

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD FEBRUARY 10, 2014**

Comes now the hour of 8:30 A.M. on the 10th day of February, 2014, 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:

Gary Leatherman, President
David J. (Dave) Dolezal, Vice President
Chad Kline, Member

Also present were:

Marion S. Cavanaugh, Deputy Auditor
Dennis Graft, County Attorney
Bill Etzler
and Bob Braley & Scott Perry, News Media

MAINTENANCE - TRUCK REPAIRS

Phil Jacob, Head of Maintenance came before the Commissioners to get permission to have his truck repaired and he had a quote in the amount of \$1,608.97, (H.I.). He said he hasn't had any heat for about three weeks. Dave moved to approve the request to repair the 1998 Ford Ranger Truck as described in the amount above. Chad seconded the motion and it carried, 3-0.

SNOW BLOWER PROBLEMS

Phil told the Commissioners about some problems with the snow blower that goes on the tractor.

ASSESSOR – TRENDING BIDS

Kim Miller, Assessor came before the Commissioners with further information on the trending bids, which she supplied in a spread sheet, (H.I.). She said she had more information come in on Friday which she sent the Commissioners. Kim said she only did a little more back up checking, and her two choices would probably be Equi-Val Tax Solutions or Accurate Assessments. She said Accurate Assessments has worked in the county before and Equi-Val has never done trending, and that is the only question she would have of them. Dave asked if Tyler wouldn't have to complete the work for the price they bid. Chad said that is what he would think as long as there is communication for any type of overage. He said it sounded like there were communication issues. Kim said she didn't know what communication issues there were, plus they didn't finish the job that was in the specs to do. She said Sylvan Lake and US 6 should have been done the very first year and they never touched it and they told her they would work on it the next year. Kim said it is in the specs that they should be an Indiana based company, and Tyler is not. Chad said he has a problem that we put in the specs that they have to be Indiana based when they have worked for the county before. He said we are saying they were good enough before but they aren't good enough now. Kim said we have had issues with them and she

asked why you would want to hire someone back that you had issues with. She said they didn't fulfill the first contract and they came back for more money. Dave asked Kim what the quality of the work they did do was. Kim said they took all of the neighborhoods that were above 1 and brought them down to 1 and raised all of them that were below 1 up to 1 so it would work. Dave said that didn't mean anything to him and he asked Kim how she would rate them. She said she does not recommend them because they didn't do all of the work they were supposed to do. Dave asked if the one she was more comfortable with was Equi-Val. Kim said "No" and that she was more comfortable with Accurate Assessments who has worked in the county for over 20 years. Chad said there is a \$16,000.00 difference plus there is more money in the hearing prices. He said he can't justify being in favor of someone who would potentially cost us \$16,000.00 more. Chad said he understood that there were issues the last time, but we sat here and talked and he thought the biggest issues were in communication, where they thought there was supposed to be more work done and Kim said there wasn't. Kim told Dennis that two companies had already called and said that Tyler Tech is not Indiana based. Dennis said the Commissioners have the power to waive any requirements if they have a valid reason. Jackie asked if they have to be certified by the state. Kim said they do, and they are certified. Kim asked what would happen if the two companies that called challenge it. Dennis said it would go into court then, looking at not just that factor, but other factors. He said you award the bid to the lowest and most responsive bidder, so the Judge would make the determination. Dennis said usually most bids say the Commissioners have the right to reject any and all bids and to waive any and all things relative to the bid. Dave asked how much time it took her to fix what she said Tyler Tech did wrong, and the estimated cost. Kim said she didn't fix it. She said it was fixed by Bill from Accurate Assessments who did the trending last year. Kim said they had appeals because of it. Dennis said they were hired to finish the reassessment, not do the trending. Gary asked if Tyler Tech had done trending for any other counties. Kim said in 2013 they did Adams County and when she talked to Adams County their comment was that Tyler Tech claimed that they did 500 new construction permits in one week, and there is no way you can do that many in one week unless you have a lot of people out there. She said Adams County also said they still have appeals outstanding to be done. Kim said they did trending in Jay county in 2013. Gary asked if we have had any problems with Accurate Assessments. Kim said we have not. Gary asked how many times they had worked for the county. Kim said they have been in and out of the county for twenty years. She said her biggest question would be that last year Tyler bid \$57,000.00 for the exact same job and this year they bid \$31,350.00, and what would be the difference. When Dave asked, Kim said she didn't ask that question of Tyler Tech. After further discussion about what is to be done, completion dates, etc. Chad said his opinion is that we are supposed to be responsible to the taxpayers and he can't see spending \$16,000.00 more. Dave asked Dennis what he thought about what happened with Tyler. Dennis said it might be advantageous if the Commissioners are going to award the bid to Tyler, to bring them in prior to awarding it to them and make tell them we aren't expecting anything more, and if it gets to the point where they are going to charge us more, we need to know that immediately and we need to have a valid explanation of why it would exceed this. He said they need to be aware that we are not going to pay them one cent more than this and that there is no reason for them to go over. Dave asked Kim to ask Tyler Tech why there is \$26,000.00 difference between their bid last year and their bid this year. Kim said she would contact them and come back later after she talks to them.

HIGHWAY BUSINESS – MARK GOODRICH & ZACK SMITH

PAY LOADER

Mark said he rented a loader last week from McAllister's because they are having trouble with our John Deere loader. He said with the additional snow we got last week and the wind that is expected this week he would like permission to keep the loader for a month, which would be like paying three weeks rental to have it for a month. Mark said he wants to get some the intersections cut back so people can see to get in and out of them. Dave moved to approve the fee of \$8,600.00 to rent a pay loader from McAllister for a month. Chad seconded the motion and it carried, 3-0.

ACCIDENTS

Mark reported on two accidents that happened last week involving Highway Department vehicles, and he told about the damage to the vehicles.

BRIDGE #70 UPDATE

Zack said he talked to the consultant for Bridge #70 and they are about 75% complete with the plans, so everything should be on schedule for the bridge project.

2015 BRIDGE INSPECTIONS

Zack reported that he posted an RFP on INDOT's website last week for 2015 bridge inspection contracts, and the bids should be in by April 4th.

WALLACE ROAD COMPLAINT

Zack said they had another complaint on Wallace Road last week, and he has all of the documents showing that it is not a county maintained road. Zack said they have a file listing complaints that goes back to 1972 with them asking for the road to be county maintained. Chad said the road is nowhere close to being up to county standards. He said he thought the problem is that when people are buying the properties it is not being disclosed that it is not a road and is just an easement, and they don't realize it until after they have bought the property.

150 E - LPA FUNDS

Zack said he got a letter last week saying that the 150 E project was not selected for LPA Funds, (H.I.). He said he followed up with David Armstrong to see what we could do in the future, and his response on this specific road project was that he didn't see the traffic or truck percentage that they would need for economic development numbers, and with the current condition it just didn't score well. Zack said in the future we are going to put in mostly for bridges for the LPA Funds. He said they would use bridges with less than a 50 sufficiency rating. Zack said bridge numbers 24, 82 and 147 would meet the criteria of under 50, so in April he will submit multiple bridges under that rating. Zack said Bridge #147 would be about twice as expensive as the other two to replace because of its size.

RAILROAD BRIDGES

There was discussion about railroad bridges that are in poor shape and how to get the railroad to cooperate in getting them replaced. Zack said he would try to find a number for someone to talk to at the railroad. It was noted that the railroad probably wouldn't do anything until a bridge falls in and we have to close the road, and then they would probably just want the road to remain closed, which wouldn't be feasible. Chad said possibly we could tell them that if they replace a bridge we will replace one.

NEW VEHICLES

Zack said they have a fund request from CEDIT and he presented a list of prices showing the companies that had been contacted; the model of the vehicles; the cost of the vehicles; and the financing rates, (H.I.). Zack said the main reason for the push on the distributor is that on

roads like 150 that aren't going to go through funding, they are looking at doing an FDR Program which is going to be 20% of the cost of an INDOT funded road, and they really do need a new distributor to get the quality of the finished road they want. Chad asked if the distributor would be put on the existing truck. Mark said it would be. Dave asked if the trucks on the list are all four-wheel drive vehicles, and Zack said they are. He said they are waiting for some more numbers so we could potentially get some better prices. Zack said if we were to do everything it would be around \$195,000.00. He said if we want to stay with all Ford's we could buy them all locally. Gary asked if the local companies would take trade-ins. Zack is going to check on that. Dave asked what all is included in the cost of the distributor. Mark said it is everything but the truck. He said it would be the tank, pump, straight bars, all controls, and installation. Mark said to get it cleaned up, get the electronics checked out, and to get it re-calibrated it would be about \$17,000.00. Dennis asked how old the current one is and what it is worth. Mark said he thought it was a '91 and they offered \$10,000.00 for a trade-in. There was discussion about how long it would take to get the loader operable if we bought a new one. Chad asked Zack and Mark to find out the size of the tank they would put on, the cost to put it on our truck, etc. Chad asked if the trucks would have the plow set-ups where they would be ready to put the plows on. Zack said they would have. Zack will bring additional information he receives to the next meeting.

TAX SALE CERTIFICATES

Sheri Auld, Deputy Auditor in charge of the tax sale came before the Commissioners to continue the discussion on the properties that are eligible for the county to take through the Tax Sale Certificate process. Sheri reported that #27 had been paid in full, so it will come off the list, (H.I.). Dave asked about the property with the tower (#22). Sheri said the tower is assessed as personal property, but because there is a storage building on the ground where the tower sits, that building is assessed as real estate. She said the 50 year lease between Rodenbeck's and Empire Communications talks about the tower, its wiring and a storage building to house broadcasting equipment. Sheri said the personal property of the tower and all of the wiring is assessed to Artistic Media Radio and they are paying that. She said she talked to the man from Artistic Media and he understands now why one was assessed as personal property and the other is assessed as real estate, so he is going to go ahead and pay it.

Chad said Suzanne Handshoe (Kendallville Mayor) is working with Region 3A on two of the properties. He said he told her there is a petition process where they could get it without the Commissioners actually assuming the property.

Sheri said she has letters drafted for every adjoining property owner of all of the remaining parcels, and she needs to know which properties the Commissioners want removed from the list before she notifies them. Dennis asked if there are any properties that the Commissioners might want to take and then look at selling. He said some of them might have some kind of value. There was some discussion about possible properties that would be worth doing that for. Chad asked Sheri to send letters to surrounding owners with the exception of numbers 10, 19, 20, 21 and also 16 and 17. There was further discussion about lots 20 and 21 and someone who might be interested in them, and the possibility of removing penalties if they would be willing to pay just the taxes.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 9:44 A.M. and reconvened at approximately 10:00 A.M.

LEPC – APPROVAL TO SPEND OVER \$500.00

Present for this portion of the meeting was Gerald Sprague, Director of the LEPC and Judy Fox, Secretary of the LEPC. Gerald said they were here to get the approval to spend over \$500.00 on equipment for the Hazmat Team, (H.I.). Judy said they needed \$10,000.00 to pay for all of the equipment on the list for ten responders. She said they had \$5,000.00 in their line item and they got an additional for \$5,000.00. Dave asked where the equipment would be stored. Gerald said it would be stored at Kendallville with the Hazmat Team trailer. Judy said it would be in individual totes. Gerald said right now they have to sort through and find the size that fits them. Judy said the equipment will be purchased from Indiana Safety in Washington Indiana. Chad moved to approve the purchase. Dave seconded the motion and it carried, 3-0.

PROCLAMATIONS DECLARING & CANCELING LOCAL DISASTER EMERGENCY

The Commissioners signed the proclamation declaring a "Watch" local Travel Advisory which began on February 5, 2014 at 7:30 A.M. and the proclamation canceling the watch effective February 6, 2014 at 3:00 P.M., (H.I.).

ROGER DIEHM REAPPOINTED TO NOBLE COUNTY REDEVELOPMENT COMMISSION

The Commissioners received a letter from Attorney Steven C. Hagen indicating Roger Diehm would not be resigning from the Redevelopment Commission as had been indicated previously, and asking that the Commissioners reappoint Roger. Dave moved to reappoint him. Chad seconded the motion and it carried, 3-0.

TOWN OF ALBION INVOICE RE: LEACHATE DISPOSAL

The Commissioners received an invoice from the Town of Albion in the amount of \$120.00 for the disposal of 2000 gallons of leachate from the landfill, (H.I.).

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – FLOOD INSURANCE RATE MAP & FLOOD INSURANCE STUDY REPORT FOR NOBLE COUNTY

FEMA sent documentation of the above referenced map and study, and information on an appeal procedure for the community and for private persons prior to FEMA making the flood hazard determinations final, (H.I.).

CLERK'S REPORT – DECEMBER 2013

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

IDEM – CHAIN O'LAKES CORRECTIONAL FACILITY WASTEWATER LAGOON CLOSURE

IDEM notified the Commissioners that the Chain O'Lakes Correctional Facility had notified them about the above referenced closure and that they had reviewed the notification and

agree that they have completed removal of all remaining waste from the lagoon for closure, (H.I.). IDEM outlined some additional things that the Correctional Facility needs to complete.

WHAT'S NEW RV - DIRECTORY FOR RV INDUSTRY

The Commissioners received information from "What's New RV" about free directories they distribute at RV public shows across the nation to people looking for places to go with their RVs, (H.I.). The letter included information about how Noble County could be promoted in the directory and about a free link on their web page. Chad said he would pass the information on to the Visitor's Bureau. _

2013 YEAR-END REPORT FOR NOBLE COUNTY PLAN COMMISSION & BOARD OF ZONING APPEALS

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

MAXIMUS CONSULTING SERVICES, INC. - AGREEMENT RE: PROFESSIONAL CONSULTING SERVICES FOR SUPERIOR & CIRCUIT COURTS

The Commissioners received the above referenced agreement, (H.I.). Dennis said the Commissioners had approved an agreement with them for the Clerk's Office and the Judges are agreeable with it now too. Jackie said one of the Judges said it could possibly be \$40,000.00 - \$50,000.00 a year that could be brought in. Gary said the agreement is for 48 months to provide consulting services re: reimbursement of some Title IV-D expenditures. He said their fee is \$600.00 for each set of monthly billing statements that Maximus prepares to send to the state. Dennis said the agreement says that the \$600.00 fee per month is reimbursable at 66% from the state. Dave moved to approve the agreement. Chad seconded the motion and it carried, 3-0. When asked by Scott, Chad said the purpose of the agreement is to seek state reimbursement for time that the court staff spends related to child support.

CEDIT AMENDMENT RE: SPACE STUDY & HIGHWAY EQUIPMENT

Chad said if we are going to amend the CEDIT Plan he thought we should put the total amount of the space study in the CEDIT Plan instead of putting it in for each phase, then we wouldn't have to keep amending the plan. Chad moved to amend the CEDIT Plan in the amount of \$195,000 for highway equipment and in the amount of \$125,000.00 for a space study. Dave seconded the motion and it carried, 3-0.

PAYROLL APPROVAL FOR NEXT WEEK

Chad moved to allow Gary to approve payroll next week since the Commissioners won't be meeting. Dave seconded the motion and it carried, 3-0.

KIRK SICKAFOOSE – REZONING & UDO

Kirk said due to some things that have come to light in the UDO there is discussion about phasing Confined Feeding out of A-1 and only have it in A-3. He said he went to the Plan Commission to get a rezoning package and he was informed he needed a survey, which he doesn't have. Kirk said it is the county's decision to phase Confined Feeding out of A-1. He

asked since the county is changing the rules and are going to make them go to A-3 if it is his obligation to provide a full survey and incur that expense. Kirk said some in the county were put in A-3 using a broad stroke. He said they got missed when they did that and they got left in A-1 and they should be A-3 and should have been put in when the rest of them were. Chad said he believed that everyone that is A-3 currently, with the exception of 1 went through a rezoning to become A-3 which is what the previous UDO said they should be for Confined Feeding. He asked Kirk if he is Confined Feeding now and if he is regulated by IDEM. Kirk said he is not regulated by IDEM. He said KAFO, which used to be IDEM was 1000 head, but since then have come down. He said he has his manure program through the state but he is not technically currently a Confined Feeding Operation per the State of Indiana. Kirk said since the county issued him a building permit for another building already, you (county) will put him in Confined Feeding. Chad asked if they had applied to the State for Confined Feeding and Kirk said they had not. He said he had talked to someone in the county and asked what they did to get in A-3, and the person he talked to said when the (UDO) maps came out he was designated A-3. Chad said they probably met the requirements for Confined feeding under the old UDO and that is why they would have been changed when the new maps came out. Kirk said he had talked to past administrators from the county, and they were given a certain time limit when the maps were to be approved to go out and re-designate the zonings. He said there were no IDEM numbers, no applications and no surveys. There was discussion about the maps that were accepted when the new UDO was adopted and maps that had been drawn up since then. Kirk said at that time they were not talking about taking confined feeding out of A-1. He said from the time the maps left the Commissioners meeting in October and went back to the Plan Commission, someone has hung the Confined Feeding of A-1 with the maps, and two weeks ago at the Plan Commission he was told that was by default and was where it belonged. There was further discussion about changes in the maps and how the current maps came into being. Kirk asked again if he would have to supply a survey and bear that expense. He asked why a legal description used for the sale of real estate isn't good enough. Jackie said she didn't understand why he needs a survey. Chad said because that is what the UDO says. Gary said he could see that if they were splitting a parcel of land, but he doesn't understand why they would need a survey if they are rezoning the entire parcel. After further discussion, Chad said he would call and see about getting the Plan Commission agenda for next week amended, to include discussion about waiving the requirement for a survey. Dennis said he didn't think it was the intent to require a survey when rezoning a whole property.

MUNI CODE – ORDINANCE CODIFICATION

James Bonneville from Muni Code came to talk to the Commissioners about codification of the county's ordinances. He said they are the largest and the oldest codifier out there. James said they represent clients in every state in the nation and he mentioned several entities they work with here in Indiana, which included Kendallville. He said they will organize the ordinances and do a legal analysis of them. James said they will make sure the ordinances are in compliance and are not obsolete. James said they will look for duplicate ordinances; conflicting ordinances and sunset provisions. He said at the end they put together a brief which is a couple of pages of what they found along with some recommendations, and send it to the Commissioners for their review and in about a month they will have a sit-down meeting or a teleconference so the Commissioners can actually talk to the codification attorney. James said they have municipal attorneys that all they do is codification, and they have a great

understanding of what they are going after. He said they want to understand what the Commissioners vision is for the future of Noble County. James said after the meeting, they will make corrections to the book and send back a clean copy, plus a hyper link to their code on line, and they will send an adoptive ordinance to make it the official code of ordinances. He said they will show the Commissioners how to put it on line. Chad said in regards to the prices that were sent, for the full re-codification it said the base cost is \$10,450.00. James said that could be broken into two years so it becomes more cost friendly to the county. Chad said he didn't understand why there was a minimal cost difference between just having everything we currently have placed on line and in doing the re-codification. He said it was \$8,450.00 for just the publication fee cost to put the current ordinances on line. James said a lot of it has to do with the editorial time that goes into it. There was discussion about how the ordinances are re-typed and reviewed at Muni Code to make sure they are accurate. Dave asked if there is an annual fee for the hyper link. James said it is free the first year and then it is \$500.00 a year after that. He said it is mobile friendly. Jackie asked if they departmentalize the ordinances. She said the Sheriff's Deputies would like to have the speed limits but they don't care about re-zonings. James said they would group them when they do the organization, and put them in specific spots. He said they are only going to care about speed enforcement, which could be a subsection of traffic, which they could have bookmarked in their cars. Chad said our UDO just went into effect January 1, 2013 and he said it would probably not need a legal analysis. James said with the UDO one thing they would look at would be if there is any portion of the zoning ordinance that affects any other parts of the code, to make sure the sections are in compliance with each other and there are no conflicts in ordinances, which is a big problem. Chad asked what the potential added costs would be for the re-codification. James said the one thing to look at is if the county would get additional books. He said with the more books you get, the one thing they have been finding is that people don't update all of their books. Jackie asked if the books are updated once a year or as they happen. James said that would be up to the county how they want it done. He said they could do it once a month; once every two months; twice a year, etc. Dave asked if the ordinance update fees are separate from the hyperlink and if there is a charge for that. James said they are. He said it would be an additional \$18.00 per page. James said it is only for the ordinances that the county passes which in a county the size of Noble County is normally ten to fifteen a year. Jackie asked if this is only for ordinances and not resolutions. James said they could do something separate with the resolutions that is called Muni Docs, which is a search capability built within the code on line, so the resolutions would be searchable, could be emailed, etc. He said that is something that could be added on at any given time. Dave asked Dennis if he had ever had an occasion to use the system in Kendallville. Dennis said he had and he was amazed that the county had never done it. He said here you have to go through the index and if something isn't indexed or is indexed incorrectly you can't find it. There was discussion about how far back the county would want to go with the ordinances. Dennis said wherever you start, you are basically rescinding everything prior to that. James said they have dual data centers, so if one data center goes down because of a national disaster everything goes over to the other one, so no matter what happens you are always up on line. Chad asked if the \$10,450.00 would be split in half or if money would be required at the end of each phase. James said they work with the counties on that. Jackie asked from a budget standpoint what the yearly cost would be once the process is completed. James said it would be about \$2,000.00 - \$2,500.00 a year for supplementation, which includes the \$500.00 for the code on-line. Chad said in talking to the deputies their question is how long this will take. James said it will be 6 - 12 months. Dave

asked if the Council would have to approve this. Jackie said they would have to approve the additional and from that point on it could be budgeted. No action taken. Waiting on approval of additional.

ASSESSOR - TRENDING BIDS CONTINUED

Kim said she emailed Blaine and after not hearing from him she called him. She said in the mean time she was looking at the contract from the last time (Tyler Communications worked for her) because Chad had mentioned communication had been a problem. Kim said the contract states that they were supposed to do Rome City, Sylvan Lake, and some of the mobile homes but yet they turned around and billed us extra days. She said she agrees with Dennis that they should be told that they can't come back and ask for more money, and they have to do what they say they will do in their contract. Kim said there are too many things that she still questions about the company. She said it is the Commissioners decision, and she would still recommend the other two companies, but she understands about going with the lowest price. A special meeting is scheduled for February 13, 2014 @ 2:30 P.M. to meet with Tyler Technology to discuss the concerns.

JERRY FROST, FROST ENGINEERING - INTRODUCTION

Jerry Frost came before the Commissioners to introduce himself and his company. He said Frost Engineering is pre-qualified by INDOT, they are close by, and they have done bridge work in the past for the county. Jerry said he knows Zack Smith the Highway Engineer and he thinks very highly of him. He said he thinks he is very thorough and he will do a good job. Jerry said they do a couple of things differently regarding bridge inspections. He said they have a technician with a back pack blower, and they clean off some of the decks and bearing areas to try to get a little better look at some of the things. Jerry said they also have a deck brush to get some of the debris off, and they believe that if you can't see it how can you inspect it. Jerry said back in '05 he wrote an article about pre-stress concrete box beams which are typically shorter structures. He said there are signs in these structures that give you roughly a five year window. Jerry said once you see shadowing, you have about five years to get a new bridge in there. He said he thinks that is where they are a little different. Jerry said the county also has some complicated structures in regards to the trusses over the railroads, and typically railroads are hard to deal with. Dave asked what bridges they dealt with. Jerry said they were involved with the bridge inspection effort.

JACK & CHERYL WONDERLY - FINDINGS, NOTICE AND ORDER RE: UNSAFE BUILDING AT SILVER LAKE

Gary signed the above referenced order which had been approved previously, (H.I.).

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 11:42 A.M. recessed from day to day until the 13th day of February, 2014 @ 2:30 P.M.

Gary Leatherman, President

David J. Dolezal, Vice President

Chad Kline, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor