

Mr. Borries responded, "No -- because I'm so confused at this point. Not only can I add these Districts -- I don't even know what numbers we are dealing with here."

Ms. McClintock continued, "I will second and so order. Jeff, will you call Gary Price first thing in the morning and make sure he Faxes Commissioner Borries the correct Ordinance?"

Ms. McClintock stated in conclusion that this Ordinance is set for Second, Third and Final Hearing on December 23, 1991.

RE: RESOLUTION DECLARING PIGEON CREEK A NAVIGABLE STREAM

The meeting continued with Ms. McClintock stating the Commissioners should have in front of them a Resolution declaring Pigeon Creek a navigable stream from its mouth at the Ohio River to the Vanderburgh-Warrick County Line. She then proceeded to read the Resolution (copy attached hereto).

Commissioner Borries said he would like information on this.

Ms. McClintock responded, "We had a discussion about this at our meeting two weeks ago. What specific information do you need?"

Mr. Borries said, "By declaring this a navigable stream, what does this mean in terms of funding and how County finances would be spent? Can you give me some information on that please?"

Ms. McClintock replied, "This provides the County the opportunity if we so desire to expend County funds to clear, clean and maintain the Creek. We are not at this time proposing any expenditure of funds nor are we requesting County Council to provide those funds."

Mr. Borries asked, "From whence would those funds come and who would do the cleaning?"

Ms. McClintock responded, "They would eventually have to come from the County General Fund, but the point is we are not asking for any funds at this point. As to who would do the cleaning, that could be done by volunteer groups (there have already been some groups out there who have been cleaning). If the County would so choose and be so directed by the Commission, we could use employees from the County Garage and employees from other departments within the County if we so choose and so direct. We're not saying we're going to do that at this point."

Mr. Borries stated, "I don't know of any reason and how the State Board of Tax Commissioners could authorize County Highway Funds being used within the City Limits of Evansville. I don't see how the County through the State Board of Tax Commissioners -- I can see perhaps some kind of designation for the portion of Pigeon Creek outside the City Limits still in Vanderburgh County -- but in no way can I see any kind of response, I think that opens up a tremendously dangerous precedent here -- something, frankly, I don't think the State Board of Tax Commissioners would go for."

Ms. McClintock: "Okay. Well, Rick, that is not what we are discussing this evening."

Mr. Borries interrupted, "Also, the navigable -- well, it is -- because we are discussing Pigeon Creek inside the City Limits throughout Vanderburgh County and using potentially -- you are talking about using highway crews who are paid out of a County Highway Fund which, in my opinion, would be totally illegal. We do not use highway funds -- we don't pave in the City Limits -- and that is not, in my opinion, a viable

situation here. Also, you know I'm sure Mr. Koch was a bit in jest in terms of a navigable stream for being able to maybe just put a shingle down there -- but what about other little streams that might not be legal drains that are in the City Limits? Do they fall in this same Ordinance -- this same law?"

Ms. McClintock responded, "No."

Mr. Borries asked, "Why not?"

Ms. McClintock said, "What we're talking about this evening, Rick, is Pigeon Creek -- the area defined in the Resolution. We're not talking about spending any money..."

Mr. Borries interrupted, "We're talking about determining this as a navigable stream. Upon what criteria? Why couldn't we do this with any stream -- maybe not even a legal drain?"

Attorney Wilhite commented, "Rick, your general concerns about the State Board of Tax Commissioners -- as a general principle I agree with you -- it seems odd. But there happens to be a very clear, specific statute, Rick, that no one knew about until someone found it and there just happens to be, Rick, this very specific statute that allows everything you say seems different -- and it does seem different -- but it is very clearly allowed -- specifically spelled out -- that the Board of Commissioners specifically do that -- whether it is also within the City Limits or not -- and it equates it to public highways. So I understand with your years of experience it seems different -- it is different. But there just happens to be this specific statute that I don't think there is any question allows it."

Commissioner Borries said, "Well, I respectfully disagree. I don't know of any way I would want to feel comfortable authorizing County highway funds. I certainly commend and would support efforts to clean Pigeon Creek -- but I think that within the City of Evansville we have the City of Evansville and a unit of government here that must do that. And we have all kinds of right-of-way problems that, I assume, from reading your minutes that you're working on in terms of determining who owns this and, in fact, what their responsibilities are in relation to the rights-of-way along there. But I think this opens up a Pandora's box here for other kinds of streams that may not be legal drains and I understand what ordinance it has in terms of County crews or Bridge crews or Surveying crews that work with legal drains. But to say that you could use County Highway funds or even County Bridge funds within the City Limits of Evansville on Pigeon Creek...."

Ms. McClintock interrupted, "Well, that is not what we are saying."

Mr. Borries continued, "I just don't see that. I have some real reservations about that. I know the County Highway trucks have to pass through the City Limits of Evansville and I have been told long, long, long and hard that we don't do things inside the City Limits of Evansville in relation to dedicated funds of that nature. We have responsibility for bridges throughout this County and that includes the City and 500 ft. either way."

Commissioner Hunter moved the acceptance of the declaration to make Pigeon Creek a navigable stream and approve the Resolution, with a second from Commissioner McClintock. Ms. McClintock said that since this is a Resolution there will be a roll call vote: Commissioner Borries, no; Commissioner Hunter, yes; and Commissioner McClintock, yes. Motion carried with two affirmative votes. So ordered.

Commissioner Borries asked if Attorney Wilhite can provide him some cites and some State tax advice in relation to how and what kinds of County monies would be expended -- should they be expended? We're not talking, as Carol points out here,

about money yet. But yet we are talking about money, because we've done something here wherein the next step is going to be funding and he would like to see how that funding is going to take place.

Attorney Wilhite commented, "My understanding is that somebody has already done that. Carol, who was that? Wasn't the State Board of Tax Commissioners already contacted? Did Brenner do that?"

Ms. McClintock said, "The Surveyor talked to them, yes."

Mr. Borries asked, "Does he have something in writing?"

Mr. Wilhite said, "I don't know if it is in writing, but he has the contact information."

Mr. Borries said, "Well, he didn't put much in writing here other than draw Pigeon Creek in yellow -- but whatever."

Ms. McClintock said she apologizes, but she has to attend a meeting at WNIN and will ask that Commissioner Hunter proceed to Chair the meeting.

RE: COUNTY ATTORNEY - JEFF WILHITE

Turning to Department Head Reports, Commissioner Hunter said he believes Attorney Wilhite has already distributed copies of his written report. Does the Attorney have any comments?

Attorney Wilhite said he thinks the report speaks for itself. The only thing is that at some point -- and the Commissioners don't have to do it tonight -- he would draw the Board's attention to Item #4 in the written report with regard to Code Enforcement. "Joanne, as a practical matter, when property is sold at a County Surplus Sale, we prepare the Deeds but physically give the Deed to the Purchaser? The question raised by the City Code Enforcement or their Attorney was that sometimes those Purchasers don't actually record the deeds."

Ms. Matthews responded, "That is why the County records them and then calls the individual or sends them a letter advising the Deed is ready to be picked up."

Attorney Wilhite asked, "So we do actually record them?"

Ms. Matthews responded in the affirmative.

Attorney Wilhite said, "For some reason the City Code Enforcement people think that is not happening. Have we always done that, Joanne? Do you know?"

Ms. Matthews responded, "No we have not always done that. Problems were experienced in some past years and subsequently, rather than leaving it up to the individual to have the Deed recorded, we started having them recorded and then advising the new owner when the Deed is ready for pick-up."

Attorney Wilhite said, "Thank you, Joanne. That was my only point -- to make sure we do it. I think we're going to find copies of some old ones and we're going ahead and record them now -- so I may be bringing some of those to you."

RE: COUNTY ENGINEER

Mr. Gary Kercher appeared in behalf of Mr. Curtis and said he has three matters for the Board.