

**MINUTES OF A SPECIAL SESSION OF THE  
BOARD OF COMMISSIONERS HELD SEPTEMBER 16, 2013**

Comes now the hour of 8:34 A.M. on the 16<sup>th</sup> day of September, 2013, 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  
and Scott Perry & Bob Braley, News Media

**PAYROLL APPROVED**

After reviewing the payroll from 8/23/13 – 9/05/13 to be paid 9/19/13 Dave moved to approve it. Chad seconded the motion and it carried, 3-0.

**CLAIMS TO BE PAID TODAY'S DATE APPROVED**

After reviewing the claims to be paid today's date, Chad moved to approve them. Dave seconded the motion and it carried, 3-0.

**TREASURER'S MONTHLY REPORT – AUGUST 2013**

The Treasurer's monthly report for August 2013 was submitted to the Commissioners, (H.I.).

**IDEM – EUGENE & ANNA TROYER - REQUEST  
FOR PERMIT APPROVAL FOR CFO EXPANSION**

The Commissioners received information from INDOT regarding a Confined Feeding Operation expansion permit request they received from Eugene and Anna Troyer, (H.I.).

**MINUTES APPROVED**

After reviewing the minutes of the *September 9, 2013* minutes Chad moved to approve them. Dave seconded the motion and it carried, 3-0. Dave then moved to approve the minutes of the *July 15, 2013 executive session*. Chad seconded the motion and it carried, 3-0.

**REPLACEMENT FOR RETIRING CUSTODIAN  
& DISCUSSION RE: PART TIME CLEANING**

Gary said the Commissioners should discuss what they are going to do about replacing Al. Dave said based on what Auditor Jackie Knafel told the Commissioners last week about

paying overtime, he thought the Commissioners should do whatever is most cost effective. He said there was a suggestion for a permanent part-time person that would have continuity of the job and eliminate the overtime. Jackie said for 28 hours Barb Yates is cleaning the South Complex and the Weber Road Annex. She said Al cleans the Courthouse, the Prosecutor's Office, and the Public Defender's Office. Jackie said it is the Highway Department, the Sheriff's Department and Court Services that have the full time people cleaning after hours. She said that is not a problem as long as they keep their time under 2 ½ hours a week. Chad said he thought that would be an issue at the Highway Department when winter gets here. Jackie said she didn't know if we have enough work to entice a part time person to come in and clean those three locations on a full time basis or if we should just say that the regular employees can't go over 2 ½ hours per week when cleaning. Dave said he didn't think that would work at the Highway Department.

Chad asked Jackie if she could find out what we are paying for just the Highway Department, Sheriff's Department, and Court Services. He said he doesn't want to hire a permanent part-time person and pay more than what we are paying now. Jackie told the Commissioners the part time people can be paid from \$9.00 an hour to \$12.00 an hour. She gave the figures for what has been paid to the part time cleaning people so far this year.

After further discussion, Chad moved to advertise internally for a replacement for Al Engle, (the custodian that is retiring), upon Council's Approval. Dave seconded the motion and it carried, 3-0. Dennis said the Council had said they don't need to approve for the replacement of a position that is already funded and in existence. Chad moved to remove the need for the Council's approval from his motion. Dave seconded the motion and it carried, 3-0. The Commissioners will talk to the Council about hiring another permanent part time person for cleaning the other offices.

### **HIGHWAY BUSINESS – MIKE FITCH, ENGINEER & MARK GOODRICH, HIGHWAY SUPERINTENDENT** **UTILITY PERMITS**

Mark presented Permit #UP-049-13 from Frontier Communications for work on E Baseline Road between SR 9 and S CR 75 E at the Jerry Crim residence and #UP-050-13 from Northern Indiana Public Service Company for work on CR 1000 E and E Waits Road going west and south from the intersection of CR 1000 E and Waits Road in Allen Township, (H.I.).

### **REJUVTEC - ASPHALT REJUVENATOR**

Mark said Rex Hodges from RejuvTec sent a DVD if anyone is interested in watching it. He said there is also a 5 minute video on YouTube. Mark said Rex will be up here on Wednesday, but they will start spraying Tuesday in Auburn and possibly they could go over and talk to them on Tuesday as well.

### **TRUCK UPDATE**

Mark reported that the hydraulic pump for truck #11 has been repaired at a cost of slightly under \$1800.00 for it to be rebuilt. He said truck #9 was down but it looks like they have the problems taken care of it. Mark said they replaced some return lines on it.

### **CR 415 ROAD WORK & DRIVEWAY DISCUSSION**

Mark reported that there is a landowner (Gerald Ross) on CR 415 that is unhappy with the work that the Highway Department did on that road, and he presented some maps so he could explain what is going on, (H.I.). He said she wasn't able to come today. Mark showed where their drive is currently and that there is a post there. He said they put the culvert in just behind

the post and then dug a ditch to a culvert on the next drive. Mark said she is one of the people that he talked to the longest when he went out and delivered the letters to let people know what was going to be done. He said he told her they would put a culvert in there and there was a good chance they would have to cut a ditch as well. Mark said the original driveway permit called for a culvert and they didn't put one in, and the drawing had them coming straight out with their driveway rather than having an angle in there. He said had they come straight out they would have plenty of room to get around the pole and onto their property. Mark said the issue they have now is that they have horses and horse trailers coming in and out and they get hay in large quantities and often times have it delivered with a trailer. He said they can't make that bend coming off of 1000 E to get in their drive and back to their house. Mark said she said they drive through their yard to get in there, and he doesn't know why she didn't tell him that when he talked to her. He said they want us to put a culvert in or put her yard back to its original state. Mark said he told her we aren't going to pay for another culvert. He said he told her he wasn't going to change anything unless the Commissioners tell him to. Dave asked if we are within our right-of-way. Mark said we are well within our right-of-way. Chad said he thought based on the fact that their driveway wasn't installed the way the permit said it was supposed to be installed, that is on them. He said if they want to add another access to their driveway they could put a culvert in at their expense. Mark showed the original driveway permit which showed the original drawing coming straight out. He said if the jog wasn't in there they wouldn't have a problem. Mike said they either have to accept the driveway they have now, or move the driveway because they can't have two driveways. He said we don't want any more frontage access to our roads than necessary. There was discussion that it might be cheaper for them (Ross) to request to have the pole moved than to put in a new driveway. Mark said she wants us to fill in the ditch or put in a culvert so they can get through the yard to get into their drive. Mike said they have an option to extend their driveway to the west and widen it so they could make the turn. He said they would have to put in a culvert extension and widen their driveway, and it would be at their expense. Chad asked if they could attach to the existing pipe or if they would have to pull the current pipe and put in a larger one. Mark said they could attach to the current pipe.

There was discussion about the need to do inspections after new driveways are put in to make sure they are put in correctly, and that the property owners are supposed to call and let the Highway Department know when the driveway is in, but most of them don't. Mark said Charisse is working on making a list of driveways that need to be re-inspected. He said the Building Department lets us know when they have done their final inspections on projects, and Charisse makes the list. Mike said we have to assign the responsibility to one person to follow up on the driveways.

Mark said he would call Mrs. Ross and tell her what her options are.

#### **POND ON STRATER ROAD**

There was much discussion about a pond that is being put in on Strater Road. Mark said the dike is coming right up toward the edge of the road. He said dirt on the slope may have encroached on our right-of-way by a foot and a half. Mike asked if the Surveyor is aware of it. Mark said the Surveyor called him yesterday about it. Mike said they have a pond ordinance with a required set-back. Dave said he is going to have to raise his driveway and he thought that was going to be a problem with the neighbors. Mark said the pond is primarily for Randy Sexton, Noble County Surveyor to deal with.

## **FRONTIER – NOTICE OF CLAIM**

Frontier submitted a "notice of claim" regarding damage done to one of their pedestals while someone from the Highway Department was mowing, (H.I.). Mark said the weeds are 4-5 feet tall and the phone boxes are 2-3 feet high. He said we are trying to cut the weeds back to get the site distance we need (at intersections). Mark said he didn't think we should have any liability if they can't put some kind of marker post or clean around the phone boxes to where they are visible to us when we are trying to maintain the right-of-way. Chad said we would have given them permission to put them in our right-of-way and he asked if there is anything in place right now that says they have to mark them. Mike said most of the boxes are green, which he didn't understand. Mark said anything they could do to mark the boxes would be good. He said he thinks it is a privilege for them to be able to put stuff on our right-of-way and he didn't know why we should be responsible. Chad said we should probably require that in the permits from now on. Dennis said we should let them know what needs to be done in the future or we would not be paying any claims unless they are marked and visible to us. Chad said we could even put something in there that would require them to go back and mark the boxes now. Mike said he thought the permit requires them to put the boxes to the back of our right-of-way as far back as possible. He said it shouldn't be half way between our road edge and right-of-way. Mike said we typically don't mow clear back to the back of the right-of-way line. He said he thought we should require them to mark the boxes with a stake or a pole or something 5 feet high. Mike said it is impossible for the people mowing to see something green in grass that is 4 feet tall. Dave said he thought Mark should try to get in touch with Frontier's contact person and let them know that if they are in our right-of-way they need to make the boxes visible up to a certain height, because we have to do maintenance in there.

## **MEADOW LANES SECTION V ROAD MAINTENANCE**

Mark said someone from Meadow Lanes Section V called last winter and asked that we start plowing the roads. He said they did research and found that the roads had been accepted into the county highway's system in 2007 and he didn't know how that got lost. Mark said he told the people that we would start maintaining the road. There was discussion that the developer had a deed to deed the right-of-way to the county but never recorded it. Chad looked on the GIS and found that the landowner, BDM Development LLC still shows the road (Fred's Court) in their name. Mark said Sexton's is working on a deed for it.

Mike said when a developer comes in with a new plat and the Plan Commission approves it, before they make final approval they have to have the plat legally recorded and the developer would then develop construction plans. He said then we would go out and inspect the site as it is constructed.

## **PROPOSED SPEED LIMIT IN SCHOOL ZONE AT WEST WALDRON LAKE SCHOOL IN ELKHART TOWNSHIP**

Mike said there was a new school built on CR 1050 N which is the West Waldron Lake School. He said Gerald Bontrager applied for a driveway permit in July, and at that time he had asked about getting a school zone sign and somehow it got sidetracked and he called again last week. Mike presented an ordinance he had prepared to address that, (H.I.). He said the speed limit would be 20 MPH when children are present. Dave moved to advertise for the ordinance to regulate the speed of traffic in a school zone in Elkhart Township, CR 1050 N and the intersection of 250 W. Chad seconded the motion and it carried, 3-0.

## **CONSTRUCTION STANDARDS**

Mike presented some additional information regarding driveways which will be added to the Construction Standards he is working on, (H.I.). He asked that the Commissioners and Dennis review it and see if there is anything they would like to have changed. Mike said he added a paragraph to what is in the UDO because there shouldn't be more than one driveway entrance on a property without having a request showing the reasons why it is needed.

## **PHASE II STRIPING**

Mike said he will get with Mark and finalize the list of roads this week, and he will be sending it out for quotes to stripe the chip and seal roads we have completed this summer, plus a few others.

## **EARTH SOURCE - 1000 E PROJECT MITIGATION**

Mike said he got an e-mail from Tim Skiver who works for Earth Source. Mike said Earth Source is doing the mitigation inspection on the 1000 E mitigation site. He said this is the final inspection. Mike said Tim said there is an issue with the number of trees that are growing, and they are going to meet tomorrow at 11:00 at the Highway Department to go look at the site. He said Tim thinks we will need to plant more trees to get the Corps to sign off. Mike said there is a meeting at the mitigation site Thursday with the Corps of Engineers.

Mike said if there are additional costs involved to get this done he will get with INDOT to see if there is any money available.

## **RECESSED AND RECONVENED**

The Commissioners recessed their meeting at approximately 10:15 A.M. and reconvened at approximately 10:31 A.M.

## **LEPC HAZARDOUS MATERIALS GRANT**

Judy Fox came before the Commissioners to talk about a \$15,135.00 LEPC Hazardous Materials Grant they had applied for, (H.I.). Judy said it is an 80/20 grant which means we get 80% back and we only have to pay 20%. Judy said there are three projects within the grant. She said one is to purchase personal protective equipment and a tote for each Hazmat Tech. Judy said there are 10 techs so they have ordered 10 of them. She said for next year's IERC conference five emergency responders are eligible to go and the secretary attends the updates and training for the CAMEO program and would need an overnight stay. Judy said the third thing would be for a lap top and a multi function printer for administrative uses. She said the grant has not been approved yet. She said they have over \$30,000.00 on their cash page so they will be ok for the 20%

Chad said there is a paper that the Commissioners and Council have to sign when offices apply for grants. Judy said she would get the form and get it up here.

Dave asked who has control of the lap top. Judy said right now she has it. She said that is what she uses at the EMA and LEPC (meetings).

Chad moved to approve the grant request for the LEPC for five members of the LEPC and the secretary to attend a 2014 IERC Conference, for the purchase of hazmat and personal protection equipment and protective totes and the laptop, car charger, printer/scanner/copier. Dave seconded the motion and it carried, 3-0.

**BOARD OF HEALTH APPOINTMENT  
TO REPLACE REX STANGLAND**

Dr. Gaff, Health Department Officer and Linda Gray, secretary came before the board to see about an appointment to the Health Board to replace the position left vacant with the death of Rex Stangland. Dr. Gaff said he had a nomination for the Board of Health for Mike Jones who was suggested by Mr. Holbrook of the Noble County Democratic Party. He said he would be filling the term of Rex Stangland who recently passed away, and it would run through the end of 2014, (H.I.). The Commissioners asked if Mike is willing to serve. Dr. Gaff said he is and he communicated with him to make sure he understands what the requirements would be.

Chad moved to approve the appointment of Michael Jones to the Health Board from October 1, 2013 ending December 31, 2014 to fulfill the unexpired term of Rex Stangland. Dave seconded the motion and it carried, 3-0.

**MAUMEE RIVER BASIN COMMISSION (MRBC) -  
50/50 COST SHARE AGREEMENT RE: NOBLE  
COUNTY FOOTPRINT PICTOMETRY PROJECT**

Steve Hook, GIS Coordinator came before the Commissioners to talk to them about the above referenced agreement, (H.I.). He said the MRBC has agreed to provide the 50/50 cost share for the building outlines, and their share would be \$13,039.85. Since the Commissioners had approved this subject to the MRBC's approval, they signed the agreement.

**HOUSE ENROLLED ACT #1219 RE: RESTRICTIONS  
FOR DISCLOSURE OF CERTAIN ADDRESSES**

Present for this portion of the meeting were Steve Hook, GIS Coordinator and Dave Baum, IT.

Steve said he had a request from Chad Willett (Chief Sheriff's Deputy) about three weeks ago. He said they had a meeting with some law enforcement officers and agreed to sign a letter. Steve said he hasn't received a letter yet. He said he told Chad that he would have to approach the Commissioners and right now we don't have a policy in place to handle the situations in the law. Steve said he assumed we would need an ordinance if the Commissioners decide it is in the best interest of the county to move forward with it (restriction of disclosure of home addresses for certain persons). He said he has already talked to Steuben, Allen, and Hamilton Counties and they have all looked at this law and have opted out of doing anything. Steve said the Beacon site is just one site out of many, many different sites on the internet where you can find this information. He said if we block Beacon, it doesn't control all of the other information that is out there.

Dave Baum said when this bill was up for debate, probably a dozen IT Directors in the state had a conversation about this and there was actually some attempt to try to get some testimony in front of the legislature about it. He said there are about 100 questions that are opened up when you say you are going to do this, and none of them were addressed by the Legislature. Dave Baum said his opinion is that it is a knee jerk reaction to somebody who thought they were going to get something that they weren't going to get, and they did not evaluate all of the ramifications. He said some of the issues are what happens when someone is no longer with law enforcement or are no longer on a victims list or whatever. Dave Baum asked when that information gets reinstated on the web site. Dave Dolezal asked what information this would restrict. Dave Baum said it restricts addresses and names. He said anyone who wants that information can walk into an office up here and get that information any

time they want, because it is only on a public internet database that we control that they can't get it. Dave said his favorite example is the State Sales Disclosure Forms for real estate is not on the list, but the same information is on them. He said it would put a burden on whoever was going to do it to say if a request is allowable, and if so who would monitor it to see when it was no longer allowable. Dave Baum said it would become a nightmare for us, and his recommendation would be that we take the lead of the other counties and say we are not going to implement this policy, unless someone can make a really strong case for us to do it.

Chad said he didn't know how a law enforcement officer who parks their vehicle in their driveway would keep their address and where they live confidential. He said we could get a list every day for people who are victims of domestic violence. Chad said he thought that maybe now isn't the time and we should wait and let the state make changes to it that are needed after people start talking about it. Dave Baum said some states are talking about taking all of the owner's information off of the properties on GIS. Dave Dolezal and Chad said they didn't want to do that. Dave Baum said they put the burden on the counties, because it says the counties "may establish" this.

Dave Dolezal asked if there would be a cost for the redaction. Dave Baum said there would be. Dave Dolezal said that cost should be put back on the person that makes the request if this becomes mandated.

Gary said he could understand people's concerns, but after 36 years as a law enforcement officer he never had a problem with people knowing where he lived. He said if they want to find you, they are going to find you.

#### **SCHNEIDER CORP. – REQUESTS FOR REAL ESTATE AND GIS DATA**

Steve said he received a letter from Schneider, and at a user's conference they talked about requests from clients in Iowa wanting to get all of their GIS data. He said they wanted to bring that to their Indiana clients. Steve said if we are asked for GIS data and want to make that available, Schneider listed 3 options that we could work with. Steve said he has not had a request in the 10 years he has been here where someone had come and said they wanted all of our GIS data. He said that would include potentially up to 218 layers, and it would cost about \$2,500.00 just for one layer county wide. Chad said so we already have an avenue in place to charge if they come to him and ask for it. Steve said we do.

Dave said that could be a profit center for Schneider. After further discussion, Dave said he would be in favor of keeping it the way it is and if someone requests it we could work something out. He asked who the customers were in Iowa that requested that information and for what purpose. Steve said he really didn't know. He said the main requests he gets are for parcel boundaries, road center lines, and maybe even address points.

Chad agreed that he thought we should keep it in-house the way it is now so we can monitor it. Steve said that would be his recommendation.

#### **EXPENSE OVER \$500.00 - INMATE MATTRESS COVERS**

The Commissioners received a request from Sheriff Doug Harp to purchase 150 vinyl mattress covers at an expense of \$13.60 each for a total of \$2,040.00, including freight charges. Chad moved to approve the request. Dave seconded the motion and it carried, 3-0.

**ADJOURNMENT**

This session of the Board of Commissioners of Noble County was at approximately 11:19 A.M. recessed from day to day until the 23<sup>rd</sup> day of September, 2013.

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Gary Leatherman, President

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David J. Dolezal, Vice President

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Chad Kline, Member

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