

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD JULY 30, 2012**

Comes now the hour of 8:33 A.M. on the 30th 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
Chad Kline, Commissioner Candidate
and Scott Perry & Bob Braley, News Media

ASSESSOR – NEXUS CONTRACT
RE: REASSESSMENT

Kim Gephart, Assessor, the Commissioners and County Attorney Dennis Graft discussed the fact finding meeting that was held in Indianapolis last week with the DLGF (Department of Local Government and Finance) and Nexus, regarding Nexus not completing reassessment timely per their contract. There was much discussion about what has been completed by Nexus, and what has not been completed. There was also discussion about the contents of a letter to Nexus that Dennis will draft, telling them what the County expects from them to get the contract completed. Joy said by our calculations as of July 31st, the late fee for not being done is \$11,500.00 and growing. After some discussion Jack moved to release the check that is being held for Nexus in the amount of \$261,090.00 to be sent with the letter which Dennis is going to draft. Dave seconded the motion and it carried, 3-0.

CONTRACT WITH FRONTIER FOR
NEW E-911 SYSTEM

Mitch Fiandt, E-911 Director told the Commissioners that the additional options that he is looking at to go with the new system would be \$5,393.66. He said that is a ballpark figure right now. Mitch said the option would give us the ability to integrate headsets into the 911 system, the regular phone system and the radio system all at once. He said the second part of that is to basically do away with the desktop phones and everything would be on the computer.

Joy said that last week where she works the internet service was down four times. She asked Mitch what the backup would be. Mitch said the backup for the new 911 system is going to be in digital. Joy asked if there was redundancy and if it was guaranteed. Mitch said there is redundancy and it is guaranteed. He said DeKalb is already on this system and when we had the

storm a month ago they did go down. Mitch said they made a phone call to digital and they had them back up and running in a short period of time. He said with the 24-hour monitoring they have, a lot of times they have problems repaired before we even know about it. Dave asked if there is a backup power supply. Mitch said there is and it is tested every Tuesday.

Jack asked if the \$15,393.66 was in addition to what Mitch had told the Commissioners last week. Mitch said it was in addition to the \$108,693.85. Jack asked if that would take care of everything. Mitch said it would. He said the total amount would be \$124,087.66 with the options he wants to add to it, which is under the bid amount.

Dennis asked if Frontier would be getting Mitch a contract for the addition. Mitch said when he meets with them today he would have Frontier add the additional to the contract. Joy asked Mitch if he was certain he would have the funds. Mitch said he would have the funds.

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

RANDY TUCKER - ORDER RE: UNSAFE BUILDING AT BEAR LAKE

Jackie said that the Building Inspector had stopped by and said that the dumpster would be taken to the Tucker property on Tuesday. Dennis questioned what the order said. Joy read from the order that removal of the demolished material would be done on or after August 6th. There was discussion that the dumpster probably shouldn't be delivered before August 5th.

MICK NEWTON, EMA DIRECTOR – LIFTING OF BURN BAN

Joy said the Commissioners need to take some official action on the lifting of the burn ban. Mick and the Commissioners talked about the weather last week. Dave then moved to suspend the burn ban retroactive to July 25th at 12:00 noon. Jack seconded the motion and it carried, 3-0.

BOARD OF ZONING APPEALS AGENDA

The Commissioners received a copy of the agenda for the Noble County Board of Zoning Appeals meeting to be held August 1, 2012 at 7:00 P.M., as well as a Notice to Interested Parties regarding a variance request of Joseph and Susie Miller, (H.I.).

IDEM – TOWER STRUCTURE LAMINATING PART 70 OPERATING PERMIT RENEWAL

The Commissioners received notice from IDEM that they had received a request for the above referenced permit renewal from Tower Structure Laminating in Ligonier, (H.I.).

IDEM - PARKER HANNIFIN CORP. IN ALBION - PERMIT APPROVAL

The Commissioners received notice from IDEM that they had approved a permit renewal for Parker Hannifin Corp. in Albion subject to the conditions contained in the renewal,

(H.I.). The Commissioners can challenge the decision by filing a petition for administrative review.

ASSOCIATION OF COUNTY COMMISSIONERS - ELIGIBLE EXPENSES FOR 911 FUNDS

The Commissioners received information from Stephanie Yager from the Indiana Association of County Commissioners regarding the eligible expenses for 911 as defined in Senate Bill 345, (H.I.).

BIDS FOR LOG JAM REMOVAL

Joy said she has had several calls with regard to displeasure of the acceptance of the bid that was delivered to the wrong location. She said she assumed there was a law that would give the Commissioners that authority.

County Attorney Dennis Graft said the Commissioners have the right to accept or reject any bid for any and all reasons. He said it is the Commissioners call.

Dave said the reason he suggested accepting it was because at the time it was delivered we accepted it without telling them that it had to be brought to this location, and they would have had time to bring it over. There was discussion that it should never have been accepted at the Surveyor's Office, but they didn't know that. Joy said the Commissioners have waived that sort of thing before.

MINUTES APPROVED

The Commissioners reviewed the minutes of the *July 23, 2012* meeting and made corrections as needed. Dave then moved to approve them as amended. Jack seconded the motion and it carried, 3-0.

PAYOUT OF BENEFITS TO COUNTY EMPLOYEES THAT WILL BE GOING INTO ELECTED POSITIONS

Auditor Jackie Knafel said that Mary Applegate, Deputy Auditor in charge of payroll had asked what should be done with the vacation, sick days, etc. for County employees that will become elected officials the first of the year. Jackie said there is no direction in the handbook, and she assumed there would need to be an amendment to the handbook on how to handle that. Joy said she thought they would have to be paid out or they could take their time after they are elected if they prefer. Joy told Jackie she might ask Shelley Mawhorter what happened when she became Auditor.

TREE BROKEN OFF DURING STORM

There was discussion that a tree that broke off during the storm last week had been taken care of by the Highway Department. Joy said the tree had a limb break off previously and tree wasn't in good condition. She said the tree on the other side of the sidewalk didn't appear to be

in very good condition either and should probably be looked at. There was discussion about looking at the rest of the grounds to see if something should be done this fall.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 9:29 A.M. and reconvened at approximately 9:33 A.M.

HIGHWAY BUSINESS – MARK GOODRICH

UTILITY PERMITS

Mark presented the following utility permits: #UP-035-12 from Noble REMC for work on CR 300 E between CR 400 S and CR 500 S in Green Township; and #UP-036-12 from Frontier Communications for work on N CR 225 E between CR 175 N and CR 300 N (SR 8) in Jefferson Township, (H.I.).

COMPLAINT RE: WATER PROBLEM AT SYLVAN LAKE

Mark presented some pictures of an area at Sylvan Lake where he received a complaint about a water problem, (H.I.). He said his thought is that it is something that we don't want to get involved in and he didn't believe we had to. Joy asked if it is part of their (Rome City's) sewer system. Mark said it is not. Joy asked if it was private. Mark said it 975 N (Shady Lane) is our road. He said you can see the culvert coming out from under it that the Highway Department put in 4 years ago. Mark said the gravel road was washing down and they always had sand and stuff out in the road. He said they cut in behind, up the hill a ways so part of the water would flow out into the woods. He said they cleaned the ditch a little bit where it would go into the catch basin that is shown. Joy asked if the culvert is just under the road. Mark said it was and it is what they added four years ago. Mark said the individual that has a complaint believes we put the catch basin in. He said there is no information at the Highway Department to show that we did. Mark said there are two six-inch plastic culverts across the road that come out on top of the yard. He said the request is that we bury the pipe and cut a hole in the seawall to run all of the water underground. Mark said CR 325 E is Rome City's Road. He said the individual with the complaint believes we put the catch basin and the drain pipes in. Mark said he didn't see any reason that we should get involved in this.

Jack said in all of his time at the Highway Department they had never put catch basins in. Mark said there were plastic lines across the road and we have never run plastic across the roads.

SIGN MATERIAL – EXPENSE OVER \$500.00

Mark said he needed to purchase some sign facing and equipment and the cost would be in excess of \$500.00.

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

POST DRIVER

Jack asked what we did with the post driver. Mark said we still have it. He said he hoped to get time to go out this week and try it out. He said Todd Owen had seen it demonstrated at a seminar and he said the same thing that Wayne did about it getting hot,

etc. Joy said they might as well send it back because they won't want to try to use it. Mark agreed. He said they are still trying to get parts for the other one.

CLASS C UNDERGROUND STORAGE OPERATOR

Joy asked what needs to be done to become a Class C Operator. Mark said he needs to get Doug on the internet to go through the training. He said Marc Fisher is our Class B Operator. Mark said he took the Class A training. He said there is a new regulation that there has to be at least one Class A, one Class B and one Class C certified operator.

CHIP & SEAL

Joy asked where we are on the chip and seal. Mark said they will hopefully end up in Washington Township today, and tomorrow in Green Township. He said weather permitting and if the equipment holds together they should be done Thursday.

PUG MATERIAL FROM HIXSON PLANT

Joy asked Mark what the situation is with pug material from the Hixson Plant (at Kimmell). Mark said we hauled some material out of there last week when it was raining. He said as soon as they are done chip sealing they will start wedging and use that up. Mark said apparently the pit did not sell and he is not sure what they are going to do with it. He said he didn't think they had any equipment left there because it sold. Mark said he is going to call them today to see if they are going to keep it open or what they are going to do. He said we would have to take our loaders over there if we get any materials.

LPA CLAIM VOUCHER RE: SIGN PROJECT

Mark presented an LPA Claim Voucher for the sign project. Joy asked Mark if he had heard anything about the signs that are in limbo. Mark said he hadn't.

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

WATER PROBLEM IN FRONT OF POST OFFICE IN LAOTTO

Mark said apparently there had always been a water problem in front of the post office in LaOtto. He said he has requests for actions from ten years back where they have had water problems, and they have gotten worse. Mark said he thought Russ (former Highway Superintendent) dealt with it two or three years ago. He said the tile that drains in front of the post office runs onto private property, and Russ told them at that time that it is private property and is not ours to deal with. He said it has gotten bad enough to where it does flood up on to SR 3 and business owners can't use the parking lot that is there. Mark said Albion sent down their vacuum and sucked all of the catch basins out. He said we got sand out of them and jetted what we could. Mark said they rented a sewer auger for the one on private property and it was full of roots from two trees there. He said it is going to be a consistent problem. Mark said in order for us to drain that and be able to maintain it, he thought our best bet would be to go across Old SR 3 and tie into a line that runs through there and goes into a county tile down at SR #205. He said we have never had any trouble with flooding there.

Joy asked since it is on private property if the owner had mentioned anything about helping to pay for it. Mark said they had not. Jack said if we repair it there, on down someplace else we will be repairing it again. He asked how much it costs to bore under a road. Mark said the estimate he got is for \$25.00 a foot. He said he figured it would be around \$1700.00 plus the pipe. Dave said with the rain we are supposed to have tomorrow we could take a look at it. Mark said if we are going to do anything with it we probably ought to hook it into our own drainage system to where we can maintain it. Jack suggested leaving it alone for right now and monitoring it. Mark said he thought most of the water runs down the alleys and the side streets. Jack said we have a new tile coming clear up to Old SR 3 and SR 205 and he thought the water would have to eventually get to that tile.

Dennis asked if anyone had talked to Scott (Noble County Surveyor). Mark said he had not but he would check with him.

TRUCK #14 & #2 DOWN

Dave asked if all of the vehicles are running. Mark said Truck #14 is still down. He said Cross Point Cummins is recommending replacing all six sleeves. He said Doug is getting the prices for several parts for on the truck, and he told what they are.

Mark said Truck #2 is down and the transmission is being pulled out of it to be rebuilt. He said truck #16 still has a transmission problem.

USE OF WORK CREW TO CLEAN-UP 4-H FAIRGROUNDS AFTER APPLE FESTIVAL

Jennifer Cummins came before the Commissioners seeking permission to use a Chain O'Lakes Work Crew to clean up the 4-H fairgrounds on Monday October 8th following the Apple Festival. Joy asked if it would be for just one day. Jennifer said it would be. Jack said there is a cost for that. Jennifer said that would be ok. Joy said she didn't know what had been done in the past. Jennifer said they had never made a financial commitment for that.

After further discussion, Jack moved to go back through the minutes and see what the amount would be the Apple Festival would have to pay for the work crew for one day. Dave seconded the motion and it carried, 3-0.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 10:07 A.M. and reconvened at approximately 10:19 A.M.

CAGIT MONEY FOR CERTIFIED SHARES

Jackie said last week she got a letter from the State about the CAGIT money that we receive for certified shares. She said they are saying that she has to put that money in a separate fund. Jackie said it could still be used for anything we can use general fund money for, but she had to move \$2.2 million dollars out of the general fund into its own separate CAGIT Fund. She said she took the following items out of the Commissioners budget and moved it to the new fund: Social Security, Group Insurance, Unemployment, PERF, Office Supplies and the Uninsured Liability and General Insurance of Workman's comp. Jackie said she amended the

Commissioners budget to reflect the changes, and she asked for the Commissioners approval on both budgets.

After some discussion Dave moved to approve the budgets. Jack seconded the motion and included a thank you to Jackie for doing the work. The motion carried, 3-0.

Joy asked who directed the changes. Jackie said it was the DLGF. She said she had her meeting with George Helton and Mike Dennison from the DLGF last week about the budgets, and she confirmed with them that this should be done. She said they told her the DLGF had wanted that done for several years.

LOG JAM REMOVAL ON NORTH AND SOUTH BRANCH OF ELKHART RIVER

Present for this portion of the meeting were: Matt & Jeffery Gilbert, Gilbert Drainage & Excavating LLC; Allen Freels, Freels Machine Works Inc.; Scott Zeigler, Noble County Surveyor; Randy Sexton, Noble County Surveyor Candidate and Rod Edgell, DNR.

Joy told Matt & Jeffery that there were some questions with regards to how they were going to go about the removal of the logjams and what kind of equipment they would use. Matt said he was planning to use hand tools where heavy equipment couldn't be used. Joy said heavy equipment can't be used and she asked Matt if that was his understanding. Matt said he was under the impression from the meeting, that if the property owner gave permission and you could get it in there, it could be used.

Jack said at the meeting he thought they said you could drag stuff out if you were sitting on the road. Jeffery said they are planning on doing it with hand winches and by hand. Joy asked if they are planning on getting it up out of the waterway with hand equipment. Matt and Jeffery said they were. They said you still have to have permission from the landowners to be out there. Joy asked if they are thinking they would take some kind of heavy equipment down along the bank.

Rod Edgell from the DNR was present at this time. Scott told him the question that came up before he got here was if any heavy equipment can be used, or if it can be used only if it is outside the waterway and the flood plain. Rod said the restriction was clearly that on the waterway you had to use hand equipment. Scott asked if you were sitting on the road or an upland site and running a cable down to the log with the landowner's permission if that was allowed. Rod said as long as they were on the road or an upland site he wouldn't have a problem with it. Scott said the Army Corps issue was if you had heavy machinery down in the wetland or flood plain then it would require an Army Corps permit. Rod said he thought the real issue was having property owner's permission to do something like that and/or the lack of area sites available where you could do something like that. He said anything in the stream would require a barge or boat and hand tools.

Allen said in the first request of bids that was sent out it was the Indiana Department Division of Fish & Wildlife that was handling it. He asked if the Lake and River Enhancement Program is the controller of this project or if it is the Indiana DNR, or who it is. Rod said the Lake and River Enhancement Program is part of the Indiana DNR. He said they are within the Fish & Wildlife section.

Matt asked who would say if they were doing things right. Rod said he would probably inspect some of the project but he wouldn't be there every day.

Allen asked who would determine how far out of the river a log would have to be drug if it was in a wet land area. Rod said 10 foot would be far enough if the log was properly secured and not piled.

Scott said what they said in the meeting was that it could be wired if the landowner allowed that, or it could be wedged between trees from upstream to downstream so it wouldn't re-enter in flood conditions. Jack asked if 10 feet would be far enough out of the river to take something back and wedge it. Scott said he thought the concern was to get it out of the waterway and above the ordinary high water mark. He said he thought those were the two things in the bid document.

Allen said he cleared 25 miles of the Elkhart River before through the DNR and he had an inspector there with him every day telling them where to put the logs. He said if there was a problem with a landowner the DNR representative took care of it.

Joy said the idea was to perform the work so we did not need a permit from the Army Corps or the DNR.

Matt said at the meeting it was talked about that if there was anything that had to be transported an unusual length, more than dragging it above the high water mark that would be an extra. Rod said if we have a special situation like that they could address it.

Jeffery asked if there is a decent way to determine the property lines on the south branch. Scott said the best way would be to match up the bends with aerial photographs.

Scott said he doesn't have enough staff to be out there every day doing inspections. He said if that is what the Commissions want he might have to look at hiring someone for the project. Joy asked if we hire someone if that could be a part of the county's match on the grant. Rod said the match should go towards the project costs as it is bid. Joy said someone would have to inspect it and the county isn't going to pay that off the top and not get any credit for it.

Scott said he didn't know that someone would have to be there every single day. He said he thought they should go out on the first one or two logjams and make sure they understand where the logs need to be put. Rod said he could be out there some, but he has other projects and can't be out there every day. He said that is not a concern that he has.

Scott said when they go out to get approval from the property owners if a landowner says they want everything totally removed from their property, then we would have to renegotiate a price on that.

Randy said from a government entity standpoint, if a Army Corps violation should take place, who is liable. Joy said the county would be. She said that is why she thinks that before we start this project we should apply for permits and then we wouldn't have any questions.

Allen said you can't go down the river and determine exactly where the wetlands are, and where they start and stop. Scott said where the wetland is doesn't matter because the Army Corps says we can place a log in there as long as it is done correctly.

Jack asked how hard it is to get a permit. Scott said he didn't think we would need a permit, but we could apply for a permit and have them look at it and send us a letter back saying we don't need one. The Commissioners agreed they would like to have that.

Rod said a permit could require a lot more detail. Dave asked Rod what type of additional detail he is talking about. Rod said that is really up to them. He said his guess would be that they would have to detail for every logjam where the debris was going to go and how it was going to be moved.

There was further discussion about removing logs in the wet land areas. Jack asked if a landowner wanted a log that was removed and it would have to be moved another 500 feet out of the wetland, if that would be an additional charge. Rod said those types of things won't be clear until we have talked to all of the landowners.

Jeffery asked if the county would talk to the landowners or if the bidders would do that. Scott said in the past they (Surveyor's Office) would go around and try to talk to as many people face to face as they could so they could answer questions. He said if they couldn't find them at home then they would send them a letter and have them call with questions. Joy asked if they had identified how many property owners would need contacted. Scott said they have 30 plus on north branch and he thought there were eight on the south branch.

Randy asked if we are getting written easement agreements. Scott and Joy said we will be getting them like we have always done.

Joy asked if the bidders had all of their questions answered. No one had any questions.

Jack asked how the bidders would be paid. Joy said we pay first and then we get reimbursed. After some discussion Rod said he thought invoices once a month from the contractors would be reasonable.

Allen asked if the county would be providing Chain O'Lakes Work Crews to help with the project. Scott said the Commissioners intent would be to use the work crews for 10% of the contract for their in-kind service towards the grant.

Matt said he understands Joy's concerns with the Army Corps of Engineers with regards to the wetlands. He said from a taxpayer standpoint he thought this should be spelled out with them to make sure it is ok. Scott said it would be nice if we could get Aaron from the Army Corps of Engineers up here and explain the project. He said then if we could get a letter from him spelling out specifically what could be done we could make sure the contractors understands. Scott said then if the contractor did anything in excess of that, they would be on their own. After some discussion Rod said he would call Aaron and explain the concerns to him, and ask him to attend a meeting.

Dennis asked if IDEM would have anything in this. Scott said only if an Army Corps permit is required.

Scott said he could get all of the paperwork and be ready to go, but he would rather wait until the meeting with Aaron to talk to the property owners. He said they usually ask for a two-year easement, but if a landowner will only give us a one-year easement then we wouldn't be as rushed to get the project done within that year.

No decisions will be made on the bids until after the meeting with Aaron.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 11:19 A.M. and reconvened at approximately 11:30 A.M. at the Noble County Annex on Weber Road.

SPACE NEEDS & TOUR OF NOBLE COUNTY ANNEX

The Commissioners met with Becky Calhoun from Drug Free to see about consolidating space at the annex. After some discussion, Becky said four rooms would be sufficient for Drug Free.

The Commissioners discussed the fact that they would like to move the entire Health Department to the annex and give them the entire north side of the facility. There was discussion of possibly moving the Veterans Service Officer to the South Complex and then move Drug Free to the 4 office spaces on the south side of the building.

The Commissioners then toured the building.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 11:20 P.M. and reconvened at approximately 1:30 P.M. at the closed Noble County Landfill.

LANDFILL SEMI-ANNUAL INSPECTION

The Commissioners met at the landfill to do the semi-annual inspection as required.

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 2:45 P.M. recessed from day to day until the 6th day of August 2012.

Joy Y. LeCount, President

David J. Dolezal, Vice President

Jack W. Herendeen, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor