

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD JULY 23, 2012**

Comes now the hour of 8:33 A.M. on the 23rd day of July, 2012, 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
David J. (Dave) Dolezal, Vice President
Jack W. Herendeen, Member

Also present were:

Marion S. Cavanaugh, Deputy Auditor
Dennis Graft, County Attorney
Alan Freels, Public – until after landfill discussion
and Scott Perry, News Media

NEXUS – HELD CLAIM

Joy reported that the Commissioners have a claim that they have been holding for Nexus, the company that is doing reassessment for the Assessor, and Nexus has not been doing any work because of the claim we are holding for them. She said the hearing is Wednesday. Dave asked what the amount of the claim was. Joy said it was \$261,000.00. When asked by Dave, Joy said according to what they have said they are 89% done with their work. She said once we pay what their claim was for, we would only owe them about 10% of their total fees. Dave asked if Nexus knows there is going to be a 10% penalty. Joy said there is a penalty going back to February 1st. Dennis said it would be \$100.00 a day. Joy said that would be for working days only. There was discussion about the payments that have been made to Nexus already. Dennis said if we pay them the \$261,000.00 we would still owe them \$68,380.00. Joy said they would owe us about \$10,000.00 of that which would only leave us about \$58,000.00 leverage.

After further discussion it was decided to hold off on paying Nexus anything until after the hearing.

PAYROLL TO BE PAID JULY 26, 2012 APPROVED

After reviewing the payroll from 6/29/12 – 7/12/12 Dave moved to approve it. Jack seconded the motion and it carried, 3-0.

CLERK'S REPORT – JUNE 2012

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

TREASURER'S REPORT – JUNE 2012

The Commissioners received the Treasurer's report for June 2012, (H.I.).

WEIGHTS & MEASURES REPORT – 6/15/12 – 7/15/12

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

HUMANE SOCIETY REPORT – JUNE 2012

The Commissioners received a report from the Humane Society for June 2012, (H.I.).

CONFLICT OF INTEREST DISCLOSURE – PAT VOORS, CROMWELL LIBRARY BOARD MEMBER

The Commissioners received the above referenced disclosure, showing that Pat Voors, who is on the Cromwell Library Board is part owner of Voors Appliance, Heating & Cooling, Inc. and because of the close proximity to the library, the library is considering doing business with Voors, (H.I.). Jack moved to approve the disclosure. Dave seconded the motion and it carried, 3-0.

AGREEMENT WITH CORRIE SILCOX TO BE EMERGENCY PREPAREDNESS GRANT COORDINATOR

Cheryl Munson, Nurse at the Health Department presented the above referenced agreement for the Commissioners review and approval, (H.I.). She said we have had the agreement for the past two years. Joy asked if the contract is the same as it was last year. Cheryl said the hourly wage has not changed, but this year we are going to get an additional \$10,000.00. She said Corrie may have more billable hours because there will be more to do in attachment A. Joy asked where the funds would come from. Cheryl said it would come from the Bio-Terrorism grant. Joy asked if she had done satisfactory work. Cheryl said she is awesome. Mick Newton, EMA Director said she is really helpful and has brought things around. Cheryl said we couldn't participate in the grant if we didn't have Corrie, because she couldn't handle it herself.

Dave moved to approve the agreement. Jack seconded the motion and it carried, 3-0.

INDIANA IMMUNIZATION COALITION BILLING PILOT PROJECT

Cheryl Munson presented a letter from the Indiana State Department of Health regarding the above project, (H.I.). She said she will need some information from the Commissioners as stated in the letter.

BURN BAN STATUS

Mick Newton EMA Director and Teresa Griffiths, Deputy EMA Director came before the Commissioners to discuss the status of the burn ban. Mick said he had talked to Fire Chiefs

Mike Rhiem, Tim Lock and Jeremy Weaver this morning, and they all recommend that the burn ban stay in place because they didn't think there had been enough rain to significantly affect anything. Mick said that is his recommendation also.

Mick passed out some literature about the number of fires there were from July 16th – July 23rd, (H.I.). He said there were six grass fires last week and there were five calls about burning in violation of the ban.

Mick said there is still an issue of how the ban is enforceable, and he presented some information on what Whitley County is doing, (H.I.). He said their Prosecutor's Office had researched it and found that it is a class B misdemeanor. Mick said he sent a copy of the letter to Steve Clouse, Noble County Prosecutor. He said Sheriff Doug Harp had talked to the Prosecutor but he is not sure where the conversation ended up.

It was determined that the burn ban would stay in place for now.

CPI SUPPLY

Bill McCormick, Sales Representative from CPI Supply came before the Commissioners to introduce himself and to present them with a brochure outlining some of their services (none for file). He said they offer engineered projects and they work with Mark and John at the Highway Department.

FINDINGS, NOTICE & ORDER RE: UNSAFE BUILDING AT BEAR LAKE – RANDY TUCKER & SHERRY BATES

Joy read the order aloud which stated that Randy should be fined \$800.00 due to his willful failure to remove the debris from an unsafe building which he had demolished, and additionally should pay attorney fees and other costs including removal of the materials, (H.I.). This was supposed to have been done by June 1, 2012. The findings also stated that if the fine and other costs aren't paid in a timely manner the sum total may be recorded as a lien against the real property as a special assessment as indicated in IC 36-7-9-13.5.

Dave moved to approve the findings. Jack seconded the motion and it carried, 3-0.

FINDINGS OF ORDER RE: UNSAFE BUILDING (AT WALDRON LAKE) – MICHAEL & DONNA MIDDLETON

Joy read the order aloud which stated that Michael and Donna Middleton had demolished the unsafe building which they acknowledged was unsafe, and that they had requested additional time to remove the materials, (H.I.). The findings also indicate that the Middleton's should reimburse Noble County for various costs and time spent by the Noble County Building Department including attorney fees, and that they face a possible fine of up to \$5,000.00 and the costs of removal if they fail to have all materials removed by September 4, 2012 by 10:30 A.M.

Jack moved to approve the findings. Dave seconded the motion and it carried, 3-0.

BIDS FOR PAVING AT THE SOUTH COMPLEX

Joy said the Commissioners had received an e-mail from Mike Fitch, Highway Engineer who reported that he had reviewed all of the bids and found that all bidders had bid on the same thing and he recommended the bid be awarded to API.

Jack moved to approve the bid from API. Dave seconded the motion and it carried, 3-0.

LANDFILL DISCUSSION

Alan Freels, who does work at the Landfill for the county said we don't need to mow at the landfill. He said he would like to take the work crew out there to knock off the high spots.

There was discussion about a pump at the landfill that had been acting up. Alan said it is working now, but he could take it apart to see if it is filled with sand. He asked if the Commissioners had heard anything from IDEM. Joy said the only thing we have to do is the semi-annual inspection, and the Commissioners will be out there to do that Monday afternoon.

CLEAN UP OF 4-H FAIRGROUNDS

Alan Freels told the Commissioners he would like to have the use of one of the Chain O'Lakes Camp Crews for cleanup of the fairgrounds after the 4-H fair is over and all of the equipment is moved out.

Jack moved to approve the use of a work crew for one day. Dave seconded the motion and it carried, 3-0. Alan said Wednesday would probably be a good time to do it.

The Commissioners told Alan to coordinate that with Mark at the Highway Department.

MINUTES APPROVED

After reviewing the minutes of the *July 16, 2012* meeting and making corrections, Dave moved to approve them as corrected. Jack seconded the motion and it carried, 3-0.

RECESSED & RECONVENED

The Commissioners recessed their meeting at approximately 9:27 A.M. and reconvened at approximately 9:35 A.M.

HIGHWAY BUSINESS – MARK GOODRICH & MIKE FITCH

CHAIN O'LAKES CAMP WORK CREW

Joy told Mark that Alan Freels had asked to use the Camp Crew for a day and Alan is going to coordinate that with him.

MOWING AT LANDFILL

Jack asked Mark to have the guys mow clear back to the fence at the landfill along the road.

#23 DISTRIBUTOR - EXPENSE OVER \$500.00

Mark reported that the #23 distributor is back up. He said Doug is going to check it out today to make sure everything is ok. Mark said they purchased a valve at a cost of \$1200.00.

Jack moved to approve the expense. Dave seconded the motion and it carried, 3-0.

FILL ON CR 600 E, NORTH OF CR 600 S

Mark said while the distributor was down they got the fill put in on CR 600 E just north of CR 600 S. He said it was so dry when they put it down but the rain will soften it up a little. Mark said Paul is going to check it again today. He said it needs to get soaked so they can get it compacted.

Jack asked if they put shoulders on it. Mark said they did. He said it is wide enough that they will probably have a foot to a foot and a half of shoulders.

GRAVEL ROAD GRADING

Mark said they got the worst of the gravel roads ground while it was wet. He said with the rain today they might be able to get the rest of them done.

POST DRIVER

Mark said they purchased a post driver and Wayne had it out Friday. He said Wayne is not impressed with it at all. Mark said Wayne told him it took him 45 minutes to drive two posts, when typically he could do three of them in about half an hour. He said it got hot on him twice and shut down so he had to let it cool off, and the housing got so hot he couldn't touch it with his bare hands.

Mark said another issue he had with it was that the other one had a way to keep the posts from turning if it hits rock, and this one doesn't have that.

Joy said to have him try it a couple of more times and if it isn't satisfactory we will take it back. Mark said he would also try it himself.

TRUCK #14

Mark reported that truck #14 was running but now it has an oil leak. He said when the mechanics removed the oil pan to repair the leak they found antifreeze dripping down inside a cylinder wall. Mark said they are checking with Cummins for advice on how to determine the cause. Mark said the truck is still down and he didn't know for how long.

RAILROAD CROSSINGS

Joy asked if the railroad crossings are open. Mark said he hadn't checked on them but he would today.

FEDERAL HIGHWAY PROJECTS

Mike said he updated the spread sheet for local funding needs for road and bridge projects, (H.I.). He reviewed the spread sheet with the Commissioners.

Mike said there are four bridges in the inventory that are identified as needing repairs. He said they are bridge numbers 55, 69, 80 and 73. Mike said the average of the repairs for all four of them would be around \$80,000.00 each.

BRIDGES

Mike said based on our budget, we could probably replace a bridge every other year. Mike said he thought we should get bridge #12 and some of the other bridges done, because with the next bridge report they will probably be adding some bridges for

replacement. He said after we do bridge #12, we have bridges #135 and #136, which are railroad bridges. Mike said it will depend on what happens with bridge #134 whether they will be in the mix or not.

STRIPING AT RAILROAD CROSSINGS

Mike reported that the state hadn't made any decisions on the applications for striping at railroad crossings and that they would hopefully be making a decision soon. He said it would be \$5500.00 and it would pay for the paint.

SPEED LIMIT REDUCTION REQUEST – CR 600 S/CR 600 W

Mike said the Highway Department received a request to reduce the speed limit on CR 600 S/CR 600 W around the east side of Loon Lake. He said he sent the request to Region 3A and David Gee said they would do the traffic counts. Jack asked what the speed limit is there now. Mike said in their letter they said it is 40 MPH and the roads that are in Whitley County are 20 MPH.

Mike said we would have to work with Whitley County on that, because our section only goes to the curb and when it starts going north it is in Whitley County. He said it is a continuation around the lake. Mike said one thing that is hard to grasp is if there are that many people walking and bicycling on that road. He said maybe they should petition for a sidewalk.

TRUCK #14 CONTINUED

Mark reported from a phone call that Carl from Cummins stopped and checked on truck #14 and it has a cracked sleeve in the motor. He said he would bring the Commissioners an estimate next week. Mark said the truck would be like new when they get done with it.

NEW EMPLOYEES

Dave asked how the new employees are working out. Mark said one started today and the other will start Friday.

STANDARD CONTRACT

Mike said he looked through all of the files and couldn't find a standard contract form between the Highway Department and the Contractors. Mike said he thought we should have a standard contract even on small projects.

Dennis said he could draft one and incorporate the quotes and bids into it. Mike said he would be more comfortable if we had something in writing.

FRONTIER NORTH, INC. - CONTRACT FOR 911

Mitch Fiandt, E-911 Director came before the Commissioners to give them a copy of the contract for the new 911 system, for their review, (H.I.). Mitch said they got the grant secured. Joy asked if the price was the same. Mitch said it was. He said after he got the financing secured Frontier sent him a list of options which he would like to get, but he is working on phasing them in over a period of time. Mitch said they did get a little bit better service contract but they don't have it totally figured yet. He said that doesn't go into effect until a year after the purchase so he has time to get that in his budget. Jack asked Mitch if he knew what the options would cost. He said he should know that this week. He said one of them is a

headset that will integrate the 9-11 system, our new phone system and a radio system all into one headset. Mitch said another one integrates the telephones right into the computer screen and they can answer calls off of it with the headsets.

LOG JAM REMOVAL BIDS

Present for this portion of the meeting were: Alan Freels, Freels Machine Works Inc; Randy Sexton, Noble County Surveyor candidate; John Sieber, public; Doug Harp, Sheriff; and Nathan Miller, Noble County Surveyor's employee.

Nathan brought a bid with him which was received at the Surveyor's Office. There was discussion as to what should be done with that bid.

Dennis had been asked what should be done about it. Dennis said if it was turned in timely at the Surveyor's Office and they weren't directed to bring it to the Auditor's Office, he thought that would be like a waiver of the condition.

Joy said we have one quote that was timely and one that was delivered to the wrong spot and she asked Jack and Dave what they wanted to do. Dave asked if they were directed to come here when they showed up at the Surveyor's Office. Nathan said they weren't. He said usually Deb (Surveyor's employee) handles a lot of this and she is out. Nathan said he accepted it in at about 8:10 not realizing it should come up here.

Dave moved to grant a waiver to the quotes that were received prior to the deadline but at the wrong location. Joy seconded the motion and it carried, 2-1 with Jack being opposed.

Alan told the Commissioners that if that is the way they are going to operate they could give his bids back because it said right in the paperwork 9:00 and everybody had the paperwork. He did not pursue it. The bids were opened and were as follows:

| | |
|--|----------|
| North branch – Freels Machine Works Inc. - | \$21,000 |
| South branch - | \$28,000 |
| North branch – Gilbert Drainage & Excavating LLC - | \$27,000 |
| South branch - | \$21,500 |

Dave moved to take the quotes under advisement until 10:30 A.M. on July 30th. Jack seconded the motion and it carried, 3-0. Joy said there were questions that would have to be asked of the contractors.

Alan Freels said he had a comment on the south branch. He talked about the trees that were marked on the south branch that are above the flood level, are not even in the river, and are not log jams. He said they are on Acres Forever, and they won't be happy if the bank is torn up trying to get the big trees out of there.

John Sieber said the DNR marked them. Joy said the DNR wrote the specifications. After further discussion Alan said the gentleman that marked the trees was new to this and it was the first time he had done it. He named a couple of other people from the DNR that he said would not have marked some of the trees. Joy said the LARE grants had been moved to the Division of Fish and Wild Life and that there would be a learning curve.

CHAIN O'LAKES WORK CREW – **4-H FAIRGROUNDS CLEAN UP**

Nathan asked the Commissioners if the Surveyor's work crew should head to the 4-H grounds. Upon learning that the Highway Department crew went last year, Joy told Nathan to coordinate that with Alan Freels, and she called the Highway Department to let them know that the Surveyor's work crew would be going.

ROBERT DYSON – DITCH WORK

Robert Dyson said he was here because of the work that was done on the ditch by his house. He said when they de-brushed the ditch they put brush down in the ditch. He said they also sprayed and he hasn't seen anything die. Joy asked when they did the de-brushing. Robert said it was about a month ago. Jack said we should take care of this during Drainage Board this afternoon. Joy told Robert that meeting starts at 1:30 and he said he would come back.

ACTION ON UDO (UNIFIED DEVELOPMENT ORDINANCE)

Present for this portion of the meeting were: Randy Sexton, Surveyor candidate and Dave Kurtz, Kendallville News-Sun.

Joy said the UDO came to the Commissioners from the Plan Commission and the Commissioners reviewed it and made amendments and sent it back to the Plan Commission. She said the Plan Commission then rejected the amendments and sent it back to the Commissioners as it was originally, and now it is back to us. Joy said the Commissioners can do nothing and it will go into effect as the Plan Commission prefers, or they can approve it with their amendments. Dennis said that was correct. Joy said the 45 day period (in which the Commissioners can take action) began on June 21st. She said they need to take action on it soon, or it will go into effect in its current form (without the amendments).

Dave moved to accept it with the Commissioners amendments. Jack seconded the motion and it carried, 2-1 with Joy being opposed.

Joy said she would let Brad Johnson from Ground Rules know about the decision because he is waiting to move forward with the UDO.

SEE NUNC PRO TUNC ENTRY IN 8/06/12 MINUTES FOR EFFECTIVE DATE

SPACE ISSUE DISCUSSION

The Commissioners briefly discussed the meeting they will have at the Weber Road Annex next Monday at 11:30 A.M. to discuss space issues.

WATER BACKING UP ON OLD SR 3 IN LAOTTO

Joy took a phone call from Dr. Lear in LaOtto, and she said he reported that there is water backing up on Old SR 3 between his office and the post office. Joy said she didn't think it was a road problem. She said there is drainage in there, and there are catch basins at Miller Street and Old SR 3 and one north of the post office. Joy said Dr. Lear said there have been issues ever since the sewer went in (30 years).

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 11:01 A.M. recessed from day to day until the 30th day of July 2012.

Joy Y. LeCount, President

David J. Dolezal, Vice President

Jack W. Herendeen, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor