
Gibson County Board of Commissioners
Regular Session
May 5, 2009

The Gibson County Board of Commissioners met in regular session on May 5, 2009, at 8:30 AM in the North Annex Meeting Room.

Members present:

Bob Townsend, Pres. Gerald Bledsoe, VP
Don Whitehead Attorney James McDonald

Members absent:

The meeting was called to order with all present standing and reciting the Pledge of Allegiance.

Minutes: The minutes of the two previous meetings, April 7 and 21, 2009, were approved with a motion by Whitehead seconded by Bledsoe and passed 3-0.

Claims: The following claims were presented for approval: County General, \$171,256.72; Sheriff, \$22,626.13; Highway, \$78,745.39. The claims were approved with a motion by Bledsoe seconded by Whitehead and passed 3-0.

Department Reports: Weights & Measures: Gary Dawson gave the monthly report.

Health: Kanda Walden wanted to caution everyone to take normal precautions because of the "swine flu" possibility.

EMS: Dan Alvey gave the monthly report and requested that \$78,585.33 of write offs for the month of March to be allowed. The write offs were approved with a motion by Bledsoe seconded by Whitehead and passed 3-0.

Safety: Ken Greuble reported there had been two accidents involving county vehicles and a couple other issues but all have been or being processed.

EMA: Terry Hedges stated he has had many calls and conferences about the possible pandemic flu emergency and the county would be receiving safety equipment for such a situation.

Sheriff: Allen Harmon stated that they were taking precautions concerning the "swine flu" within the jail and for visitation.

Highway: Jerry Heldt gave the monthly work and road repair report.

Old Business: Ordinance 2009-1 Control and Disposition of Animals: The ordinance was read for the third time. A motion to approve the ordinance was made by Whitehead seconded by Bledsoe and passed 3-0.

Ordinance No. 2009-1

**An Ordinance Regarding the Control and Disposition of Animals
in Gibson County, Indiana**

Whereas, there exists in Gibson County, Indiana, a need for an ordinance for the control and maintenance of certain animals for the general, health, safety and welfare of the citizens of Gibson County; and

Whereas, the Gibson County Board of Commissioners is empowered to enact ordinances for the benefit of the health, safety, and welfare of Gibson County and its citizens.

Now therefore, be it ordained by the Board of Commissioners of Gibson County, Indiana as follows:

Section I. Definitions

A. **Animal:** The term "animal" when used in this ordinance shall mean any living, domestic creature, including fowl, mammals and reptiles, except human beings.

B. **Domestic Animal:** The term "domestic animal" when used in this ordinance shall mean any tame animal associated with family life or accustomed to life in or near the habitation of persons.

C. **Owner:** The term "owner" when used in this ordinance means any person, partnership, or corporation owning, keeping or harboring animals.

D. **Animal Control Officer:** The Animal Control Officer refers to the staff members on the Animal Shelter.

E. **Affidavit of Complaint:** The term "Affidavit of Complaint" shall mean a written sworn statement of complaint.

F. **Dangerous Animal:** The term "dangerous animal" shall mean any animal which presents a substantial threat of bodily harm to any person or pet in its

vicinity or if it were to escape its primary enclosure or escape from the control of its owner or custodian. ~~Such determination is to be made from~~ Past acts of aggressive behavior shall justify the determination that it is a dangerous animal. A dog's breed shall not be considered in determining whether or not it is dangerous.

G. Adequate Care: The term "adequate care" shall mean the provision of sufficient, food, water, shelter, sanitary conditions, and veterinary medical attention in order to maintain an animal in a "state of good health".

H. Neglect: The term "neglect" shall mean to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

I. Shelter: The term "shelter" shall mean adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter for livestock includes structures or natural features such as trees or topography, and for a dog includes 1 or more of the following:

1. The residence of the dog's owner or other individual.
2. A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse shall have dry bedding when the outdoor temperature is or is predicted to drop below freezing.
3. A structure, including a garage, barn or shed that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (2) that is accessible to the dog.

J. State of Good Health: The term "state of good health" shall mean freedom from disease and illness and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.

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K. At Large: The term "at large" shall mean any animal that is:

1. Not on a leash and is off the property of its owner, its owner's agent or its keeper;
2. On a leash that does not adequately confine the animal to the property of its owner, its owners agent or its keeper; or
3. On a leash that is not otherwise under the immediate control of a person physically capable of restraining the animal.

Section 2

No person shall own, possess or harbor any animal that is dangerous.

Section 3

No person shall permit any animal to run at large, or keep, possess or harbor any animal which by loud and frequent howling, or other noise, or by entering property other than that of the owner, causes annoyance or disturbance to any person in Gibson County, Indiana unless the animal is under the reasonable control of its owner or keeper or some individual authorized by him or her or unless engaged in lawful hunting accompanied by the owner or custodian of said animal or running on forested or agricultural land or with the permission of the land owner.

Section 4

Upon determination by an Animal Control Officer with an Affidavit of Complaint, that an animal is being permitted to run at large or causes annoyance or disturbance to any person said Animal Control Officer may issue a violation citation. Said violation citation shall be administered through the Administrative Court of the Gibson County Commissioners.

Any person who is found to have violated any provisions of this ordinance shall on first offense be issued a written warning, shall on second offense, per occurrence, be fined in the amount not to exceed fifty dollars (\$50.00), on third offense, per occurrence, be fined in an amount not to exceed one hundred dollars (\$100.00) and on any fourth or subsequent offense, per occurrence, to be fined in an amount not to exceed two hundred dollars (\$200.00). Occurrences will accrue on a twelve month rolling calendar.

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Any person who fails refuses or neglects to pay said fines may be summoned to appear before the Gibson County Commissioners' Court for hearing.

Section 5

If witnessed by the Animal Control Officer that an animal is being permitted to run at large and no animal custodian or owner can be located to confine the animal, the Animal Control Officer shall impound the animal. Unless the animal is an unknown stray, the Animal Control Officer will leave a notice of impoundment for the owner or custodian. This notice will give the owner or custodian of the animal the information needed to claim the animal at Gibson County Animal Services Shelter. Gibson County Animal Services shall maintain impounded animals for a minimum of ten (10) days, so long as space allows and the animal is healthy. If the animal has been so seriously injured it can not recover or is suffering from a serious disease, the Animal Service may have to destroy the animal in a humane manner. If the animal is not claimed within the ten day time period, Gibson County Animal Services shall destroy it in a humane manner or place the animal up for adoption.

Section 6

An animal claim fee and maintenance fee will be charged to the owner for any such animal and the rate for maintenance will be dependant upon the type of animal and type of care needed to provide the animal with adequate housing, food, medicine and/or veterinary care.

Section 7

A. The Animal Control Officer shall not release any impounded animal to an owner without the owner showing proof of a current rabies vaccination. If no proof of vaccination can be provided an owner will be required to purchase an owner claim rabies voucher for twenty-five dollars (\$25.00) which can be taken to any veterinary clinic. This voucher will be active for a ten day period.

B. Gibson County Animal Services shall impose the following fee for owners of impounded animals claimed.

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1. Twenty-five dollars (\$25.00) for the first offense.
2. Thirty-five dollars (\$35.00) for the second offense.
3. Forty-five dollars (\$45.00) for the third offense.
4. After the third offense, the animal shall not be released to the owner.
5. After the first offense, Gibson County Animal Services shall be authorized to impose a fee of ten dollars (\$10.00) for each day the animal is boarded, beginning on the second day of impoundment, in addition to claim fees.
6. Gibson County Animal Services shall have authority to require identification tags to be placed upon the impounded animal at a cost of two dollars (\$2.00) to the owner per tag.
7. All fines and fees paid to Gibson County Animal Services are to be used to defray the expenses of operating the Gibson County Animal Services shelter.

Section 8

An owner, possessor, or person having the charge or custody of an animal shall not do any of the following:

- A. Fail to provide an animal adequate care.
- B. Abandon an animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human.
- C. Negligently allow any animal, including one who is aged, diseased, maimed, hopelessly sick, disabled or non-ambulatory to suffer unnecessary neglect, torture or pain.

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D. Tether a dog unless the tether is at least 3 times the length of the dog as measured from the tip of its nose to the tip of its tail and is attached to a harness or non-choke collar designed for tethering.

E. Leave an animal unattended in a vehicle when conditions in that vehicle would constitute a health hazard to the animal.

F. Fail to confine in a secure building or enclosure a female domestic animal in heat so as to prevent conception except during instances of planned breeding.

G. Vaccination required –No owner or custodian of any dog, cat or ferret shall keep, maintain, or harbor the animal unless the animal has been vaccinated by a licensed veterinarian with anti-rabic vaccine of a type approved by the State Board of Health. The anti-rabic vaccination of the animal shall be repeated every one to three as applicable to the vaccine. In no case shall more than three years elapse between each vaccination. All dogs, cats and ferrets shall be vaccinated for rabies as required by state statute. A licensed veterinarian shall provide such vaccinations.

Section 9-Regulation of dangerous animals

1. Pursuant to a preponderance of the evidence an animal may be declared as a dangerous animal if there has occurred two (2) serious unprovoked attacks to a person or another animal while running at large.

2. The following conditions maybe imposed on an owner of an animal deemed a dangerous animal.

A. Indoors, when not alone, the animal be under control of a person eighteen (18) years or older.

B. Outdoors and unattended, the animal be kept within a locked fenced area from which it can not escape.

C. When outdoors the animal must be attended and kept within a locked area from which it can not escape.

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D. When outdoors the animal must be attended and kept on a leash no longer than six (6) feet and under the control of a person eighteen (18) years of age or older.

E. When outdoors the animal must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting a person or animal. The muzzle must be made of non-metallic material so as to prevent the muzzle from freezing to the animal.

F. Placement of "Beware of Dog" signs on the property.

G. An animal may not be declared "dangerous":

1. If the animal was protecting or defending a person within the imminent vicinity of the animal from an attack or assault.

2. If at the time the recipient of the attack was committing a crime or offense upon the property of the owner or custodian of the animal.

3. If the recipient of the attack was teasing, tormenting, abusing or assaulting the animal on its own property or in the past had teased, tormented, abused or assaulted the animal.

4. If the animal was attacked or menaced by another animal, or the animal attacked was on the property of its owner or custodian.

5. If the animal was responding to pain or injury, or protecting itself, its kennels, its offspring or owner or custodians property.

6. Neither growling nor barking, nor both shall alone constitute grounds upon which to find an animal to be dangerous.

7. An animal deemed "dangerous" that is not under restraint and cannot be safely captured by Animal control Officers and impounded may be slain by Law Enforcement.

Section 10

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This ordinance supersedes Ordinance 2002-2 and repeals 2004-5.

IN WITNESS WHEREOF the Board of Commissioners have adopted this ordinance this 5th day of May, 2009.

GIBSON COUNTY COMMISSIONERS

Bob Townsend
BOB TOWNSEND, President

Gerald A. Bledsoe
GERALD BLEDSOE, Vice President

Don Whitehead
DON WHITEHEAD

ATTEST:

Mary Key
MARY KEY, Gibson County Auditor

ORDINANCE NO. 2000-2 Repealed this 5th day of May 2009
ORDINANCE NO. 2004-5 Repealed this 5th day of May 2009

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Ordinance 2009-2 Sheriff's Sale Fee: The ordinance was read and a motion to approve was made by Whitehead seconded by Bledsoe and passed 3-0.

ORDINANCE NO. 2009 - 2

ORDINANCE TO ESTABLISH THE SHERIFF'S SALE PROGRAM AND SERVICE FEE

WHEREAS, the Indiana Constitution and the Indiana code grant the Sheriff of Gibson County, Indiana (hereinafter "the Sheriff"), and other county sheriffs certain powers and authority, and

WHEREAS, §32-29-7, et seq., grants to the Sheriff the powers associated with facilitating and administering the sale of parcels of real property that have been foreclosed upon; and

WHEREAS, §32-29-7-3-(h) authorizes the Sheriff to charge an administrative fee not to exceed Two Hundred and no/100 (\$200.00) Dollars for costs attributable to the administration of the sheriff's sale; and

WHEREAS, the citizens of Gibson County, Indiana, will benefit by the establishment and conduct of a program that provides for the payment of the statutory fee by lien holders foreclosing liens on real property, (hereinafter "Sheriff's Sale Program"); and

WHEREAS, the Sheriff's Sale Program will help defray the costs of administering and conducting sheriff's sales in Gibson County, Indiana by requiring that lien holders pay an administrative fee herein; and

WHEREAS, the Council has the authority under the Indiana Code, including, but not limited to, the Indiana Home Rule Act. I.C. §36-1-3-1, et.seq., to establish and authorize the Sheriff's Sale Program.

NOW, THEREFORE, it is ordained by the Gibson County Council of Gibson County, Indiana, that:

SECTION 1: The Sheriff is hereby authorized to charge a fee not to exceed Two Hundred and no/100 (\$200.00) Dollars per parcel of property in the Sheriff's Sale Program, (hereinafter "the Foreclosure Costs Fees"), and to deposit such Foreclosure Costs Fees collected by or on behalf of the Sheriff in the County General Fund.

SECTION 2: The Foreclosure Costs Fees shall be payable at the time of filing the praecipe under I.C. §32-29-7-3(h), which shall be a charge for the Sheriff's Sale in addition to other statutory costs and fees.

SECTION 3: The Sheriff's Sale Program contracts shall provide for a complete and accurate accounting of all Sheriff's Sale Program proceeds and in compliance with any reporting or recording requirements as set forth by the Indiana State Board of Accounts.

SO ORDAINED THIS 12th DAY OF May, 2009.

Tom Swaff
COUNTY COUNCIL PRESIDENT

Bob Townsend
COUNTY COMMISSIONERS PRESIDENT

Angie Dutton
COUNTY COUNCIL MEMBER

Ronald S. Bledsoe
COUNTY COMMISSIONER - MEMBER

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COUNTY COUNCIL MEMBER

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COUNTY COMMISSIONER - MEMBER

D. Craig Pflieger
COUNTY COUNCIL MEMBER

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COUNTY COUNCIL MEMBER

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COUNTY COUNCIL MEMBER

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COUNTY COUNCIL MEMBER

Ordinance 2009-4 Setting Speed Limits on County Roads concerning Interstate 69: After agreement to suspend the second reading, the ordinance was read and a motion to approve was made by Bledsoe seconded by Whitehead and passed 3-0.

ORDINANCE NO. 2009 - 4

AN ORDINANCE SETTING THE SPEED LIMIT ON NOBLES CHAPEL ROAD, COUNTY ROAD 600 E, COUNTY ROAD 825 S AND COUNTY ROAD 600 E, GIBSON COUNTY, INDIANA

WHEREAS, the Gibson County Commissioners have received a request from Indiana Department of Transportation to set certain speed limits with certain roads effected by the proposed I-69 Highway.

THEREFORE BE IT ORDAINED BY THE GIBSON COUNTY COMMISSIONERS OF GIBSON COUNTY, INDIANA, AS FOLLOWS:

SECTION 1: The Speed Limit on Noble Chapel Road from 1200 S to the Warrick/Gibson County line, including the new road construction that will overpass I-69 will have a posted speed limit of 30 mph.

SECTION 2: The Speed Limit on County Road 600 E from the intersection with 750 S and going south to and including the proposed connector road with 825 S will have a posted speed limit of 30 mph.

SECTION 3: The Speed Limit on County Road 825 S from the intersection with 550 E going east to and including the proposed connector road with 600 E will have a posted speed limit of 30 mph.

SECTION 4: The Speed Limit on County Road 600 S from the intersection with 550 E going east to the proposed connector road with 800 E will have a posted speed limit of 35 mph.

SECTION 5: Any person who violates this Ordinance shall be fined Fifty Dollars (\$50.00) plus court costs.

SECTION 6: This Ordinance shall be effective from and after the date of passage and when published as by law required.

PASSED AND ADOPTED BY THE GIBSON COUNTY COMMISSIONERS THIS 5th DAY OF May, 2009.

GIBSON COUNTY COMMISSIONERS

Bob Townsend
BOB TOWNSEND, PRESIDENT

Gerald Bledsoe
GERALD BLEDSOE, COMMISSIONER

Don Whitehead
DON WHITEHEAD, COMMISSIONER

ATTEST: (SEAL)

Mary Key
MARY KEY, AUDITOR

New Business: Black Beauty Coal Company requested a release of a bond for approximately three and three quarter (3 ¾) miles sections of roads in the eastern portion of the county. The sections are on County Roads 525S, 1300E (two sections), 550S and 1200E. Jerry Heldt reported he had inspected the roads and approve of the release. Whitehead questioned land that had been reclaimed and how it is possibly returned to the original land owner. Dave Yeager stated that the company does have a process in place to do so. Steve Bottoms questioned not the release but the time it takes to get the road released back to the county and for public access. County Surveyor, Michael Stevenson, questioned the width of the roads. They were recovered to the original width of 50 feet. After further discussion, a motion to accept the release of the road sections was made by Whitehead seconded by Bledsoe and passed 3-0.

RELEASE

Black Beauty Coal Company, LLC, an Indiana limited liability company, whose address is 7100 Eagle Crest Blvd., Evansville, IN 47715 and successor in interest to Black Beauty Coal Company, an Indiana General Partnership, hereby requests from Gibson County, Indiana, by and through its Board of Commissioners, a release of further responsibilities or obligations with respect to certain portions of Gibson County roads listed below and further agree and acknowledge that Black Beauty Coal Company has fulfilled the requirements stated in the applicable agreements and further agree and acknowledge that the respective bonds covering these portions of roads may be released as listed hereunder. Each road or portion thereof listed below is depicted on the attached Exhibit "A" map.

<u>A.</u>	<u>Co. Rd.</u>	<u>File No.</u>	<u>Agmt. Type</u>	<u>Length In Feet</u>	<u>Bond Amt.</u>	<u>Bond No.</u>
(1)	525S	SN-01	Closure	5,280	\$40,000 -20,000	400JX9352

Between 1200E & 1300E, the total 5,280 feet is being released and the applicable \$20,000 amount of bond is being released.

(2)	1300E	SN-01	Closure	5,280	\$20,000	Same Bond
			(Portion to be released)	-1,480	-5,600	
			Remaining unreleased	3,800	\$14,400	

That portion of 1300E being released is 1,480 feet of the total 5,280 feet, with the portion being released described as, commencing 160 feet north of 525S and running south 1,480 to the intersection with 550S. The unreleased portion of 1300E is 3,800 feet. The bond amount will be reduced by an additional \$5,600, thus leaving the unreleased bond amount at \$14,400.

<u>B.</u>	<u>Co. Rd.</u>	<u>File No.</u>	<u>Agmt. Type</u>	<u>Length In Feet</u>	<u>Bond Amt.</u>	<u>Bond No.</u>
	1300E	SC-5	Closure	2,640	\$10,000	400KB0869

The total 2,640 feet of 1300E, commencing at 550S and running south 2,640 feet, is being released and the total bond in the amount of \$10,000 is being released.

<u>C.</u>	<u>Co. Rd.</u>	<u>File No.</u>	<u>Agmt. Type</u>	<u>Length In Feet</u>	<u>Bond Amt.</u>	<u>Bond No.</u>
	550S	SC-6	Closure	2,640	\$10,000	400KB870

Between 1300E & the Pike/Gibson line, the total 2,640 feet of 550S is being released and the total bond in the amount of \$10,000 is being released.

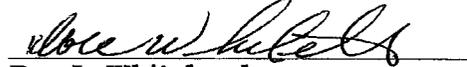
<u>D.</u>	<u>Co. Rd.</u>	<u>File No.</u>	<u>Agmt. Type</u>	<u>Length In Feet</u>	<u>Bond Amt.</u>	<u>Bond No.</u>
	1200E	SC-11	Closure	11,300	\$92,800	SB0071099
		(Portion to be released)		<u>-7,700</u>	<u>-29,200</u>	
		Remaining Unreleased		3,600	\$63,600	

That portion of 1200E being released is 7,700 feet, more or less, commencing at a point 360 feet, more or less, north of 525S and running thence south 7,700 feet. The original total length of 1200E that was temporarily closed is 11,340 feet (2 ¼ miles), more or less. This leaves 3,600 feet, more or less, of 1200E remaining unreleased. The bond applicable only to that portion of 1200E being released is \$29,200. Portions of unreleased County Roads 525S and 600S, both of which are located west of 1200E, were a part of this file #SC-11 and the applicable bond amounts for these roads are included in the remaining \$63,600 unreleased bond amount.

WHEREFORE, the Gibson County Commissioners have hereunto set their hands and seals on this 5th day of May, 2009.

**BOARD OF COMMISSIONERS OF
GIBSON COUNTY, INDIANA**


Robert D. Townsend


Don L. Whitehead

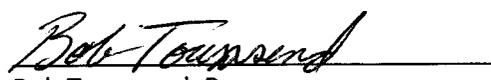

Gerald L. Bledsoe

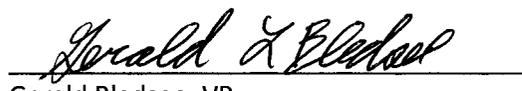
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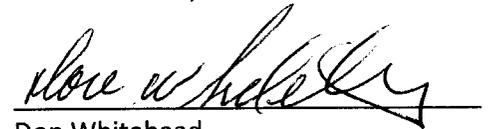
Todd Mosby stated that the Gibson County Transportation Project, Ride Solutions had been used by over 30,000 people in 2008.

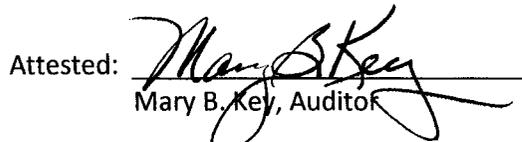
Steve Bottoms stated that there would be a meeting concerning "coal slurry contamination" at Angel Mounds State Park at 12:30 on Thursday, May 7th.

Having no further business a motion to adjourn was made by Bledsoe seconded by Whitehead and passed 3-0.


Bob Townsend, Pres.


Gerald Bledsoe, VP


Don Whitehead

Attested: 
Mary B. Key, Auditor