

**MINUTES OF A REGULAR SESSION OF THE  
BOARD OF COMMISSIONERS HELD February 27, 2023**

Comes now the hour of 8:30 am. on the 27<sup>th</sup> day of February. 2023 in the Commissioners Room in the Noble County Annex building, Albion, Indiana, being the time, date and place set for a regular session of the Board of Commissioners of Noble County, Indiana.

Present were:

Gary Leatherman, President  
Anita Hess, Vice President  
Gary Timmerman, Member

Also present were:

Jacqueline L Knafel, County Coordinator  
Dennis Graft, Noble County Attorney  
Matt Getts, KPC Media  
Richard Rogers, Highway Superintendent  
Zack Smith, Highway Engineer

Commissioners President, Gary Leatherman, brought the meeting to order at approximately 8:30 AM.

Judge Steven Clouse and Judge Mike Kramer were in attendance to present the commissioners with a check in the amount of \$10,224.71. This was a refund from a divorce consulting firm that is no longer being used. Currently the courts are using an on-line program that allows couples to get the counseling on their own schedules. There are 3 programs to choose from that are geared toward meeting everyone's particular needs. Judge Kramer thought that the entire program took about 2 ½ hours to 3 hours of time broken up into 20 minutes segments. This refund will go back to county general and in the future there will be little expenses for these services.

**CORRESPONDENCE**

- Clerks report – January 2023
- IDEM – Forest River FESOP renewal
- BZA - notice of five variances coming before the board on March 1 2023
- ARC – thank you for the annual contribution of \$75,000.00 and requesting the same for 2024
- IDEM – Colwell - title V renewal
- IDEM – Lebanon Seaboard - air quality permitting

**MINUTES**

Minutes of the previous meeting were read and approved as corrected with a motion from Gary Timmerman and a second from Anita Hess. Motion carried 3-0.

**CLAIMS**

Claims were reviewed by the commissioners. This was a 12- page report totaling \$379,563.47 and was approved by a motion from Gary Timmerman. Anita Hess seconded and the motion carried 3-0.

**PAYROLL**

Payroll report contained 3 pages and totaled \$481,572.20 Gary Timmerman moved to approve the payroll dated 02/23/2023 with a second coming from Anita Hess. The motion carried 3-0.

**NEW BUSINESS**

Gary Timmerman moved to approve a Dossett Consulting agreement for a 3- year term for filing child support information through the state. Anita Hess seconded. Motion carried 3-0.

Also, Randy Jordan has contacted Jackie to pull two titles so that they can be sold. Anita Hess moved to sign the title for the 2010 Ford Taurus with last four VIN of 5793 and for the 2015 Dodge Charger with the last four VIN of 6239. Gary Timmerman seconded and the motion carried 3-0.

## HIGHWAY

Richard Rogers, Highway Superintendent, and didn't have much to report other than the event of the recent ice storm were taken care of in a short period of time. Richard also entered for filing an utility permit for United Telephone of Indiana.

Zack Smith, Highway Engineer, had the following engineering report for the commissioners:

- Zack as a quote from CivilCon for aluminum structural plate pipe for culverts plus ribs and assembly on site. The total quote was in the amount of \$83,506.72 and was approved for purchasing with a motion from Gary Timmerman. Anita Hess seconded and the motion carried 3-0
- Zack provided the bid tabs for the HMA 2023 -01. The report showed the low bid was with Pulver Asphalt Paving, Inc at \$1,025,090.00. Anita Hess moved to award the work to Pulver's. Gary Timmerman seconded and the motion carried 3-0.
- Zack has the bridge inspection contract with INDOT for review. Motion was made to sign when available by Gary Timmerman. Anita Hess seconded and the motion carried 3-0
- Zack reported the pre-con meeting went well for the 400 N project. He told the commissioners that probably right of way would be the main focus of work in 2023. He also informed the commissioners that this project (even though there is significant cost increase is being fully funded (80/20) by the state.
- Bridge 136 – This project is on hold at this time due to a 70% increase in cost. Efforts are being made to put this again out for letting in October. Zack has a LPA voucher for the project in the amount of \$3,234.10 which is approved with a motion from Gary Timmerman. Anita Hess seconds and the motion carries 3-0.
- Baseline Road. Zack has an LPA voucher for this project in the amount of \$1,178.20. This is approved with a motion from Gary Timmerman and a second from Anita Hess. Motion carried 3-0.
- Zack has a copy of the INDOT contract for Bridge 44 for review. Motion to allow a docu sign by Zack came from Gary Timmerman. Anita Hess seconded and the motion carried 3-0.
- Bridge 134 – An LPA voucher was presented for preliminary engineering on this project in the amount of \$1,220.00. Motion to approve the voucher came from Gary Timmerman and was seconded by Anita Hess. Motion carried 3-0.
- Bridge 69 – this LPA voucher is in the amount of \$4,648.00 for preliminary engineering and is approved with a motion from Gary Timmerman and a second from Anita Hess. Motion carried 3-0.
- Old State Road 3 - An LPA voucher in the amount of \$7,193.00 was presented for approve. Motion was made by Gary Timmerman to approve. Anita Hess seconded. Motion carried 3-0.
- Bridge 59 – The last LPA voucher was for bridge 59 in the amount of \$21,227.50 and is approve with a motion from Gary Timmerman. Anita Hess seconded and the motion carried 3-0.
- Lastly Zack report that bridge 73 work would begin with the road closure starting today.

## ANNEX REPORT

Zack Smith, Project Manager, has the proposal for the shell space here at the new annex for temporary usage during courthouse renovation. The base price of this comes in at \$201,973.00. Zack is requesting permission to start this process. Motion to proceed came from Anita Hess and was seconded by Gary Timmerman. Motion carried 3-0.

- Dispatch and the Assessor's office are having issues with glare from the windows. Zack is reporting that it will cost approximately \$4,400.00 to change the fabric on the shades in dispatch and also add shades at the assessor's location. Motion to proceed with this project came from Anita Hess. Gary Timmerman seconded and the motion carried 3-0.
- Punch list items yet to be completed include some signage and lettering.
- The quote for acoustic paneling for the lobby area is in at \$41,617.09 and is approved with a motion from Gary Timmerman. Anita Hess seconded and the motion carried 3-0.
- The water softener has been received and Zack will coordinate with Tim Lock for the installation of the softener.
- Mechanical issues continue and are being addressed as needed.
- The memorial plaque for Dave Dolezal was reviewed.

## COURTHOUSE RENOVATION

Zack Smith, Project Manager, brought engagement letters for Peters Franklin LTD and Ice Miller Legal Counsel for help with the financing for the courthouse renovation. Peters services are coming in "not to exceed"\$12,000.00. Motion to approve this pending council approval came from Gary Timmerman. Anita Hess seconded and the motion carried 3-0.

Ice Miller proposal was "not to exceed" \$20,000.00 and was approved – pending council approval – by a motion from Gary Timmerman and a second from Anita Hess. Motion carries 3-0.

Temporary housing for the clerks office is still be negotiated at this time.

During the recent rains there was again leakage in the superior I offices. This is another issue that needs addressed at renovation time.

Zack has a proposal for inspection and site assessment for the elevator at the courthouse. This has a cost of \$2,200.00 and is approved with a motion from Anita Hess and a second from Gary Timmerman. Motion carried 3-0

## REZONING

The commissioners moved to the conference room for the rezonings:

- Teresa Tackett and Scott Ziegler were present for the rezoning of Harley and Vonda Bontrager property. They are wishing to rezone 3.16 acres in Perry township from A1 to RE. This was a change from the original rezoning request. Teresa report a favorable recommendation from the Plan Commission. Motion to approve the rezoning came from Gary Timmerman. A second was made by Anita Hess and the motion carried 3-0.
- The second rezoning came with a lot of opposition. Cody Kraus is wanting to rezone 23.175 acres in Green township from A1 to A2 to allow for a commercial winery. With a number of opposition showing up at the recent plan commission meeting, it took 7 motion for the recommendation to be favorable (5-2) and go on to the commissioners. Most of the opposition seemed to be based on a consumption at the location, late nights, fireworks, loud music etc. Cody has agreed to only grow the grapes and produce the wine at this location – with only distributor pick up and on-line pick-ups. There will be no consumption at that location and he is hoping to have a tasting room or commercial off-site location for his other plans. Cody and his attorney Jacob Atz went through all of the concessions that they were willing to make to please the neighbors. Noble County EDC and CVB were present to show their support for this new business. The opposition then spoke and was led by Eric Heineman and their attorney. They were concerned about a commercial setting in a nice residential quiet atmosphere that is now common. They also were concerned about increased traffic and property values. The commissioners had received a number of e-mails and phone calls from the residents in the area – all of which were in opposition to the winery. On many occasions they indicated that they were okay with him growing the grapes and even processing the wine there. Teresa Tackett was also present to help the commissioners through this process. She indicated that an option for Cody would also be to keep the zoning at A1 and ask for a variance for the rest of the operation or could continue with the rezoning and deal with the exceptions that were being considered. The commissioners then moved to reject the rezoning that was sent to them by the plan commission and send it back with the following recommendations based on the comments of both parties and the agreement of those conditions by Mr. Kraus:

The following Restrictions are Customer/Patron based and shall exclude family and friends of the owner(s) of the property.

1. Any use of the parcel that is not a winery or vineyard shall be subject to A1 District use restrictions,
2. No A2 Commercial or Industrial permitted uses allowed excluding winery; no A2 uses that do not relate to wine production on this property.
3. No more than ten (10) customers and patrons of the retail business shall be present on the parcel at any one time.
4. No more than 5 parking spots
5. No expansion of the current wine production structures on site (as of 2/27/2023).
6. No customer alcohol consumption onsite, with the exception of a wholesale distributor.
7. Allow for onsite customer sales and online orders to be picked up,

8. Driveway access shall be improved for visibility and safety,
9. No food trucks or charter buses shall be allowed on the parcel,
10. Times during which customers and patrons of the retail business may be present on the Parcel shall be limited to no more than thirty-six (36) hours during any Sunday through Saturday week, and no later than 5 p.m. This commitment is not intended to limit agricultural or production efforts.  
Therefore, those excluded from this provision include, but are not limited to, employees, contractors, suppliers, and others involved in the agricultural or production side of the business.\
11. No amplified, outdoor, live music shall be carried on or allowed on the parcel, (customer/patron based)
12. Property will revert back to A1 Zoning once the parcel is no longer used as a winery,
13. Subject to unannounced site inspections by the Zoning Administrator,
14. These commitments shall be recorded pursuant to I.C. 36-7-4-1015(b)(3) and, thereafter, shall run with the land and bind all subsequent owners,

#### DRUG FREE

Becky Calhoun, Drug Free Noble County, was present to go over drug free claims that will be submitted. Becky reminded the commissioners that of the 100% of the money that is received 25 % goes to the state, 25% is used for treatment, 25% is used for prevention and the other 25% is for admin fees. The office has 2 employees currently. Becky also told the commissioners that they only spend what is received. Every year there is \$52,000 dollars budgeted but the last few years the department has only received around \$30,000- \$35000.00. As far as prevention goes a lot of material is distributed as well as a 2 for 1 opportunity they have with a local radio station.

Treatment – Becky indicated that work one on one with Bowen Center and the Northeast Center as well as partnering with a housing program.  
They also provide educational books for vaping for kids that indicate to them that they just can't stop.

Administration – the admin fees pay for Karen and Becky salaries for this program.

Gary Timmerman praised Becky for the program that was recently put on about Fentanyl. Brian Walker did a wonderful job according to Gary. Becky made the statement that fentanyl is not for ones that are using – they are hitting the ones that are “trying for the first time an dying”. Anita Hess moved to approve the claims that Becky was submitting for payment. Gary Timmerman seconded and the motion carried 3-0.

Recess

Back in Session 1:15

Zack Smith, Highway Engineer, is back for approval of some vehicles for the department:

- Zack has a quote from Max Platt Ford Lincoln in Kendallville for a 2023 Ford F350 Super Cab in the amount of \$61,070.25. Zack is wanting to purchase 2 of these vehicles. Zack indicated that he has money in his equipment line item to pay for these purchases. Anita Hess moved to approve the purchase of 2 one ton pickups at \$61,070.25 each. Gary Timmerman seconded and the motion carried 3-0.
- Zack has 3 quotes for a Western Star single axle dump truck one from Stoops in Indianapolis at \$135,444.00 one from Stoops at Fremont coming in at \$134,775 and one from Stoops at New Haven at \$134,225.00. Gary Timmerman made a motion to purchase from Stoops at New Haven with the lowest bid of \$134,225.00. Anita Hess seconded and the motion carried 3-0.
- The last quote was for a tandem Western Star truck. There were 3 quotes provided here also. One from Stoops New Haven in the amount of \$143,958.00 – Stoops Indianapolis for \$144,181.00 and Stoops of Fremont for \$145,113.00. Motion was made by Gary

Timmerman to purchase low bid out of New Haven at \$143,958.00. Anita Hess seconded and the motion carried 3-0.

#### COVID MOVING FORWARD

A form was received by Jackie from Unified concerning COVID 19 treatments testing etc. As this seems to be coming to a close, the commissioners elected to treat this like any other illness going forward and not to make special provisions for Covid related illness. Motion to make this election came from Anita Hess and was seconded by Gary Timmerman. Motion carried 3-0.

#### LAND AUCTION

The commissioners held a land auction to attempt to sell around 40 acres across from the landfill. Ann Barnard and Wayne Tucker were two people who attended the auction however neither of them were interested in purchasing the land at the price of appraisal. The 29.631 acres was appraised at \$209,000.00 and the 10.566 acres was at \$74,500.00. Dennis Graft indicated that since there was no bid that the appraisers will need to be contacted again and asked if they believe land values have dropped. Wayne Tucker indicated that if the land did not sell – would the commissioners be interested in leasing the ground for farming. The commissioners indicated that they would and the previous farmer that had farmed it was no longer interested. Jackie will advertise for sealed bids to be opened at a special meeting on April 3, 2023 at noon. Anita Hess moved to advertise for leased farm ground for the 25 acres more or less. Gary Timmerman seconded and the motion carried 3-0.

#### TEMPORARY BUILDING

The commissioners further discussed the building in question for the temporary space for the clerk. Zack and Gary Leatherman will try and meet with the owner prior to an agreement being written up.

#### ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 3: 15 pm recessed from day to day until March 13, 2023

Dated this 13<sup>th</sup> day of March, 2023

  
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Gary D. Leatherman, President

  
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Anita Hess, Vice President

  
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Gary Timmerman, Member

ATTESTED:   
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Michelle Mawhorter, Auditor