



## **HENDRICKS COUNTY BOARD OF COMMISSIONERS** **MINUTES OF THE JULY 28, 2020 MEETING**

The Hendricks County Board of Commissioners met in regular session at 9:00 AM on Tuesday, July 28, 2020 in the Commissioners' Meeting Room located on the first floor of the Hendricks County Government Center at 355 S. Washington Street, Danville, IN 46122 with the following Hendricks County personnel in attendance:

Phyllis A. Palmer	Commissioner, President
Matthew D. Whetstone	Commissioner, Vice President
Bob Gentry	Commissioner
R. Todd McCormack	Executive Director
Mila M. Shaffer	Administration and Public Affairs
Greg Steuerwald	Attorney
Brett Clark	Sheriff (Appeared Telephonically)
John Ayers	Engineer (Appeared Telephonically)
Erin Hughes	Human Resources Administrator
Doug Morris	I.T. Director
Kevin Cavanaugh	Facilities Manager
Dawn Mason	Emergency Management Director
Amy Houston	Emergency Management Administrative Assistant
Curt Higginbotham	Highway Department Superintendent (Appeared Telephonically)
Krista Click	Environmental Health Director
Kandi Jamison	Nursing Health Director
Shawn Shelley	Treasurer (Appeared Telephonically)
Nicole Lawson	Assessor (Appeared Telephonically)
Joe Percy	Highway Department Assistant Superintendent (Appeared Telephonically)
Kim Galloway	Assistant Engineer
Bart Harvey	Highway and Bridge Project Manager
Tonya Cottrell	Permit Coordinator/Floodplain Manager/CRS Coordinator
Ryan Lemley	Parks and Recreation Superintendent

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### **PLEDGE TO THE FLAG, PRAYER, AND DETERMINATION OF A QUORUM**

Commissioner Palmer opened the Meeting at 9:00 AM with a quorum of all three (3) Commissioners present and led the Pledge to the Flag in unison. Commissioner Whetstone gave a brief prayer for those who wished to participate.

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### **IN THE MATTER OF MINUTES**

Commissioner Whetstone moved to approve the Minutes of the July 14, 2020 Commissioners' Meeting as presented. Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

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### **IN THE MATTER OF CLAIMS**

Commissioner Whetstone moved to approve Direct Deposit Check Numbers 195044 through 195553 and all Budgetary Claims presented from the Auditor's Office for the period beginning July 16, 2020 and ending July 29, 2020. Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

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### **IN THE MATTER OF COVID-19 (CORONAVIRUS) UPDATE**

Dr. David Stopperich provided a brief update on the COVID-19 (Coronavirus) pandemic in Hendricks County.

## **IN THE MATTER OF LIBERTY TOWNSHIP FIRE DEPARTMENT AMBULANCE**

Todd McCormack reported Jeff Dixon, Liberty Township Fire Department Fire Chief, requested an update on where the Commissioners stand on using TIF Funds to purchase an ambulance for the Liberty Township Fire Department. Todd McCormack advised he spoke with the Town of Plainfield Fire Chief and the two Chiefs disagree on the number of runs, but both agree that if the ambulance is not replaced, the situation will get worse.

There was discussion amongst the Commissioners and Todd McCormack regarding the matter and the issue that the Township Trustee submitted their budget without implementing a tax to fund the operation of the ambulance. Commissioner Whetstone stated the Commissioners are not doing their due diligence to the taxpayers if they provide the asset to Liberty Township without the Trustee having a funding mechanism in place for the operation of it. The Commissioners advised they are not interested in providing the Township with an ambulance until the Trustee takes the initiative to fund the operation of the ambulance.

It was the consensus of the Commissioners to schedule a Commissioners' Workshop for August 25, 2020 at 10:30 AM with the Liberty Township Trustee, Liberty Township Fire Chief, and the Town of Plainfield Fire Chief.

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### **IN THE MATTER OF REGION 5 WORKFORCE DEVELOPMENT BOARD REGIONAL CHIEF ELECTED OFFICIALS AGREEMENT**

Lance Ratliff, Region 5 Workforce Development Board Executive Director, presented the Region 5 Workforce Development Board Regional Chief Elected Officials Agreement which outlines the role of the Elected Official (EO) appointed to the Board from each qualified city, county, or town and gives the EO the authority to act on behalf of the governmental unit they represent and requested approval. Lance Ratliff advised that Commissioner Gentry is the EO for Hendricks County and the Agreement shall be from July 1, 2020 through June 30, 2025.

Commissioner Whetstone moved to approve the Agreement as presented. Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

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### **IN THE MATTER OF U.S. GEOLOGICAL SURVEY JOINT FUNDING AGREEMENT AND PERMISSION TO USE COUNTY SEAL**

Tonya Cottrell presented the U.S. Geological Survey Joint Funding Agreement for Water Resource Investigations in the amount of \$15,000.00 for the operation and maintenance of the White Lick Creek Streamgage near Brownsburg and requested approval. Tonya Cottrell advised the Town of Brownsburg pays one-third (1/3) of the Agreement and the County pays two-thirds (2/3) of the Agreement.

Commissioner Gentry moved to approve the Agreement as presented. Commissioner Whetstone seconded the motion and the motion was approved unanimously 3-0-0.

Tonya Cottrell presented a letter from the U.S. Geological Survey requesting permission to use the County seal on various websites, presentation, reports, etc. and requested approval.

Commissioner Whetstone moved to approve letter as presented. Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

Tonya Cottrell reported Hendricks County's Community Rating System Classification was upgraded to a Class 7 based upon the verification completed by the Insurance Services Office. The new class becomes effective April 1, 2021 and will result in property owners receiving a larger discount on their flood insurance premiums.

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### **IN THE MATTER OF VECTREN ENERGY DELIVERY AGREED FINDING AND PARTIAL JUDGMENT**

John Ayers presented the Vectren Energy Delivery Agreed Finding and Partial Judgement for the Little Ireland Farms case and recommended approval. John Ayers advised this will preserve Vectren's easement rights in the areas purchased by the County and allow settlement of the case.

Commissioner Whetstone moved to approve the Finding and Judgement as presented. Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

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**IN THE MATTER OF USE OF STATEWIDE 911 FUNDS**

Commissioner Whetstone reported an appropriation from the Statewide 911 Fund is needed in the amount of \$168,988.38 to fund the Hendricks County Communications Center Network Architecture Project and approximately \$325,000.00 to fund the purchase of radios for volunteer fire departments and requested approval. Commissioner Whetstone advised \$70,125.00 will also be utilized from the Bond/Bank Loan Funds connected to the Tower Project to cover the costs of the radio programming.

Commissioner Gentry moved to approve the appropriation requests as presented. Commissioner Whetstone seconded the motion and the motion was approved unanimously 3-0-0. The County Council will have final approval of the appropriations.

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**IN THE MATTER OF CIRCULATION OF PETITION FOR NEW JAIL AND SHERIFF'S OFFICE**

Todd McCormack and Sheriff Brett Clark presented the Instructions and Circulation of Petition for New Jail and Sheriff's Office and requested guidance on who should circulate it to obtain the required fifty (50) signatures from property owners. The taxpayer who circulates the Petition should not be an elected official or a member of any of the bodies that will be acting on the approvals for the financing (i.e. Council, Commissioners, or Building Facilities Corporation).

It was the consensus of the Commissioners to authorize Todd McCormack and Sheriff Brett Clark to select a qualified taxpayer to circulate the Petition.

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**IN THE MATTER OF HENDRICKS COUNTY GOVERNMENT COVID-19 POLICY**

Commissioner Whetstone moved to ratify the Hendricks County Government COVID-19 Policy that was implemented on July 23, 2020 as the emergency/temporary Policy requiring a mask, facial covering, or face shield to be worn while inside any County building and outlining the self-quarantine or negative test result requirements for employees to return to work after traveling. Commissioner Gentry seconded the motion. Commissioner Palmer called for discussion.

Kandi Jamison reported she has an employee who is planning to travel to California to visit family, may not have adequate PTO upon their return to pay their wages during the self-quarantine period, and feels that portion of the Policy is too strict. Kandi Jamison requested the Commissioners consider removing the travel portion, amend it to state the self-quarantine or negative test result is only needed if the employee had a known direct exposure while traveling, allow the employee to work from home during the self-quarantine or negative test result, or provide employees with additional PTO to cover the amount of time they would be out before being allowed to return to work.

Todd McCormack reported the Policy states an employee traveling to any level 3 Country or traveling within the United States, the United States is a level 3 Country, shall either self-quarantine for fourteen (14) days or until they have been tested and receive a negative test result before being allowed to return to work. Todd McCormack advised this requirement was placed in the Policy due to the high percentage of people that are asymptomatic, roughly forty-three (43) to forty-five (45) percent, making it impossible for a traveler to know if they had a direct exposure. Todd McCormack stated the testing option allows an employee to return to work sooner, if they choose to be tested, while providing their coworkers a little comfort knowing the person traveling received negative test results before returning to work. Some employees are truly scared to death and believe travelers are negligently, intentionally, or recklessly putting them and their family members at risk. Todd McCormack reported at least one (1) positive employee can be directly linked back to travel to Florida and is looking at the matter from a liability perspective, for the County and possibly for the traveler. The guideline was written to get employees to stop and ask themselves if the risk of travel is worth it, and those employees choosing to be personally responsible and not travel, should not have an unnecessary risk of exposure from employees who choose to travel.

Todd McCormack advised the County has to take reasonable measures to protect employees and cited a memo from the Office of the State Court Administration that states, “the EEOC considers COVID-19 to be a direct threat to employees; therefore, employers must take all steps possible to protect their employees from this threat”, which he considers to be strong language and believes the County has an obligation to protect the employees. The proposed new stimulus bill contains a moratorium on COVID-19 related lawsuits because there is concern that the measures taken were not enough to protect people or weren’t done in a timely manner and there may be a bunch of frivolous lawsuits but there may be some that are not so frivolous. Todd McCormack does not want the County to be in that position and is concerned of the risk of there being possible liability to the County.

There was extensive discussion amongst the Commissioners, Todd McCormack, Greg Steuerwald, Dr. Stopperich, Kandi Jamison, and other Department Heads/Elected Officials regarding the Policy, specifically clarification of when facial coverings shall be worn, the requirements for returning to work after travel, and if the employee in self-quarantine should receive alternative compensation, in addition to the ten (10) days of COVID-19 Leave, instead of having to use their PTO or being unpaid.

Todd McCormack stated the County is in a balancing act between medical and legal/ethical obligations and where does someone’s personal responsibility to someone else end or begin and there may be a procedural remedy to it if people are going to continue to act in a way that puts others at risk.

The Commissioners advised they see both sides of the situation and feel everyone has had to make changes to what they do and what they plan.

Commissioner Whetstone inquired if employees have been using their ten (10) days of COVID-19 Leave. Todd McCormack stated some employees have used all of their COVID-19 Leave, are traveling and coming back with zero PTO left, and are wanting the County to provide them with additional PTO while self-quarantining.

Kandi Jamison inquired how to handle exempt salaried employees who have no paid time off. Todd McCormack and Erin Hughes advised they would be off without pay while self-quarantining or waiting on a negative test, which is consistent with the Employee Manual.

Todd McCormack expressed his concerns for incidents of ghost employment by allowing an employee to work from home, especially when the majority of positions do not have the capability to work from home.

Commissioner Gentry stated he feels it is an issue of personal accountability because the employee is making the conscious choice to travel, knowing that when they get back they will have to self-quarantine or wait until they receive a negative test result, and knowing they do not have adequate COVID-19 Leave and/or PTO remaining.

Commissioner Whetstone stated he does not want to shame employees choosing to travel nor does he want to shame the ones who choose not to travel. Commissioner Whetstone advised he does not believe the County can create a policy that works to address all of the concerns and he cannot criticize those who choose to travel.

Commissioner Palmer advised she sees Commissioner Whetstone’s point and stated the Commissioners are at liberty to do what is best to protect the employees.

Todd McCormack reminded the Commissioners there were employees who were forced to self-quarantine after having direct exposure to a positive employee who had just returned to work after traveling to Florida and that scenario is concerning.

Kandi Jamison stated she does not see the side that Todd McCormack sees because he is on the administrative side of it but could not argue against it.

Commissioner Whetstone stated the real obligation is to the fiduciary side to protect everyone and that will not be known until Congress makes a decision on the lawsuit moratorium, suggested speaking with the liability carrier

for their input, and recommended extending the travel requirements for a couple of weeks to see what happens.

Kevin Cavanaugh requested the Commissioners consider making the mask portion of the Policy match up with how he interprets the Governor's Executive Order and allow the face coverings to not be worn while in a private office or while working outside, instead of being required to wear them "while at work" as stated in the Policy.

Todd McCormack advised the Governor's Executive Order is unclear but in his opinion, because they are separate sentences, the intent was to require a face covering to be worn while inside public buildings but one does not have to be worn while outside, so long as you are able to follow social distancing guidelines, both of which are in line with the Commissioners' Policy. Todd McCormack stated the private office and private workspace or meeting portion of the Executive Order does not apply to the County as our buildings are public buildings. There is conflicting language in the email sent out with the Policy versus the actual Policy that will be amended to clarify they shall be worn while inside a County building.

Kevin Cavanaugh, John Ayers, and Curt Higginbotham requested the Policy reflect language that addresses the employees working in the field.

Greg Steuerwald advised there currently is no liability to the County that he is aware of at this point but stated that does not mean a Court will not determine there to be later on. Greg Steuerwald stated the EEOC is on the Federal level, not the State level, and recommended the Commissioners use a rational basis for their decision and review the Policy frequently as things are changing quickly.

Doug Morris requested that if the decision is made to allow employees to work from home, that it be consistent for all departments/offices, either all employees be allowed or no employees be allowed as he is already receiving requests for laptops to work from home. The majority of most employees' duties cannot be completed at home.

Shawn Shelley advised she has an employee who returned from traveling, got tested, and has to test again because the results came back inconclusive which will cause her to use more PTO.

Kevin Speer, President & Chief Executive Officer of Hendricks Regional Health (HRH), advised a small percentage of tests do come back inconclusive and stated HRH has their employees who receive an inconclusive result continue to self-quarantine until a new test can be taken. Kevin Speer stated HRH does not currently have a travel policy for their employees.

The Commissioners recognized that the most contention of the Policy is related to the travel requirements.

Commissioner Whetstone moved to ratify the Hendricks County Government COVID-19 Policy that was implemented on July 23, 2020 as written, to continue the Policy as is with clarification of the face covering portion (listed below), and to review the Policy again during the August 11, 2020 Commissioners' Meeting.

- *A mask, face covering, or face shield\* shall be worn while inside a County building. \*A face shield is only permitted if a Physician states you cannot wear a mask or face covering.*
- *A Department Head/Elected Official may make an exception for workers in the field, so long as it is not in violation of the Governor's Executive Order. Examples of "workers in the field" are a person mowing, a person surveying, a mechanic working on equipment in an area open to the outdoors, as long as they are outside and are socially distanced.*

Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

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## **IN THE MATTER OF LETTER OF SUPPORT FOR COVID-19 COMMUNITY BASED TESTING**

Krista Click presented a Letter of Support for COVID-19 Community Based Testing to apply for grant funds to partner with Hendricks Regional Health (HRH) to operate two (2) COVID-19 testing sites under the CARES Act

and requested approval. Each site would receive a \$100,000.00 grant to operate the site and the site must be open from September 1, 2020 through June 30, 2021. Krista Click reported the locations and details of the sites and hours of operation are still being worked out with HRH, but would provide details of the plan at a later time.

Commissioner Whetstone moved to approve the Letter as presented. Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

The Commissioners expressed their condolences to Krista Click for the recent loss of her employee.

Kevin Speer, President & Chief Executive Officer of HRH, reported the sites will be located on HRH campuses and will free up the use of the East Community Building.

Ryan Lemley reported the Parks Office has been receiving a lot of phone calls regarding the ISDH testing site at the East Community Building and requested the telephone number for a nurse at the site that they were given be advertised to direct callers to call them instead of the Parks Office.

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### **IN THE MATTER OF ELECTED OFFICIALS**

Nicole Lawson thanked the Commissioners for being open to reconsidering possible changes to the travel portion of the Policy as she has a couple of employees who have already paid for vacations and are very concerned about not having adequate PTO to compensate them while they fulfill the requirements. Nicole Lawson reported her employees have the capability to work from home and requested the Commissioners allow employees to work from home while they are self-quarantining or waiting on test results on a case-by-case basis.

Commissioner Palmer advised the Policy will be reviewed again during the August 11<sup>th</sup> Commissioners' Meeting and stated employees are not permitted to work from home, except as outlined in the Policy, while they are self-quarantining due to a direct contact with a confirmed positive person while at work for the County.

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### **IN THE MATTER OF MAYBERRY MAN MOVIE**

Kevin Cavanaugh reported progress towards filming the Mayberry Man movie continues for onsite filming to begin on September 5, 2020. Recognizing the current face covering policies will most likely be in effect at that time, Kevin Cavanaugh advised the producers have asked for a special exception to the policy while filming inside the courtroom, and are willing to have all individuals present sign a waiver for participation and will pay for sanitation of the courtroom and other areas they utilize when not wearing a face covering.

Commissioner Whetstone reported he has been asked to use one of his vehicles in the filming of the movie and advised he will be there on September 6, 2020.

It was the consensus of the Commissioners to approve the request as presented.

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### **IN THE MATTER OF PHONE SYSTEM UPGRADE AT THE FAIRGROUNDS**

Doug Morris reported he is working on the final part of the remaining phone numbers and requested instruction on how to proceed with the phone in the office Leadership Hendricks County (LHC) has been utilizing since a lease has not been executed. Doug Morris advised there is currently one (1) phone in that office, but stated LHC is requesting three (3) phones.

Commissioner Palmer and Todd McCormack advised the terms of a lease with LHC are trying to be worked out and are not sure if phone service and/or equipment will be included or not.

It was the consensus of the Commissioners to proceed with the upgrade for the one (1) phone as a phone will be needed for any occupant of the office.

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### **IN THE MATTER OF CELL PHONE REQUEST FOR EMERGENCY MANAGEMENT**

Doug Morris reported Dawn Mason has requested a cell phone with VPN access for the Emergency Management

Assistant recently hired. Doug Morris advised he can reactivate the cell phone from the prior Assistant and replace the phone with a new one, if approved.

It was the consensus of the Commissioners to reactivate the prior cell phone as requested.

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**IN THE MATTER OF COMMENTS FROM THE FLOOR**

Kathy Blankenheim, resident at 10632 N. County Road 950 E. in Brownsburg, and Mary Redmond, resident at 10912 N. County Road 950 E. in Brownsburg, requested the Commissioners reduce the speed limit or install some type of speed deterrent (speed humps, photo speed enforcement, etc.) on County Road 950 E. to reduce and/or slow down the traffic on their road due to a new subdivision constructed to the north in Boone County. The residents reported personal vehicles, semis, and other large construction vehicles are speeding down the road and stated it is unsafe for residents walking or biking as there is no shoulder on the road.

John Ayers advised traffic counts have been done twice, the most recent one in June of 2020, and stated there were an average of 570 vehicles per day with the 85<sup>th</sup> percentile of the speed study reported the average speed to be forty (40) to forty-five (45) mph. The speed limit for the road is currently forty (40) mph. John Ayers stated he inquired if Boone County had traffic studies for the subdivision and was told they do not. John Ayers advised there were very few semis and construction vehicles sited during the traffic count and does not recommend lowering the speed limit as the studies do not warrant it since no atypical traffic was observed. John Ayers stated it is an enforcement issue, not a speed limit issue.

There was discussion amongst the Commissioners, John Ayers, and the residents of possible remedies for the matter and the possibility of implementing a no truck area was suggested and all agreed enforcement is the issue.

Commissioner Palmer requested John Ayers review the area again, prepare a no truck ordinance for consideration, research the statute for farming exceptions, and present the information to the Commissioners on a later date.

Jeff Haverly, Elders Climate Action Heartland Chapter Co-Leader, requested the Commissioners consider a recognition that climate change is real and implement policies and practices that will assist in reducing the level of greenhouse gases. Jeff Haverly proposed working with John Ayers to obtain a readiness assessment and resilience study from IU to use for readiness preparation and see the projected effects of climate change.

John Ayers advised he has spoken with Jeff Haverly in the past and it would require the involvement of several different departments and some outside agencies, but agreed it is something the County probably should do.

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**IN THE MATTER OF COMMISSIONERS**

Commissioner Whetstone reported the Gordon Graham Airport has decided to postpone the construction of the new building due to COVID-19 but will be proceeding with the runway surface project.

Commissioner Palmer requested a copy of the plans as she serves on the Gordon Graham Advisory Council and their meetings have been canceled.

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**IN THE MATTER OF ACKNOWLEDGMENT OF CORRESPONDENCE**

**CHECKS RECEIVED**

- |               |                                   |                     |                             |
|---------------|-----------------------------------|---------------------|-----------------------------|
| 1. \$1,949.57 | USAA Casualty Insurance           | Claim No. 012696956 | Property Damage             |
| 2. \$6,000.00 | Avon Community School Corporation |                     | Proceeds from Sold Vehicles |

**STAFF REPORTS RECEIVED**

1. Receipt was acknowledged for the Engineering Department Report of July 28, 2020 from John Ayers.
2. Receipt was acknowledged for the Facilities Department Report of July 28, 2020 from Kevin Cavanaugh.
3. Receipt was acknowledged for the Executive Director's Report of July 28, 2020 from Todd McCormack.

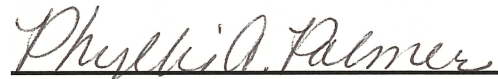
4. Receipt was acknowledged for the I.T. Department Report of July 28, 2020 from Doug Morris.
5. Receipt was acknowledged for the HR Report of July 13, 2020 through July 24, 2020 from Erin Hughes.
6. Receipt was acknowledged for the Highway Department Report of July 6, 2020 through July 10, 2020 and July 13, 2020 through July 17, 2020 from Curt Higginbotham.
7. Receipt was acknowledged for the EMA Report of July 11, 2020 through July 24, 2020 from Dawn Mason.
8. Receipt was acknowledged for the Planning and Building Department's Report of Collections for the collections period of June 1, 2020 through June 30, 2020 from Tim Dombrosky.
9. Receipt was acknowledged for the Parks & Recreation Dept. Report of July 24, 2020 from Ryan Lemley.

**CORRESPONDENCES RECEIVED**

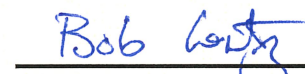
1. Notice of Tort Claim from Ken Nunn Law Office, representing Michael Howell.
  2. Notice of Tort Claim from Ken Nunn Law Office, representing Tela Perkins.
  3. Hendricks County Community Corrections Advisory Board By-Laws
  4. Verification Report and notice of upgraded CRS from Insurance Services Office, Inc.
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**IN THE MATTER OF ADJOURNMENT**

Commissioner Whetstone moved to adjourn the Hendricks County Commissioners' Meeting at 11:14 AM on Tuesday, July 28, 2020. Commissioner Gentry seconded the motion and the motion was approved unanimously 3-0-0.

  
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Phyllis A. Palmer, President

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Matthew D. Whetstone, Vice President

  
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Bob Gentry, Member