

**MINUTES OF A REGULAR SESSION OF THE  
BOARD OF COMMISSIONERS HELD NOVEMBER 5, 2012**

Comes now the hour of 8:54 A.M. on the 5<sup>th</sup> day of November, 2012, in the Commissioners Court in the Noble County Courthouse, Albion, Indiana, being the time, date and place set for a regular session of the Board of Commissioners of Noble County, Indiana.

Present were:

Joy Y. LeCount, President  
David J. (Dave) Dolezal, Vice President  
Jack W. Herendeen, Member

Also present were:

Marion S. Cavanaugh, Deputy Auditor  
Dennis Graft, County Attorney  
Sheriff Doug Harp  
and Bob Braley & Scott Perry, News Media

**MICK NEWTON, EMA DIRECTOR –  
IPAWS SYSTEM TO ALERT PUBLIC**

Present for this portion of the meeting were Mick Newton, EMA Director and Mitch Fiandt, E-911 Director.

Mick came to talk to the Commissioners about the IPAWS System (Integrated Public Alert & Warning System) which will enhance the county's ability to alert or warn the public. He said the system is kind of an umbrella that sits over all of the old warning systems. Mick also talked about the CMAST which is a Commercial Mobile Alert System. He said it is a geographic warning system that comes to your cell phone. Mick said you don't have to sign up for it. He said to be able to be an alerting authority you have to form a collaborative operating group for the county and then the county has to apply to FEMA to be approved. Mick said you can't apply until you are committed to purchase the software to access the IPAWS system. He said it is expensive to buy the cap system so the state is going to put it on a program we already have called Web EOC. Mick said he is going to push it to see how much it would cost Noble County. Joy asked Mick to check into the cost and to find out what the ramifications are if we don't do this, because she didn't see anywhere in the letter where it says there will be any money coming with the mandate.

Jack asked what kind of system we have here now. He said he thought we were all set up. Joy said we can't call people on cell phones, and she didn't know if we want to do that.

Jack asked how we put out alerts now, such as a high winds alert. Mitch explained how it is done. He said under the current system we are considered a primary warning point for Noble County and a secondary warning point for the state. Mitch said he has been to monthly 911 Directors meetings and this morning is the first he has heard of this.

Dave asked if the only thing that is different is that this alerts people via their mobile. Mitch said Mick is using Nixel right now to do that.

Mitch said another concern he has is that this program just gives a brief message where the Nixel message is pretty in depth. He said we would have an influx of 911 calls overloading the system when they just get a brief message.

Mick said for the past few weeks Mitch had been working on getting him a space and chair in the dispatch area so if he sees severe weather coming or something he doesn't have to interrupt dispatch.

Mick said he was just concerned that Senator Weeks in his letter asked why Noble County's people hadn't done this. He said he has tried to stay on top of things. Joy said she didn't think the letter was being critical. Mick said he had been trying to stay on top of this. He said he had not heard anything from the state since June 25<sup>th</sup>.

### **PHONE RECORDING ISSUES**

Mitch said he had been working with IT personnel because of the problems they are having switching over to the new phone system. He said the only way Dave can hook it up to the voice logger right now is to have it record every phone in every office. Mitch said he can't finish his 911 upgrade until they get it figured out to where they can record just their business lines onto their recorder out there. Mitch said the way it sits right now, what he is required by law to record is being recorded. He said the internal business lines are the Sheriff's issues.

Dave asked if it is our problem or if it is the vendor's problem. Mitch said it is not the recorder vendor's problem or Indigital's problem. He said it is our problem because of the new phone system.

Joy said a year or so ago the Commissioners met out at the jail and Dave Baum and several vendors and telephone vendors were there and they all knew what we needed. Mitch said they all assured us up to a week before that they thought everything was going to work. Joy asked why we are here at the end and now we are having the problems. Mitch said he didn't have the answer for that.

Mitch said they are still using the old phone system in dispatch. He said they use the new phones only to call other offices within the county. Mitch said they hope to figure something out at the meeting they are having Thursday.

### **GLENN WOODCOCK - UNSAFE BUILDING @ KNAPP LAKE**

There was a brief discussion about a phone call from Glenn Woodcock stating that he has a buyer for the property at Knapp Lake where he has the unsafe building. Dennis said the buyer agreed to remove the building and he wants to offset that with the fine. Dennis said we shouldn't do that.

### **LIGONIER LIBRARY BOARD – JEAN A. SAGGARS APPOINTED**

The Commissioners received notice from the Ligonier Library that Jean A. Saggars would like to be appointed to their board, and that she is eligible to serve a four year term, (H.I.). Dave moved to appoint Jean. Jack seconded the motion and it carried, 3-0.

**KONE ELEVATORS - VERTICAL TRANSPORTATION  
MAINTENANCE AGREEMENT RIDER RE:  
DUMBWAITER AT PROSECUTOR'S OFFICE**

The Commissioner received the corrected agreement rider which indicates that the dumbwaiter is located at the Prosecutor's Office, (H.I.). This rider was approved October 15, 2012 subject to the correction being made. Joy signed the rider.

**HIGHWAY BUSINESS – MARK GOODRICH & MIKE FITCH  
UTILITY PERMITS**

Mark presented the following utility permits from Frontier Communications: #UP-051-12 for work on E CR 600 S between CR 500 E and CR 600 E at the Molly and Justin Snyder residence in Green Township; #UP-052-12 for work on W CR 400 W and CR 300 W between CR 400 W and CR 300 W at the Orva and and Ada Fry residence in Elkhart Township; #UP-053-12 for work on E CR 75 S between CR 75 E and SR 9 at the Josh Gaerte residence in Green Township; #UP-055-12 for work on CR 525 N between CR 350 W and CR 290 W for work at the Chris Eash residence in Sparta Township; #UP-056-12 for work on W CR 270 N between CR 450 W and CR 400 W at the William Payne residence in York Township; #UP-057-12 for work on E CR 500 N between State Road 9 and CR 150 E at the Todd and Becky Freeman residence in Jefferson Township; #UP-058-12 for work on E CR 550 S between CR 3-E and CR 400 E at the Brock Skinner residence in Green Township; #UP-059-12 for work on E CR 500 S between CR 500 E and CR 600 E at the Mark Boylan residence in Green Township; #UP-060-12 from for work on E CR 500 S between CR 875 E and CR 1000 E at the Bobby Householder residence in Swan Township; #UP-061-12 for work on E CR 850 N between CR 175 E and CR 100 E at the Larry Schermerhorn residence in Orange Township; and from Noble REMC - #UP-054-12 for work on CR 1100 N between CR 600 W and 700 W at the Tanner Miller residence in Perry Township; #UP-062-12 for work on CR 700 W between CR 100 S and 200 S at the Doug Burnworth residence in Washington Township; and #UP-063-12 for work on CR 975 W between CR 1000 N and 1100 N at the Larry Hartzler residence in Perry Township, (H.I.).

**600 W, LOON LAKE – SPEED LIMIT REQUEST**

Present for this portion of the meeting were: Lee Simmonds and David L. White, Loon Lake Property Owners Association Board Representatives.

Mike said the Loon Lake Association had submitted a petition for a speed reduction on CR 600 W on July 18, 2012, (H.I.). Mike said he had Region 3A do a speed study and he shared the information he got from them with Tim Barkley from Whitley County, because the road borders the Noble/Whitley County line. He said he talked to Whitley County and they said they were swamped and wouldn't be able to get to it for a while. Mike said Tim Barkey told him that they are currently looking at some of the speed ordinances around the county to get caught up, and that they would work with us on this. Mike said he talked to Lee Simmonds on Friday and he was understandably upset that it took so long. He said he told Lee about coordinating with Whitley County and Lee said they were only concerned with the Noble County portion. Mike passed out a map so he could explain what the proposal was, (H.I.). He said based on the petition letter most of it focuses on reducing the speed to accommodate the people that like to bicycle, walk and jog completely around the lake. There was discussion about the speed limit

signs posted in Whitley County, and Tim at Whitley County said there are some things that they know they have to clean up. Mike said we have our portion of 600 W posted at 40 MPH and that is pretty much what people are traveling according to the study done by Region 3A. Mike said in the quarter of a mile from Arnold Road to about a quarter of a mile S on 600 W there are about 16-18 homes, so that quarter of a mile section would be considered an Urban District. He said the southern part of 600 W is not as populated but it could be considered as Urban District if defined as part of the whole lake community. Mike said based on Indiana Code Urban Districts can be posted at 30 MPH. Mike said 600 W does more than just serve traffic around the lake. He said it is a corridor road and there is probably a lot more through traffic there than there is on the west side of the lake. Mike said from Red Bud Lane to the county line is currently 55 MPH and he is recommending that 600 S from 600 W to Red Bud Lane also be posted at 30 MPH. Mike said the association is not asking Whitley County to change the speed limits from Arnold Drive to 500 S or from 500 S over to the lake.

Lee said the reason they included the area was because so many people go all the way around the lake. He said they weren't sure about where Whitley and Noble County stop. Mike said it makes it difficult to divide the authority on one road between two counties. Lee said they would be glad to go to Whitley County to get the speed limit reduced on the rest of the road.

David said he actually lives in Whitley County. He said on behalf of the Loon Lake Property Owners Association, 30 MPH is very relevant for a couple of reasons. David said May through September is their high pedestrian/bike time. He said on July 4<sup>th</sup> they have a 5K race and there are a lot of people out there during May, June and July getting ready for the race. David said Lee has a petition from 100% of the property owners to make that (600 W from Arnold Road to 600 S) a 30 MPH zone. He said it is very dangerous.

Mike said 600 W is one of the best roads in Noble County as far as maintenance, and that might add to the speed. He said there is not a problem with excessive speeding, it is just that 40 MPH might be unrealistic. Mike said he thought lowering the speed limit 10 miles per hour probably isn't unreasonable. He said there is nothing in the Indiana Code that addresses pedestrians and bicyclists but he thought it is something that should be taken into the equation.

Mike said Red Bud Lane is in Noble County and where it cuts into 600 S is where it changes to Whitley County. He said he would like to post a Begin 30 MPH just east of the intersection (600 W & 600 S).

Mark Goodrich said in the area that is being talked about most of the homes are less than 30' from the road.

Mike said he hadn't prepared an ordinance yet and that he wanted to bring this to the Commissioners attention. Dave Dolezal said he would like to go look at it. He asked Doug what his suggestion would be. Doug said he hadn't been down there for a while either. He said the last bicycle fatality was on a straight road on a sunny day in a 45 MPH speed zone. Doug said he couldn't think of a down side to doing it though.

Jack said he could agree with Mike's recommendation of 30 MPH but he wouldn't agree to any lower limit. It was agreed that Mike could do a draft ordinance. Dave said he would go drive that area this week.

Lee said he measured a house today, and it is 22' from the house to the road.

## **JAROD HUSS, LAWSON-FISHER ASSOCIATES CIVIL ENGINEERING – INTRODUCTION**

Jarod passed out a brochure with information on the company (none for file). He said he had worked with Mike (Fitch, Highway Engineer) when he was at INDOT, when he did a project in Elkhart County. Jarod told the Commissioners about the services Lawson-Fisher has available.

Joy asked if they were involved with the Sylvan Lake Dam. Jarod said they were.

Mike said their proposal on Bridge #12 is excellent but there was some tough competition. He said he has asked the Commissioners that when we do work in Noble County that we look at local firms to cut down on mileage and expense costs. Mike said he considers South Bend and Elkhart as being local. Jarod thanked the Commissioners for their time.

## **ROAD LINE STRIPING**

Jack asked Mike if the striping company is coming back. Mike said they did some of the roads down south and then they pulled off because of the weather. He said the pavement temperature should be 45 degrees and rising when they do the striping.

## **FUEL BIDS ITEMS #2012-01 & 02 ACCEPTED**

Present for this portion of the meeting was Dean DeVoe, North Central Co-Op and Sheriff Harp.

Mark passed out copies of last year's prices. He said according to the new prices for today it went down on the average of 19 cents since a week ago. Mark said it is down to \$3.19 for the summer blend and \$3.30 for the winter blend. He said last year we paid \$3.33 for the summer blend and \$3.41 for the winter blend. Mark said Charisse had a question on the unleaded fuel. He said there is a bid for an 89 octane and it wasn't on the request.

Dean said Gregg McKinley, their administrator just added that for the county's consideration if it is needed.

Dean said in regards to tomorrow (election day) no one knows what will happen or what will happen to the fuel prices. Dean said everyone asks about the effects of the hurricane that just went through, and that is short term. He said as Mark pointed out there is a 19 cent decrease in diesel fuel from the price that was given last week, and gas is about 13 cents under last Monday's price. Mark said based on what we bought this year that would be an \$8,160.00 decrease from what we spent this year figured at an average of 12 cents a gallon savings.

Dean talked about the possibilities the Commissioners have such as accepting the bids today, having him bring a price back every Monday until they see what they want, etc.

Jack asked if we lock in for just 6 months if at the end of the 6 months they could cover us for the remaining 6 months at the same price. Dean said they couldn't.

When comparing the prices on the unleaded fuel bids to what is being seen in prices around the county Dean told the Commissioners that his bid price doesn't include state taxes for the gasoline. He talked about all of the taxes that are put on unleaded fuel.

After further discussion, Jack moved to accept the prices received today for all of 2013. Dave seconded the motion and it carried, 3-0.

## **TRIAD ASSOC. – CLOSING OF COUNTY ROAD**

Rick L. Pharis with Triad Associates in Goshen (and also part time engineer for the City of Ligonier) came before the Commissioners to get permission to use CR 900 N as a detour when they go under the bridge in Ligonier for the sewer project. Joy asked Rick if he had any

idea how long it would take. Rick said the closure itself would only be about five days. He said he didn't know if it would be yet this season or next spring. Rick said he was here today to get the Commissioners blessing and the paperwork signed so they can get their INDOT permit for the project. He said it is basically a "jack and bore" underneath the tracks.

Rick said that they have to keep one lane of the road open for emergency vehicles. There was discussion about what portions of roads would be used for the detour.

Mark asked if they would be willing to put extra signage on Martin Street. Rick said they would. Mark asked if the road would be closed 24 hours a day or just through work hours. Rick said it would be closed 24 hours a day. Dave asked Rick if he anticipated it would go over 5 days for any reason. Rick said he didn't.

Jack moved to approve the closing with the conditions that had been talked about. Dave seconded the motion. Joy asked if Ligonier would be responsible for signage. Rick said they would be. The motion carried, 3-0. Joy signed the agreement for temporary use of CR 900 N.

### **BUTLER, FAIRMAN AND SEUFERT, INC. DESIGN ENGINEERING FOR BRIDGE #70**

Mike said the original agreement for design engineering for Bridge #70 with Butler, Fairman and Seufert signed in 2008 had a lot of additional stuff in it that we didn't need. He said the project has been on and off while we attempted to get Federal Highway funds for construction. He said trying for the funds impacted the design of the bridge and we didn't get the funding. Mike said he asked Butler, Fairman to put together an agreement based on local funding to complete the design engineering. He said they submitted an agreement about a month ago that had a lot of additional stuff in it that he didn't think was really necessary for the project so he asked them to cut it down to just the design of the bridge with no right-of-way or anything. Mike said that is what they did and it cut over \$20,000.00 out of the fee. Mike said if we do it with local funds we could do a lot of the work in house because it cuts out a lot of red tape. He said if there is anything that we can't handle in house we could put together a supplement to the agreement. Mike said the agreement is in the amount of \$25,900.00. He said \$4,000.00 would be for permits, \$20,400.00 would be for final check prints, and \$1,500.00 for bidding assistance. Mike said there is an amount of up to \$7,500.00 for railroad coordination if needed. He said he thought we could do a lot of the railroad coordination ourselves. Mike said basically he terminated the existing contract and had them submit a new contract for the rest of the services.

After further discussion, Jack said based on Mike's recommendation he would recommend approval of the agreement. Dave seconded the motion and it carried, 3-0.

### **CHAIN O'LAKES ENTRANCE DRIVE**

Mike said he called the state about the shoulders on the Chain O'Lakes entrance drive and they are supposed to get back with him because some of the people involved with that have been on vacation. He explained what his concerns are with the shoulders. Mike said he thought it was a safety concern because people could drop off the edge and it doesn't have appropriate shoulders. He said it is a maintenance concern too. There was discussion that the road should be line striped also.

### **ENGINE OIL**

Jack asked if we bid out the engine oil. Mark said we don't but we probably could.

### **TRANSFER OF FUNDS & TIRE PURCHASE**

Mark presented a request for a transfer of funds from Payroll accounts to various other Highway accounts to avoid asking for additional. Joy reported that if the Commissioners approve the transfer Jackie will take it to the Council today, because of it being close to the end of the year when the Council meets again. Joy read aloud what the transfers would be. Dave asked Mark if that would cover the \$10,000.00 for tires that he wants. Mark said it would.

There was discussion about the tires that Mark would like permission to purchase. He is asking to purchase 24 Continental HDC1 tires at a cost of \$10,133.76 (\$422.24 each), which would be the drive tires for the three tandems.

Jack moved to approve the request for the transfer of funds. Dave seconded the motion and it carried, 3-0.

### **AT&T – CLAIM FOR CUT LINES**

Mark talked about the claim for damages from AT&T in the amount of \$1,818.00 for the repair of a phone line of theirs that got cut. He said he told them politely that he didn't intend to pay it because they only marked one line. Mark said he told them the Highway employees located the line and cleaned out around it and dug under it and there was nothing there. He said he told them if they couldn't mark the dead lines as well as the live lines then we shouldn't be responsible to pay for it. Mark said either they don't want to or they can't trace the old lines. He said he didn't think it was fair for them to expect us to pay a bill if they have multiple lines there.

### **ROAD MARKINGS NEAR LIGONIER – PERRY ROAD AND BLUE ROAD**

Mark said he has had two requests from people living around Ligonier wanting their road markers replaced. He said Perry Road and Blue Road are actually county roads. Mark said we have our road number markers out, but unfortunately the addresses there are in the road names. Mark said the names are missing and they want us to replace the signs. He said to him it should be the city's responsibility. Dave said that is another reason we wanted to keep our signs green so we could delineate between the signs. The Commissioners and the County Attorney agreed that it is not up to the county to replace those signs. Jack asked Mark to talk to Ligonier and tell them that it is not up to the county to replace the signs.

### **PURCHASE OF TIRES**

Mark requested to purchase tires as discussed earlier when talking about the transfer of funds. Jack moved to approve the request. Dave seconded the motion and it carried, 3-0.

### **OLD LATHE**

Mark said months ago they moved a lathe out of the shop. He said it is not much good and he asked if he could take bids on it or something. Jack asked where the lathe is. Mark said it is upstairs in the garage. He said they really need to get it out of there before winter hits.

After some discussion the Commissioners recommended that it be sold for scrap.

### **NEW TRUCK**

Mark reported that the new truck would be ordered today. Joy asked what color it would be. Mark said it will be red.

## **SHERIFF DOUG HARP - FITNESS REQUIREMENTS FOR DEPUTIES AND OTHER PERSONNEL**

Sheriff Doug Harp came before the Commissioners talk about a fitness requirement for deputies and some employees in the jail that he is looking at. Doug said a lot of police agencies have mandated physical fitness standards on a yearly basis. He said our SWAT team has to go every year for physical testing. Doug said his feeling is that if person is not in physical condition for this job then they need to look elsewhere. He said it is a safety issue. Doug said he sent one of his guys to training in Evansville to look at physical standards and how other agencies have implemented this. He said the State Police get paid time every week to do PT. Doug said it is not realistic for us to do that. He said some jurisdictions give a day off to those individuals that pass the test. Doug said it would be like 8 hours of comp time that they could take off. He said Vigo County had implemented this a long time ago. Doug said they gave the employees a five year window and if they didn't pass the test within five years then they were out of work. He said at the end of three years, they started taking things away like their take home vehicle. Doug said they already have obstacle equipment and the fitness room is available at the Sheriff's Department. He said most of our guys are very fit. He said if we hire a new deputy and they have to pass a fitness test and the deputies we have now don't have to that is not right, and he wants the guys to be in shape. Doug said he thought there should be some kind of reward for being able to pass the test. He asked if he could give 8 hours off to someone to reward them for maintaining the standards.

Dave asked who sets the standards. Doug said they do. He said they do it in conjunction with approved testing and other agencies. He said he had looked at standards of other counties, and basically they go by the Cooper Standards, which is what the academy uses now. Doug said they also have more job related tasks and that is where the obstacle course comes in.

Dennis said they would have to keep passing the standards through the academy (running, push-ups, set-ups etc) plus whatever we require such as going through an obstacle course. Doug said they have talked about doing it both ways. Doug explained a lot of what is involved in the obstacle course. He said more and more agencies are having those kind of standards that have to be done every year.

Dave asked if Vigo and Bartholomew counties do this in house. Doug said what most of them did was that they went through a company that did an assessment to tell them what their tasks were and they charged them a fortune to do that. He said he didn't think we needed to do that. Jack asked how many would be doing the testing at a time. Dennis said the testing wouldn't take that long. Jack said he couldn't see compensating them. Dave asked if there is a log on who uses the work-out room. Doug said there is not but the vast majority of the deputies use it and some of the employees at the jail use it. He said a lot of them use it after their shift.

Doug said if we are going to require the deputies to participate he would like to be able to compensate them in some way. He said the State Police and the DNR give their people half an hour a day to work out and it is paid. Doug said he doesn't want to do that because he doesn't want to pay overtime for someone to cover that half hour. Jack said he thought it would open up a can of worms. Doug said they are the only ones that have to maintain physical standards. Jack said he disagreed with that.

Dave asked if there had been any employees in the other counties that had gotten to the three years and started losing privileges. Doug said there had been. He said there were four or five guys in Vanderburgh that sued and lost, and they all ended up leaving. He said his purpose

was not to drive people out but to make sure that we maintain a physical fitness level that allows them to not only protect themselves, but to protect the other officers and the citizens.

Joy asked Doug when he was thinking about implementing the program. Doug said they had talked about doing it regardless of any kind of compensation, but his hope was that he could do something for them. There was discussion that eventually Doug would like for the jailers to have to pass the tests too. He said they are looking at doing physical fitness evaluation in April or May. Doug said the deputies know this is coming and they know they don't have to pass the test right away.

Joy asked how the deputies are reacting to the news. Doug said he had one that told him that if he was going to do that he would have to give them paid time in their schedule to work out. Doug said he told him he really doesn't have to give him paid time.

Dave said what Doug is proposing is a *reward* and maybe they should look at giving them an *award* in the form of public recognition or a certificate or something because a lot of people take pride in that. Dave said we would also have to look at giving the employees consequences for not being able to pass the fitness test. Doug said what some of the other counties are doing is to give them a 5 year window in which to get to the standard. He said we already have the fitness area and we have someone trained to show someone how to get up to speed. Dennis said the standards aren't that high. Dave said we would probably see less injuries and healthier employees. Doug said he was just throwing this out for the Commissioners to think about. Dave said he would be interested in knowing more about it and to see some stats from counties that have already started this. Joy said she thought Dave's comment about keeping a log would be beneficial, especially if they implement this program. Joy asked Doug to keep the Commissioners posted as he develops the program.

#### **OFFICE SPACE AT SOUTH COMPLEX**

There was a brief discussion about what offices would occupy the rooms at the Weber Road Annex.

#### **CLAIMS APPROVED**

After reviewing the claims to be paid today's date and the claims that have already been paid because of being time sensitive, Dave moved to approve them. Jack seconded the motion and it carried, 3-0.

#### **RESPONSE FROM CONGRESSMAN STUTZMAN RE: DRAINAGE BOARD EPA VIOLATIONS TO CLEAN WATER ACT**

Joy said Congressman Stutzman had written a letter to the EPA on behalf of the Commissioners. She said he had received a response from the EPA and she read it aloud. (no copy for file).

#### **ADJOURNMENT**

This session of the Board of Commissioners of Noble County was at approximately 12:02 P.M. recessed from day to day until the 13<sup>th</sup> day of November 2012.

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Joy Y. LeCount, President

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David J. Dolezal, Vice President

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Jack W. Herendeen, Member

ATTESTED: \_\_\_\_\_  
Jacqueline L. Knafel, Auditor