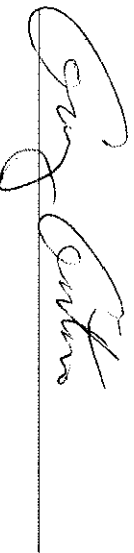
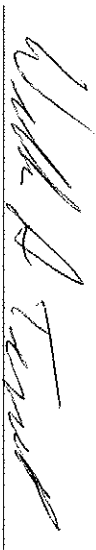
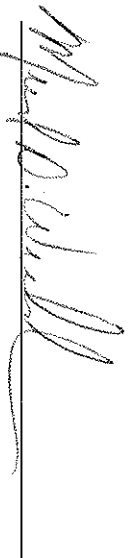
John Reece, Lynn questioned the benefits with Union City Assembly and beginning wage of \$9.00. Michael Wickersham stated his impression was that the this company has been involved with the Economic Development Board since September but when he came to Economic Development with his initial request he had 18 employees. He has hired 15 more and plans to hire another 10. Hodges had said in the meeting wages average \$11.00 per hour. William Terrell said it is not the most ideal situation but at least it provides jobs in the county and keeps people working. Todd Longfellow, Union City asked why the farm ground is not put out for bids. Terrell said we only have three and it costs money to advertise and bid out these properties. Wickersham stated that we had talked about bidding the larger farm. The airport ground is all chopped up around the airport. Mary Ann Lenkendorf asked what time Commissioners wanted to set the Executive session on December 30th. Commissioners set the executive session at 11:00 AM on December 30th.

Adjournment

Gary Girtton made a motion to adjourn the meeting. Michael Wickersham seconded the motion. All aye votes cast. Motion carried.

Reviewed and signed this 3rd day of January, 2014.

RANDOLPH COUNTY COMMISSIONERS



ATTEST: 
Mary Ann Lenkendorf, Auditor of Randolph County