

**MINUTES OF A SPECIAL SESSION OF THE  
BOARD OF COMMISSIONERS HELD MARCH 28, 2011**

Comes now the hour of 8:38 A.M. on the 28<sup>th</sup> day of March, 2011, in the Commissioners Court in the Noble County Courthouse, Albion, Indiana, being the time, date and place set for a special session of the Board of Commissioners of Noble County, Indiana.

Present were:

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

Also present were:

Marion S. Cavanaugh, Deputy Auditor  
Dennis Graft, County Attorney  
Jackie Knafel, Auditor  
and Bob Braley & Scott Perry, News Reporters

**DENNIS GRAFT - COUNTY ATTORNEY AND  
DRAINAGE BOARD LEGAL SERVICES AGREEMENT**

Dennis Graft reviewed the agreement for being county attorney for the Noble County Commissioners, Council and Drainage Board, and found it to be satisfactory, (H.I.). Jack moved to approve to hire Dennis. Dave seconded the motion and it carried, 3-0.

**CLAIMS TO BE PAID 4/04/11 – TENTATIVE APPROVAL**

After reviewing the claims to be paid April 4, 2011 Dave moved to tentatively approve them. Jack seconded the motion and it carried, 3-0.

**HIGHWAY BUSINESS – RUSS LEITCH & MIKE FITCH**

**HIGHWAY DEPT. ANNUAL OPERATION  
REPORT FOR LOCAL ROADS AND STREETS**

Russ presented the above referenced report, (H.I.). Jack moved to approve it. Dave seconded the motion and it carried, 3-0.

**CRACK SEALING ON OLD STATE ROAD 3**

Jack asked Russ if they got a tanker of oil in. Russ said we did and it is in the tank in Ligonier. Russ said they are crack sealing on Old State Road 3 right now.

**PRIVATE ROAD CUT REPAIRS**

There was discussion that the Highway Department had been assisting people in the county for a long time by repairing road cuts for private tiles being put in. Mike said he would recommend that we don't do that anymore because of the liability. He said the permit that the people sign when they come in to get permission to do the road cut says that the permittee should fix the road back to the original or better condition. Mike said there is nothing in the permit that says the county is going to assist them. He said if we were doing that, we should have been sending them an invoice for our labor and materials. Jack said we would have to make people aware that we are not going to do it anymore.

Joy said her question is if the Commissioners ever approved the policy. Mike said he couldn't find anything in the files that it had been.

Jack said whenever the Highway Department helped anyone go across the road in the past, they had always taken out the dirt or the mud and they backfilled with sand or gravel. He asked where the people are going to get their black top and who would tamp it in and bring it up

to grade. Jack said if it isn't filled in properly then we are out there months down the road digging it back up.

Mike said they are supposed to bring it back up to our standards. He said he will investigate to see what our standards are. Mike said if the county wants to provide the material that is fine, but we should bill them (the permittee) for the material.

Jack said if it is a farmer they would probably still want our compactor because most of them don't have one.

Russ said about 90% of the road cuts are either the Highway Departments or the Surveyor's Office crossings. Russ said there are only about 10% of the cuts that are of no benefit to the county, and those are the ones we need to cover.

Jackie asked if the permit is drawn up at the Highway Department or if it is drawn up by the State Board of Accounts. She said a lot of permits are state approved.

Russ said he really likes having one of his guys standing there, because otherwise you don't know what is going back into the hole.

Joy asked that Mike, Russ and Dennis (county attorney) communicate on how we need to go about this. She asked that Mike and Russ talk about the difference between boring and actually cutting the road because we might need two separate permits. Mike said most of them are considered on the same permit. Mike said with boring instead of cutting the road, there is no guarantee that the road won't settle. He said that is what the permit is for. Mike said we also need to discuss the need for a bond to do this work on county right-of-way.

### **STATE HIGHWAY DEPT. REQUEST FOR ROAD DETOUR - 725 W & 500 N**

Russ said Fred from INDOT asked for an unofficial detour that would probably be needed after school is out. He said it would be for 725 W to 500 N/Charger Avenue. Russ said they are going to be working on that little concrete bridge. He said they would drive the road and then pay for any damage that might happen. Russ said with the price of diesel fuel going up he thought we would probably have a lot more truck traffic even though it isn't the official detour. He questioned if we could put a temporary load limit on that portion of the road.

Joy said the problem with the load limit is that the county would be responsible to try to enforce that. She questioned if we have a way of weighing the trucks. She said the only thing to do would be to go by the plate.

Jack said to make sure the road gets videoed before they start. Joy asked Russ to check and make sure the state is planning to make sure the road is in the same condition as when they started. Mike asked if there is anything they have to sign. Russ said he thought they sign a permit. Mike said he would check the permit.

Dennis asked if it requires them to come back in and make the repairs. Russ said the last time we fixed the road, and then the state checked it and gave us the money to cover the repairs.

### **ACCIDENT REPORTING SYSTEM**

Mike said he was going to attend a meeting with Region III-A at the Sheriff's Department on the accident reporting system.

### **ROADWAY INTO 4-H PARK – ACCEPTANCE INTO COUNTY ROAD SYSTEM**

Mike said that in order to put that portion of the road that goes to the 4-H park into the county road system, INDOT is requiring a copy of the Commissioners minutes showing that is what they want to do. He said Russ measured from Main Street, 1275 feet straight back. Russ said he went from the center line of 300 to 75 feet north of the ditch, which would be the right-of-way for the drainage. Mike said there are some other roads in there, and he asked if the Commissioners wanted to add any additional roads to it.

Mike said some counties won't accept any new roads into their system unless they are brought up to standard, which the roads being discussed aren't. He said it is up to the Commissioners to decide which roads they want in their system. Mike asked if the Commissioners just want to add the road going straight back. Joy said she thought we should add the section that goes from the parking lot to the building. She said the archery people contacted her last week and they want to do something with their building. Joy said if we do something with the road, Russ' description of where it goes is sufficient with her, and then she thought we should add the part that goes back to the pavilion, because people do use that.

Dave asked what kind of liability we have if the roads aren't up to standards. Mike said in order to get funding from the gasoline tax and the distribution of funds, it is based on the total road mileage. He said INDOT doesn't care if the road is in pristine condition or if it is just a cow path. There was discussion on what it would take to bring the roads up to standards.

Jack asked Mike if he could find out how much we would get paid per mile of road. Mike said he could check. He said the revenues have gone down because of the price of gas.

Russ said his thought is that for subdivision roads to get into the road system we have standards that they have to meet. Joy said this is not a subdivision. She said it is the property of the county that we have failed to main in any way. Russ said he wasn't saying we shouldn't take that over up to that building, but he is looking down the road. Joy said she was not talking about ever black topping that road.

Russ asked if the Commissioners vote to put the road to the 4-H building on the road inventory if they want him to put some recycled asphalt on the road.

Mike said it would be June of 2012 before the county would receive any revenue from it. Joy said that would be a good spot for something like that (recycled asphalt) because it would make it better than what it is and it wouldn't be a huge investment.

Jack said the agreement with Black Pine was that they would take care of the road and Jim (prior county attorney) said something about it. Joy said this had nothing to do with that agreement, and Jack strongly disagreed. Joy said the county had owned the property for close to 45 years, and the county has never wanted to spend any money on it to make it fit for anyone to come to the 4-H park.

Dave asked Russ with the current condition the road is in what we would have to do to maintain it. Russ said to get anything to where we could hold the road, we would have to add some material to it. Jack said we should see how much more money we could get by taking the road in. He said the agreement was that if it needed graded we would grade it and that was it.

Mike said some grading for the time being would be ok with some dust control later on.

Joy asked Mike to find out what kind of difference it would make in our income and if it would offset what little work we do out there.

Russ said he would get the main drag graded.

#### **DAVE OBER APPOINTED TO SERVE ON NOBLE COUNTY PUBLIC LIBRARY BOARD**

The Commissioners received notice from the Noble County Public Library that Harriet Metz will be completing her fourth and final term on April 15, 2011, and that the Commissioners need to appoint someone to replace her, (H.I.). There were three letters from people interested in being on the board, (H.I.).

Sandy Petrie, Director of the library was present to answer any questions the Commissioners might have. She said the appointment would be to replace Harriet Metz.

After some discussion, Dave Dolezal moved to appoint Dave Ober to the library board. Jack seconded the motion and it carried, 3-0.

#### **MELBA CONRAD – PROBLEM WITH ASSESSMENT ON LOT #18 IN THE 3<sup>RD</sup> ADDITION TO LAKEVIEW ADDITION AT KNAPP LAKE**

The Commissioners received a letter from Melba Conrad, who is joint owner with some other lot owners, of lot 18 in the above referenced addition, which is used for lots 34-42 as an easement to the lake, (H.I.). Attached to the letter was a copy of an e-mail from Jackie Knafel, Auditor to Kim Gephart, Assessor, (H.I.). The e-mail indicated that the Auditor had called Melba's son (Bob Farber) and told him what her position is, and she asked that the Assessor talk to him and let him know what she plans to do about the assessment.

Jackie Knafel was present, and she said that Melba and her son had come in with a letter from 1985 from Deidre Krieger, who was the Auditor at the time, saying that the assessment was going to be removed because it is an easement. She said there was also a note in the transfer book that it was removed. Jackie said she had a copy of the deed where the lot was deeded to Melba and other people, and it was deeded to them as an easement to the lake. Jackie said she called Bob Farber and he agreed that the lot was there and the question was about the assessment. She said she had talked to Kim in the meantime and she said she couldn't remove the assessment because we still have it on the books, but they did remove the assessment back in '85. Jackie said she doesn't disagree that it should be assessed, but it went from no assessment

in 1985 to a 10,400 assessment now. Jackie said it is her understanding that it is not a drivable easement and that boats would have to be carried, across it.

Jackie said she didn't know if the Assessor had called Mr. Farber or not. Joy said she would talk to Kim.

### **ELKHART RIVER LOGJAM REMOVAL GRANT**

Jackie asked for some direction as to whether she should comply with the questions from Matt Showalter from Region III-A about an investigation into the county's funds to pursue a grant for logjam removal under Urgent Need rather than conducting an income survey, (H.I.). Joy said the Commissioners would talk to Scott Zeigler, Noble County Surveyor about this at the Drainage Board meeting this afternoon.

### **DOC DELIVERY RE: CHECK STUBS BEING PUT ON-LINE – SEPARATE OVERTIME CHECKS**

Jackie said she had sent out a letter to the Department Heads and she posed two questions, one about how they felt about mandatory direct deposit and also having the check stubs on line. She said the majority of them said it was fine. She said she thought she had three responses that didn't like it whatsoever, and the Highway Department wouldn't like mandatory direct deposit and viewing check stubs on line.

Jackie said she would at least like to have it so people who get overtime cannot have their regular check deposited and get a check for their overtime.

Dave expressed his concern about the fact that we are printing approximately 50 separate checks per pay period for overtime, and the additional cost to do it.

Joy said the regular wage is the same each pay day and you know what the taxes are that are coming out. She said Mary then has to calculate the overtime separately. Jackie said she thought all of those things were in the computer. Joy asked if you combined the two checks, if it affects the withholding.

Mary Applegate, Deputy Auditor in charge of payroll, came before the Commissioners to discuss the separate overtime checks. She said it is because we are salaried and then we have overtime, that she generates two separate checks. Joy said it would come from two separate accounts. Mary said that is one thing. She said she could still do it but we would have to have an hourly rate, and she would have to enter all of it.

Dave asked if it could all be put on one check. He said we are incurring additional expense every pay period for the extra checks that shouldn't be incurred by the county. Jack asked when it went into effect that she paid two different checks. She said it was a long time ago. She said at one time we were hourly and then we went back to salary.

There was discussion that putting the two checks together could result in more taxes being taken out. Dave asked if we go with the company to put check stubs on the internet, if we could fix having a separate check for overtime. Mary said she would have to ask to see if she could put hourly rates (overtime) on with the salary check.

Jackie said Dave had asked about being able to track the employee's time with the Doc Delivery. She said that is not in Low (Auditor's computer company). Jackie said it is outside the Low system. She said when Andy was up here he was going to look into that. Jackie said the Doc Delivery would not have the tracking, and that it would have to be in the Low system. Joy asked that Jackie and Mary look into that.

### **SRI - TAX SALE CERTIFICATES**

Jackie asked if she could proceed with Commissioners sale of the tax sale certificates on the properties that are just strips of ground and things that had been on the tax sales for several years and have never sold. She said we need to get them off the tax sale list.

The Commissioners agreed that Jackie could go ahead with it. Jackie said it wouldn't be anything that is sellable property, because she has too many issues with people buying property that way and not wanting to buy at tax sale.

Marion pointed out that even though the sale was approved November 29, 2010, the resolution had never been done to allow the sale.

**SHERIFF'S BUSINESS – DOUG HARP**

**SERVICE AGREEMENT FOR RETIREMENT  
PLAN AND BENEFIT PLAN – NOBLE  
COUNTY POLICE RETIREMENT PLAN**

Doug presented the above referenced plan that is with McCready and Keene, Inc. for the Commissioners approval.

Jack moved to approve for Doug to sign the agreement as an agent of the Commissioners. Dave seconded the motion and it carried, 3-0.

**STELLAR SERVICES, LLC – PROPOSAL FOR INMATE  
FUNDS MANAGEMENT & COMMISSARY SERVICES**

Doug presented the above referenced proposal that had been discussed a couple of weeks ago. He said there is a 90 day clause where if we are not happy with the service we could request to change back or go to a different company. Doug said the offender would make their order electronically through the phone system, but they would still only do the orders once a week. He said if someone is diabetic we can restrict their purchases. Doug said there would still be profits for the Sheriff's Department from the Commissary use.

Joy asked Doug if he had talked to any of the Sheriff's that have this. Doug said he had, and they were pretty pleased with them.

Dave moved to approve the agreement, (H.I.). Jack seconded the motion and it carried, 3-0. Joy asked Doug to keep the Commissioners informed on how it is working.

**BUILDING ORDINANCE REVISION**

Richard Adair, Building Inspector came before the Commissioners to discuss a new building ordinance, (H.I.).

Joy asked where the fee schedule is. Richard said the state didn't want that in the ordinance. He said they wanted it separate from the ordinance.

Richard explained that the reason he needs a new ordinance is because some of the state codes are changed. He said it is in a format from the state, which they re-typed and added a section where we have a stand-alone fee schedule, because the state asked that we not put the fee schedule in the ordinance. Richard said after the County Attorney looks it over to make sure all of the IC references are correct, the state wants to see it. He said the state would then sign off on the back page and it would come back to the Commissioners for approval. Richard said the state didn't even want to see the fee schedule.

Dave asked if the changes were highlighted. Richard said it is a separate ordinance. He said the old ordinance references codes that we no longer use, because the state has switched to almost all international codes. Richard said the way the ordinance is written, whenever the state makes a change we automatically adopt it by reference with this ordinance. Joy said the Commissioners and County Attorney would check this over before it is approved.

Richard said the reason the fee schedule is not included is that the fee schedule can be changed on its own without re-writing the ordinance.

**LAWN CARE QUOTES – MERONEY'S  
LANDSCAPING & STUMPS LAWN CARE**

The Commissioners reviewed the quotes that were received for lawn care services. Quotes were received from: Meroney's Landscaping in the amount of \$6,880.00 for the South Complex and \$5,720.00 for the Sheriff's Department for a total of \$12,600.00; Stumps Lawn Care in the amount of \$5,420.00 for the South Complex and \$5,635.00 for the Sheriff's Department for a total of \$11,055.00.

Joy read the specifications that were provided for those that wanted to submit a quote. It was determined that both companies submitting a quote left off either mulch or weed control in their quotes, and everything else was OK. Dave is going to contact both parties and get costs for what was missing from their quotes, so the Commissioners could compare apples to apples.

**PRIMCO, INC. – CERTIFICATE OF LIABILITY INSURANCE**

The Commissioners received the above referenced certificate of liability from ACORD, showing that Primco, Inc. in Fort Wayne has liability insurance, (H.I.).

**WEIGHTS & MEASURES REPORT – 2/15/11 – 3/15/11**

The Commissioners received the above referenced report, (H.I.).

**DENNIS HUSTED – REQUEST TO BE “CLERK OF THE WORKS” FOR CONSTRUCTION PROJECTS**

The Commissioners received a letter from Dennis Husted from Auburn, offering his services on any upcoming “Clerk of The Works” construction projects in Noble County, along with his resume, (H.I.). Dennis indicated that it would save the county a lot of the expense over having a Construction Management firm. No action taken.

**MINUTES APPROVED – 3/14/11**

After reviewing the minutes and making a correction, Jack moved to approve them as corrected. Dave seconded the motion and it carried, 3-0.

**SRI – COMMISSIONER’S SALE TO SELL TAX SALE CERTIFICATES FOR PROPERTIES NOT SOLD AT TAX SALE**

Joy read the proclamation aloud that needs to be approved so the Auditor can move forward with the Certificate Sale mentioned above. Joy said the properties we are talking about are little slivers at intersections, abandoned railroad rights-of-way and little things like that which are not of value to anyone. Joy asked Dennis to look over the proclamation and all of the associated paperwork before the Commissioners take any action.

After further discussion Joy asked the Auditor not to start the process because the proclamation has not been done yet.

**E-MAIL CORRESPONDENCE RE: LOGJAM REMOVAL FROM ELKHART RIVER**

The Commissioners received correspondence from Matt Showalter who is with Region III-A, with information about what will be needed to try to get financial help with the logjam removal from the Elkhart River, (H.I.).

**REGION III-A 2010 ANNUAL REPORT**

The Commissioners received the above referenced report, (H.I.).

**ADJOURNMENT**

This session of the Board of Commissioners of Noble County was at approximately 11:57 A.M. recessed from day to day until the 4<sup>th</sup> day of April 2011.

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Joy Y. LeCount, President

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Jack W. Herendeen, Vice President

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David J. Dolezal, Member

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