

**Indiana Advisory Commission on Intergovernmental Relations**

**Monday, April 28, 2014**

**1:00 P.M. to 4:00 P.M.**

*Indiana Government Center South*

*Conference Room A.*

*402 W. Washington Street*

*Indianapolis, Indiana*

**MINUTES**

**CALL TO ORDER/WELCOME**

Senator Randy Head called the meeting to order and welcomed the group at approximately 1:00 pm. Members introduced themselves. Attendance is shown in Attachment A.

**MEETING AGENDA**

- Call to Order/Welcome/Introductions Chair Randy Head
- Honoring John L. Krauss on his Retirement Chair Randy Head
- Approval of Minutes of October 25, 2012 and September 11, 2013 Chair Randy Head
- Installing New Commission Director Chair Randy Head
- Introduction to Annexation Issue Chair Randy Head  
Jamie Palmer
- Testimony on Annexation Issue Chair Randy Head  
Andrew Berger, AIC  
Debbie Driskell, ITA  
Rhonda Cook, IACT  
Katrina Hall, Farm Bureau  
Steve Buschmann
- Discussion of Annexation Issue Chair Randy Head  
Membership
- Break
- Update on PSAP Funding and Consolidation Barry Ritter, Statewide 911 Board  
Brian Hitchcock, Lake County 911
- Next Meeting: TBA Chair Randy Head
- Adjournment Chair Randy Head

**HONORING JOHN L. KRAUSS ON HIS RETIREMENT**

Senator Head recognized the leadership of John L. Krauss. Krauss has a storied career as director of the IU Public Policy Institute, as director of the IACIR, and also as a mediator and arbitrator. Senator Head

indicated that he had submitted John's name for the Distinguished Hoosier Award. Governor Pence chose instead to award John Krauss the Sagamore of the Wabash.

Senator Zakas and former State Representative Sue Scholer, both long-time members of the commission in the past, gave a bit of commission history and offered congratulations.

Mr. Krauss thanked the chairman, the commission, and other in attendance.

### **APPROVAL OF MINUTES OF OCTOBER 25, 2012 AND SEPTEMBER 11, 2013**

Senator Head asked the commission to review the minutes from the previous two meetings, October 25, 2012 and September 11, 2013.

Representative Sheila Klinker moved to approve both sets of minutes as written, Representative Mike Karickhoff seconded the motion, and the motion carried unanimously.

### **INSTALLING THE NEW COMMISSION DIRECTOR**

Senator Head indicated that with John Krauss retiring, director's position was open. The motion was made and seconded to install Jamie Palmer as commission director. The motion carried unanimously.

### **INTRODUCTION TO THE ANNEXATION ISSUE**

Ms. Palmer indicated that IACIR had conducted an exhaustive study in 1997-8 that a set of issues the commission recommended be address. Many of these changes were made during the 1999 legislative session. During that and the next few years, all but one recommendation was implemented. Ms. Palmer distributed a document that discusses the changes to the annexation statute that followed the IACIR Report (1997-8; Attachment B). There were three bills in 1999 and have been additional bill since then. She explained that the number of bills with substantive changes have been limited. Several of the bills that affected the annexation statute were about changing population parameters in the statute.

The commission staff is currently conducting a survey of annexation activity 2009 to the present. Ms. Palmer distributed the survey forms (Attachments C and D) and a table indicating the number of annexations report by respondents to date (Attachment E).

### **TESTIMONY ON ANNEXATION ISSUE**

Andrew Berger with the Association of Indiana Counties (AIC) said that the effect of annexation on other local governments has changed as a result of property tax caps (Attachment F). He described several issues. When properties are at or near the tax caps, the addition of a municipal property tax rate can exacerbate tax cap losses that are borne, in part, by other local governments without an equal reduction in services provided by those governments. Local option income taxes have been used increasingly by counties to fill funding gaps. Local option income taxes are distributed based on relative share of property tax levies of units. When municipalities raise their levies and LOIT revenues are constant, municipalities get a greater share of LOIT without an equal decrease in service provided. He suggested two reforms: limit the increased property tax revenues available to municipalities to the amount needed to fund new/assumed services and reform the distribution formula for local option income taxes.

Debbie Driskell with the Indiana Township Association (ITA) remarked that successful fire protection is really dependent on a critical mass of assessed value and the resulting funding. When properties move from being served by one local government to another, the loss can put financial strain on services. She also mentioned that municipalities do a lot of cherry picking of properties during annexation based on their assessed value and service needs. For example, the Ft. Wayne annexation affected St. Joseph Township significantly. The fire department had to cross the city to make their runs. She recommended that there be a recourse or input to the process.

Rhonda Cook with the Indiana Associations of Cities and Towns (IACT) said that annexation suggests that growth is occurring and that is a good thing (Attachment G). As places grow and become denser, a different suite of services is appropriate. In some cases, annexations are a defensive tactic to hold off another municipality nearby. Counties sometimes oppose annexation because it reduces county revenues. Taxpayers sometimes oppose annexation because it can mean higher property taxes.

She also spoke briefly about payments in lieu of annexation or service contracts between municipalities and entities outside the municipality. She also mentioned the new oversight authority that has been given to the Indiana Utility Regulatory Commission to review utility rates for municipal utility customers who are located outside the municipality.

Katrina Hall with Indiana Farm Bureau said that annexation causes stress on urban and rural governments (Attachments H and I). Tax changes exacerbate problems. Landowners near a municipality are the most effected. Rather than annex for services, municipalities are looking to get a bigger share of current revenues. In some cases, municipalities are looking to draw revenue through Tax Increment Financing. Landowners are caught in the crossfire of urban vs. rural policies. Landowners have less political clout. They are frustrated by not being included in the process. The judicial process is the only way to oppose annexation but is difficult and complicated. You must get 65 percent of the parcels to remonstrate. Even if the petition is successful, the judge may or may not look at it. Landowners typically need legal counsel. Often the fiscal plans are vague. Municipalities sometimes start out with large areas and reduce them several times during the annexation process. This is confusing to landowners.

She suggested that perhaps the process could include the county commissioners. Fiscal plans should meet some basic standards. The remonstrance procedure for annexation could be more like the bonding remonstrance procedure.

Steve Buschmann with Thrasher Buschmann & Voelkel, P.C, Attorneys at Law, represents annexation remonstrators and spoke of their plight (Attachment J). Remonstrations is a second class citizen's action that requires a petition signed by the owners 65 percent of the parcels or 75 percent of the assessed value within 90 days of publication of the annexation ordinance. They must follow all of the rules strictly, while municipalities get a lot of leeway in that regard. Remonstrators typically cannot win a challenge. Municipalities can amend all the way through trial. Remonstrators cannot.

One of the points for remonstrance is significant effect on landowners. In Muncie taxes went up extraordinarily even though remonstrators said they were on fixed-incomes. To protest, remonstrators must provide five years of income records as well as the state of their finances.

He indicated that in 2011 the courts limited the remonstrators' ability to appeal.

Representative Terri Austin asked that Mr. Buschmann to synthesize his remarks to bullet points.

Representative Bob Cherry addressed the group. Indiana is one of the last states that allow forced annexation. Annexation is a difficult process for landowners. He sponsored SB 273 which addressed the problem of government choosing for the taxpayer instead of the taxpayer choosing government. It would have rebalanced the remonstrance process.

Commissioner Larry Hesson said that his county is reluctant to allow the extension of sewers by cities or towns because those areas get annexed.

Mr. Krauss asked about how the Zionsville consolidation fits into this discussion.

Mr. Buschmann said that was a defensive consolidation designed to hold off another nearby municipality. Citizens voted on the consolidation. All wanted to combine for the schools. There are two taxing areas with an urban and rural service area. Zionsville is talking with Perry Township. With forced annexation, the remonstrators are stuck.

Mr. Krauss asked what the value of annexation for all parties is.

Mayor Joe Wellman asked how to make annexation fair to the city. Developers and homeowners who live around the city get services like parks without paying.

Mr. Berger suggested the county issue a park levy. Already income taxes are given to the circuit breaker to smooth out the differences. People coming to the city is desirable.

Ms. Driskell said the ITA would be supportive of more municipal user fees.

Ms. Cook said that Elkhart had a moratorium on providing services outside the city without annexation. A local business needed service, but the landowners in between did not all agree. As a result, they developed a payment in lieu of annexation arrangement.

Representative Austin said that the water and sewer infrastructure is crumbling. When towns go through involuntary annexation it is hard to determine whether it is worse, better, or a burden.

Representative Cherry said that we need more partnerships and less rural/urban conflicts.

Representative Sheila Klinker said the annexation of Alcoa in West Lafayette was a positive experience. There are positive annexations.

Representative Karickhoff said that Kokomo did two large annexations. There was a checkerboard of those who volunteered and forced. There were rows of properties with failed septic systems to be forced into annexation. Yes, there was an urban/rural conflict as there was four miles of services to connect new businesses. But that provided new jobs and a larger tax base. There was a building moratorium along the corridor. The conflict ended and annexation was accomplished. They found the sweet spot.

Senator Head said annexation can be both shield and sword.

Mr. Wellman said that annexation is good for an aging infrastructure. When you expand the tax base you share the cost with more. The land around I69 and US50 is developed with farmland all around. Farmers ask about the development and if the city will bring water and sewer.

#### **UPDATE ON PSAP FUNDING AND CONSOLIDATION**

Barry Ritter with the Statewide 911 Board presented an update on the 911 funding (Attachment K). He began with a brief history of IC 36-8-16.7, SEA 345 which sunsets July 1, 2015. There are more than 600 Communication Service Providers in Indiana certified by the IURC. 911 fees for wireless, wire line, and VOIP are \$0.90 per month and prepaid phones are \$0.50 per transaction. The FY13 revenue was \$73,085,356. County distributions are 90 percent by population and 10 percent by equal share. Total county distributions, Hold Harmless plus 90/10 came to \$64,362,086. The cost for administration and operations is \$8,723,484. In FY14 the IN911 Board approved a 1.4 percent increase in "hold harmless" distribution. Future action items include retail sales, eligible telecommunications carrier, sales/mergers of mobile virtual network operators, and audits. Upcoming costs include \$13.6 million for customer premises equipment upgrades and replacements as well as \$21.8 million for network upgrades.

Mr. Ritter provided a series of recommendations to facilitate moving to next generation 911:

- In 2015, establish a statewide 911 grant program (50/50 reimbursable)
- Seed money to start the program
- Begin a 5-7 year migration plan for counties
- Search grant opportunities

Next step is text-to-911. In January 2015 there will be bills filed to determine who will be responsible for payment. Currently the fees are stagnant.

Representative Karickhoff asked about ways to determine the right size of dispatch operations. Are there cases when counties should combine operations?

Mr. Ritter said that nothing jumps out. It is rare that money pushes that idea. They want control.

Representative Austin said one-third of the counties are not ready for text. What is the status?

Mr. Ritter said Madison and Lake County were waiting until after they consolidate operations. Marion County is getting a new computer-aided dispatch (CAD) system. We are testing at more populated areas for texting 911. If there is a bounce-back you get a voice saying “not available, please leave a voice message.”

Representative Austin asked if the revenue was not there or just not collected.

Mr. Ritter said collection must be authorized by IURC.

Mr. Krauss asked if you lose the location when texting? What happens at the border of the county?

Mr. Ritter said, yes, you lose the location. We will be rolling out public education that “voice is best.”

Brian Hitchcock with Lake County 911 spoke next. His consolidation is the largest and it took \$20 million to accomplish. In September they will implement new 700 MHz radio system and hire new personnel.

Mr. Berger indicated that AIC and a number of partner organizations have commissioned a time study to determine costs per call by county. The information, when complete, can be used to if the costs are high or low. If high, they can explore why. If they are low, they can explore what efficiencies those counties are using to keep costs down.

Mr. Ritter said some counties need to consolidate.

#### **NEXT MEETING: TBA**

Ms. Palmer will be in contact regarding the details of our next meeting.

Senator Head asked to be contacted if members of the commission had topics they would like discussed.

#### **ADJOURNMENT**

Senator Head adjourned the meeting at 3:05 P.M.