

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD DECEMBER 17, 2012**

Comes now the hour of 8:39 A.M. on the 17th day of December, 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 & Gary Leatherman, Commissioner Elects
Bob Braley & Scott Perry, News Media
and Alan Freels for Landfill Discussion

ASSESSOR - TYLER TECHNOLOGIES INVOICE

Assessor Kim Miller reported that the form 11's will be going out on the 28th. Kim said she still had to meet the 26th deadline because of the DLGF. She said she called them (Tyler Technologies) and told them she still had an issue and they said it was in the contract. Joy said that Tyler Technologies had submitted an additional invoice in the amount of \$11,200.00 which is in addition to the contract amount. Kim said they didn't fulfill the first contract because it specifically said they would fix Rome City and US 6. Joy asked Kim what they attributed the additional days to. Kim said they came in and fixed some things but she couldn't imagine that many extra days.

Dennis said we should tell them we want an itemized bill showing exactly what was done on those days. Joy said they should also show who did the work on those days. Kim said she also had to double check the workbook. She said she has some issues.

There was discussion about a letter to be written to Tyler Technologies telling them we want an itemized bill showing who did the work, on what days it was done, as well as something showing how they had totally complied with the contract. Joy said Dennis will write the letter.

Dennis asked Kim for a copy of the contract. After Kim brought the copy to Dennis, he said the contract states that the County Assessor may ask for additional days of service above the 30 days of service set by the contract. It was discussed that according to the bill there would have been an additional 16 days that we were charged for. Joy asked if Kim had requested additional work. No one knew the answer. After reading further in the contract, Dennis said we were supposed to have the Assessor's approval that everything was done before the claim is approved.

RANDY SEXTON – CONCERNS WITH UDO

Joy said that Randy Sexton, Noble County Surveyor elect had written a letter to the Plan Commission expressing his concern about some things with the UDO (Unified Development Ordinance), and he wanted to talk to the Commissioners about that this morning. Joy said it is her understanding that Steve Hook, GIS Coordinator had pretty much brought the UDO maps up to date, but he was informed on Friday that there are some exceptions that the Plan Commission Director needs to meet with him on. She said apparently there were some exceptions made in the original map where if a parcel was less than two acres, which would have typically been an R-1, and if it was completely surrounded by agriculture land, then it was determined to be Rural Estate. Joy said Rural Estate minimums were to have been two acres. She said the day after they received the final draft of the UDO, she e-mailed it to Steve Kirkpatrick at the Plan Commission and asked him about the maps, and it was at that point that he said the maps were the Commissioner's responsibility. Joy said since we were asked last week to rescind our non-communication dictate with Brad Johnson, (from Ground Rules who prepared the UDO) they (Plan Commission) have arranged to have two training sessions with Brad on how to implement the UDO. She said the first one will cost \$650.00 and the second one will cost \$750.00. Joy said Randy's letter said that in his opinion, until the maps were finished and approved there was no point in having training. The Commissioners and Dennis agreed.

Dave read from an e-mail he had received from Everett Newman, Plan Commission Attorney that said that "regardless of what anyone does there is a new ordinance that is going into effect on January 1st. We may not be able to enforce it because it is not published but the old ordinance will be gone". Dave said he didn't know why we should have training classes and he asked if the Plan Commission shouldn't pay for them if they want them. Dennis said he would assume it would have to come out of their budget if that is what they want to do. He said no matter what, the maps need to be done.

Randy said the Commissioners had touched on a few of his concerns. He said his first major concern he has, because he will be on the Plan Commission, is that DeKalb County is in the process of having their UDO challenged right now and their ordinance is similar to ours. Randy said his concern is if we can have an approved UDO without the maps available at the time of the hearing for people to look at to even know where they fit into the process as far as the zoning maps are concerned, to know what part(s) of the UDO affects them. Randy said the UDO will likely be challenged, and we want to make sure we are on solid ground. He said we don't want the validity of the ordinance to be challenged. There was discussion about what the differences were between the old and the new maps. Dennis said it wasn't the intent of this Board to change anything in the maps except what has been changed in the UDO. Joy said Scott told her that the original map already had the anomaly that if a parcel of land was less than two acres and completely surrounded by agricultural land they were made Rural Estates instead of R-1's. Dennis asked where that was at in the ordinance. He said if they want to do that, they need to amend the ordinance to reflect that exactly. Dennis said the intent of this Board was what was in the ordinance, and then to have the corresponding map just changing the designations. Joy said she thought the original maps already had those anomalies on them. Dennis said if there is a conflict between the writing (in the UDO) and the maps, he thought the writing would supersede. Randy said the only maps you can talk about are the maps that fit the ordinance that we are under today versus the maps for the new ordinance.

CLAIMS APPROVED

After reviewing the claims to be paid today's date, Dave moved to approve them with the exception of the Claim from Tyler Technologies in the amount of \$21,000.00 which will be held (pending further information). Jack seconded the motion and it carried, 3-0.

HIGHWAY BUSINESS – MARK GOODRICH & MIKE FITCH UTILITY PERMITS

Mark presented the following utility permits: Permit #UP-077-12 from Frontier Communications for work on E CR 600 S between CR 700 E and CR 600 E at the Edward Hobbs residence and #UP-078-12 from Noble REMC for work on CR 600 N between CR 100 W and CR 200 W in York Township at the James Hosford residence, (H.I.).

BLOCKS ON 500 S

Mark said he would like to talk about some blocks that have been placed close to the road on CR 500 S. He said he talked to the gentleman that put them there and he said there had been railroad ties there before, and if he had to remove the blocks he would put railroad ties there again. Mark said the man said he would be willing to sign a release to where he would be responsible if anything happened. Joy said that wouldn't hold any water. Dennis said he would want him to sign something that he would hold the county harmless if we damaged them. Joy said the blocks should be removed. Dave said we should send him a letter and tell him to remove them and Jack agreed because they are on county right-of-way. Joy said he could move the blocks and get them out of our right-of-way.

PURCHASE OF BARRICADES & TRAFFIC CONES

Mark said he would like to purchase 50 barricades and 50 orange traffic cones. The low quote was \$2,088.83 for the barricades and \$506.00 for the cones. Jack moved to approve the purchases. Dave seconded the motion and it carried, 3-0.

CR 75 S – CHAIN O'LAKES ENTRANCE ROAD

Mark reported that the state striped CR 75 S, the entrance to the Chain O'Lakes State Park, last week.

BRIDGE #12 DESIGN PROJECT

Mike said as part of our Bridge #12 design project we need to have an asbestos inspection completed to meet IDEM requirements. He said he didn't know that there is any asbestos on the bridge, but we have to have it inspected. Mike said Engineering Resources recommended IWN Consultant Group out of Fort Wayne, and the cost of the inspection is \$700.00. Dave asked if the inspection requirement is something new. Mike said it had been required ever since asbestos became a hot topic. He said the sampling and testing will be a part of the \$700.00.

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

Jack said we have concrete (bridge) beams sitting at the compost lot and at the Highway Department. He asked if we need to bring them into our lot, or should it be written in the contract that the contractor should get rid of the beams. Mike said normally the contractor just takes them away. He said he thought in the past there was some thought that some of the beams could be re-used.

BRIDGE #134 PROJECT & BRIDGE #70 PROJECT

Mike presented a letter he had written to David Armstrong, Indiana Department of Transportation requesting to transfer the federal funds from the Bridge #134 project to the Bridge #70 Project, which he reviewed with the Commissioners, (H.I.). Mike explained the reasoning for the request for the transfer of the funds in the letter. He indicated that the scope of the project had grown too expensive and had been delayed by the CSX (railroad) requirement to add a 3rd track. There was much discussion about what had been done on the project already and the costs to this point, as well as what might happen in the future with Bridge #134.

Jack moved to approve the letter to David Armstrong with the corrections that had been mentioned. Dave seconded the motion and it carried, 3-0.

CONFERENCE CALL RE: NOBLE COUNTY LANDFILL POST CLOSURE

Present by phone were: Ghodrat Hiadari, Cyndi Jones and John Hale from IDEM; Zach Bowman from Sherry Labs, Inc; and Mike Maxwell and Brian Horvath from Weaver Boos. Joy told those on the phone who was present in the Commissioners Room, including Allen Freels who does work at the landfill for the county.

Joy said the goal is to update everyone on the current status of the facility (landfill) and to give the new Commissioners some background information. John Hale introduced Ghodrat and Cyndi and he turned the discussion over to them, and they each told what their job is. Cyndi said the county is currently in the post-closure status working towards the end of post-closure. Ghodrat talked about the different types of required testing at the landfill. Cyndi said the county has done a great job of submitting reports on time. She said she would like an update on the Methane remediation, and other than that the Commissioners just need to continue their monitoring plan. Brian Horvath from Weaver Boos gave Cyndi an update on the remediation plan. Cyndi said she wanted to make sure the Commissioners understand that after it is done that they would have to demonstrate that the methane isn't migrating at that point. Dave asked for what period of time they would have to demonstrate that. Cyndi said it would depend on how often they are monitoring. She said it would probably be at least a two year period. There was discussion that the semi-annual inspections would be done in April and October.

There was discussion about the leachate being tested. Joy said the Town of Albion, who disposes of the leachate from the landfill, has asked that it be tested once a year. There was further discussion about the leachate and methane testing and who is responsible for getting the test results to the right people. Dave said the Commissioners are not qualified to interpret a report to notify someone if we are in violation. Cyndi said if the Commissioners would give Sherry Labs permission to notify her (at IDEM) and the Commissioners at the same time that might be the easiest way to do it unless Weaver Boos wants to be involved. Joy said it seems to her that would be the best way. She said we need to know the day the sampling is done if there is an exceedance. After further discussion Joy said she thought it was important for the new Commissioners to understand exactly how the recording process is going to occur, so the county is fulfilling whatever responsibility they have, to IDEM. She said it should be settled now about who is going to contact who and when. John Hale from IDEM said if there is an LEL or gas exceedance, Sherry Labs should immediately notify the Commissioners, he and Cyndi at IDEM, and Weaver Boos, and then hard copies of the information should be sent to them.

Brian said they have a draft plan put together for what they are proposing to put in at the landfill. He said he would get it to the Commissioners for them to look over to see if they are comfortable with it. He said basically it is a low cost, low flow active system to hopefully address the exceedance on the east side. There was discussion about the groundwater elevation data being sent to Heritage who develops the contour maps. Bryan, Mike and Zach are going to get together to see what needs to be done since Zach is new at this.

After the conference call had ended, Allen Freels told how the testing had been done a few years ago, and he said he thought there are too many people involved now. He said we need to get a company that does the sampling and the testing and then sends the results on.

Joy said she thought it would be important as soon as the Commissioners get organized next year that they should have another conversation with Weaver Boos and the others. There was further discussion about landfill issues and procedures and what had been discussed during the conference. Dave said we should propose that whoever is going to be our gate keeper put together a flow chart that has everyone listed, the chain of custody, and who is responsible for what and when, so we can look at one piece of paper and see what needs to be done, when it needs to be done, and who is responsible for it and where it goes. He said everyone should be on the same page and he thinks everyone is confused.

Joy said she felt like Weaver Boos is the one that has been keeping us out of trouble. She said she would prefer paying our money to try to get us into compliance and into final full closure instead of just keeping us out of trouble.

Joy said once Gary and Chad get settled into their new jobs here, it might be worth paying to have Mike and Brian drive out here from Chicago to actually meet with them face to face. She said they might want to have Sherry Labs here the same day. Joy said Mike and Brian know what they are doing and they know how to keep IDEM satisfied.

Allen said he was allowed to pump the leachate out on the ground for fifteen years, and then all of a sudden when there were new people at IDEM he could no longer do it.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 11:20 A.M. and reconvened at approximately 11:27 A.M.

TAX SALE PROPERTIES THAT DIDN'T SELL

Sheri Auld, Deputy Auditor in charge of tax sales came before the Commissioners to continue the discussion from last week regarding properties that did not sell at the tax sale, (H.I.). She presented a list showing what adjoining landowners she had contacted and whether they had responded, and if so if they were interested in the adjoining properties. She went through the list with the Commissioners. Sheri said the people on the second page still have until Friday to respond. Sheri will report back to the Commissioners at their January 14th meeting.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 10:39 A.M. and reconvened at approximately 12:05 P.M.

TITLE FOR EMS UNIT TO BE TRADED IN

Having found out that the old EMS unit had approximately 250,000 miles on it and that the trade-in allowance would be \$1,200.00 Jack moved to approve for Joy to sign the title for the

EMS unit that is to be traded in for the new EMS unit. Dave seconded the motion and it carried, 3-0.

TENNECO INC. IN LIGONIER – APPLICATION TO IDEM FOR MINOR SOURCE OPERATING PERMIT

The Commissioners received notice that Tenneco, Inc. in Ligonier had applied to IDEM for a Minor Source Operating Permit to install and operate additional welding units at their Gerber Street facilities, (H.I.).

LEE ROTTINGHAUS – REQUEST TO SERVE ON BEAR, HIGH, WOLF LAKE REGIONAL SEWER DISTRICT BOARD

The Commissioners received a letter from Lee Rottinghaus from Fort Wayne stating her desire to serve on the above referenced board, (H.I.). (She and her husband own property at Bear Lake) Lee listed her qualifications. Joy said the members are appointed by the board

LUCKEY HOSPITAL – NATIONAL REGISTER OF HISTORIC PLACES AND INDIANA REGISTER SITES AND STRUCTURES DESIGNATIONS

Joy had prepared a letter to be sent to the State Historic Preservation Officer indicating that the Commissioners strongly support the Luckey Hospital being added to the above referenced registers, (H.I.). Dave moved to approve the letter. Jack seconded the motion and it carried, 3-0.

AMENDMENT #5 TO HEALTH INSURANCE PLAN

The Commissioners received the above referenced amendment submitted by Shelly Hanson from Wells Fargo Insurance for the Commissioners review and approval, (H.I.). The amendment will add to Covered Prescription Drugs (item #5) “All Injectables, except for immunization agents” and remove from Expenses Not Covered (item #11) “A charge for hypodermic syringes and/or needles (other than for insulin), (H.I.). Jack moved to approve the amendment. Dave seconded the motion and it carried, 3-0.

TREASURER’S REPORT – NOVEMBER 2012

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

STEVEN CLOUSE, PROSECUTOR – PUBLIC OFFICIAL BOND

The Commissioners received the above referenced bond for their approval, (H.I.). Dave moved to approve the bond in the amount of \$8,500.00. Jack seconded the motion and it carried, 3-0.

MINUTES APPROVED

The Commissioners reviewed the minutes of the *November 30, 2012, December 3, 2012* and *December 10, 2012* meetings and making corrections, Dave moved to approve all three sets of minutes as corrected. Jack seconded the motion and it carried, 3-0.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 12:21 P.M. and reconvened at approximately 2:00 P.M. for a site inspection and returned to the courthouse at approximately 2:46 P.M.

PAYROLL TO BE PAID 12/27/12 APPROVED

After reviewing the payroll from 11/30/12 – 12/13/12 to be paid 12/27/12 Jack moved to approve it. Dave seconded the motion and it carried, 3-0.

**DECEMBER 17, 2012 EXECUTIVE
SESSION MINUTES APPROVED**

After reviewing the minutes of the *December 17, 2012 executive session* that was held this morning Dave moved to approve them. Jack seconded the motion and it carried, 3-0.

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 2:53 P.M. recessed from day to day until the 2nd day of January 2013.

Joy Y. LeCount, President

David J. Dolezal, Vice President

Jack W. Herendeen, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor