

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD SEPTEMBER 9, 2013**

Comes now the hour of 8:31 A.M. on the 9th 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
Jacqueline Knafel, Auditor
and Bob Braley & Scott Perry, News Media

ASSESSOR – EXPENSE OVER \$500.00 FOR APPEALS

Kim Miller, Assessor came before the Commissioners to request permission to spend over \$500.00 to have the vendor that helped last year come in to help with the outstanding 2012/13 appeals. She said they are getting ready to start the 2013/14 appeals on the 20th. Kim said she did have money in the last reassessment set aside for the appeals if she needed help. She asked permission to use the vendor to come in. Kim said he said he could come in today and work until they get them done. She said she thought it would be just two or three days and would probably be \$1,500.00 at the most that she would spend of the \$4,000.00 she had saved back. When asked what vendor she was talking about, Kim said it is Bill Shultz who is the one that did her trending this year. She said they have worked for Noble County before. Kim said the 11th is the final PTABOA Board meeting for all of the tabled appeals, and they are going to try to get the old ones done before they start on the new ones.

Dave moved to approve the expense for Mr. Shultz to take care of the 12/13 appeals, not to exceed \$1500.00. Chad seconded the motion and it carried, 3-0.

**IDEM – PRECISION TANK & EQUIPMENT, LIGONIER –
RENEWAL OF PART 70 OPERATING PERMIT**

The Commissioners received notice from IDEM that they had received a request for the above referenced renewal of a permit, (H.I.).

**IDEM – CREATIVE WOOD DESIGNS, INC, LIGONIER -
MODIFICATION OF PART 70 OPERATING PERMIT**

IDEM notified the Commissioners of the above referenced request, (H.I.).

EMC INSURANCE COMPANY - ATTORNEY EXPENSE
RE: DAWN BARR UNSAFE BUILDING AT BEAR LAKE

The Commissioners received a letter from EMC Insurance Company indicating that they made liability payments on a claim re: Dawn Barr in the amount of \$425.86 and they asked for reimbursement, (H.I.). Dennis said Dawn appealed the vacate order and now the property has been sold and the house torn down, but the insurance company had turned it over to an attorney when she appealed. Chad asked why we would be paying if she is the one that requested to dismiss the appeal. Dennis said it is because our insurance company sent it to an attorney. Chad asked if the money is to pay her. Dennis said it would be to pay the attorney. Chad asked if we need to make sure that if we are going to represent ourselves that we let the insurance company know ahead of time. Dennis said he couldn't imagine it would even be covered under our policy. Dave asked if there is any way Jared could red flag something like this that comes through in the future. Dennis said he would talk to Jared or Tammy who wrote this letter so we don't have this come up again. The Commissioners said if they are going to pay the bill they want to have something showing what the attorney did. Dennis said he thought the State Board of Accounts would want an itemized bill if we are going to pay this.

ASSOCIATION OF INDIANA COUNTIES – ADDITIONAL
REVENUE RE: COURT TITLE 1V-D REIMBURSEMENTS

The Commissioners received information about the above referenced reimbursements, (H.I.). Jackie said she has talked to the courts about that a couple of times and the Council has contacted them a couple of times. Chad asked if that would be money they (Judges) couldn't spend. Jackie said it would be. She said the money would go into the general fund, and it is really up to the Judges whether they do it or not. Dennis asked what the negative aspect was. Jackie said she thought it would just be a matter of spending a little bit of time keeping track of the time they spend on those particular cases.

TOWN OF ALBION – LEACHATE DISPOSAL INVOICE

The Commissioners received an invoice in the amount \$390.00 from the Town of Albion for the disposal of 6,500 gallons of leachate from the landfill, (H.I.).

SUPPLEMENTAL CLAIMS APPROVED

After reviewing the August supplemental claims, Dave moved to approve them. Chad seconded the motion and it carried, 3-0.

LEATHERMAN CONSTRUCTION – REPLACEMENT
OF SIDEWALKS AROUND COURTHOUSE

Gary said we have a revised proposal from Leatherman Construction for the replacement of sidewalks around the courthouse. He said it adds bid #4 which is for removing the brick and bench on the west side and pouring a concrete pad and resetting the bench. Gary said that is an additional of \$318.50 to the cost, the total of which is now \$24,039.50, (H.I.). Chad asked if the state had approved the additional. Jackie checked and reported that it hadn't been approved yet. Chad moved to approve the sidewalk repair subject to the approval of the additional by the state. Dave seconded the motion and it carried, 3-0.

MINUTES APPROVED

After reviewing the minutes of the *August 19, 2013, August 26, 2013 & September 3, 2013* meetings, Dave moved to approve them. Chad seconded the motion and it carried, 3-0. Chad then moved to amend the motion to change the August 19th minutes to include Hertha Myers as being present for the public hearing for the two-way stop at the CR 415 N & CR 1000 E intersection. Dave seconded the motion and it carried, 3-0.

REPLACEMENT FOR RETIRING CUSTODIAN ALLEN ENGLE & FULL TIME EMPLOYEES CLEANING AFTER HOURS

Jackie reminded the Commissioners that Allen Engle's last day is September 26th. She said she had received some applications and she wasn't sure which direction the Commissioners were going. There was discussion that the county pays about \$60,000.00 a year for cleaning. Jackie said Al also helps Phil with removing snow in the wintertime. Gary said his concern about hiring someone from outside would be security issues for the courts and other offices, because of the nature of the work they do. Jackie said they would probably be bonded because of things like that, but we could have different people all of the time too.

Jackie said some of the offices are having regular employees do cleaning after hours for part time pay, but once they go over the 40 hours in a week she has to pay them time and a half based on their full time pay. She said we could be paying someone over \$20.00 an hour to clean on a part time basis. Dave asked who would fall into that category. Jackie said right now it is the Sheriff's Department, the Highway Department and Court Services. There was discussion that there is a permanent part-time person cleaning at the South Complex that could possibly pick up another office. Jackie said as long as she doesn't go over 28 hours in a week that would work. After further discussion, the Commissioners asked that Jackie find out what all offices are being cleaned, and also to get the figures on the hours that are being spent by the full-time employees that are cleaning after hours.

HIGHWAY BUSINESS

REJUVTEC – ASPHALT REJUVENATOR SPRAY

Mark reported that RejuvTec is going to be in Auburn or Angola this week doing some spraying. He said they specialize in spraying asphalt rejuvenator on existing asphalt roads to seal and renew the surface to increase the life of it. Mark said they would be happy to talk to us when they are up here, and we could watch them spray and see what the process is. He said he could send the Commissioners an e-mail when he finds out when they will be in this area. Dave asked Mark if he had a strip in mind that he would like to try this on. Mark said 1000 E would be a prime candidate for that. He said they told him that even the roads that were paved three years ago would be candidates for this. Mike gave further information on the process. He said putting this material on might extend the life of the road for four or five years. Dave asked how much this would cost per mile. Mark said it would cost about \$12,000.00 a mile. He said it doesn't cover up the striping that is there either. Mike said the sun bakes the surface which makes it crack and this would soften the surface to keep it from cracking. Gary asked if this is a one-time application or if they would have to keep come back in four or five years. Mark said they recommend spraying about every six years. Dave asked about the amount of time the road would be closed when this is done. Mark said they talked like if the road was dry it should be usable within 15 minutes, and they would provide all of the traffic control. Gary asked Mark to find out where they would be and then let the Commissioners know.

HYDRAULIC PUMP

Mark said the hydraulic pump he talked about last week is in a repair facility but they haven't given us an estimate yet. He said he has another tandem that he pulled off the road Friday. Mark said the hydraulics have been creating more and more problems. He said they have had trouble with the hydraulics on this truck for about two years. Mark said they had talked to the manufacturers and the installer and they all say that this is a first generation truck, and they hadn't had this problem yet and they keep experimenting with it. Mark said they think it might be a restriction in one of the lines and it is just a matter of finding where it is at. Dave asked if any part of the hydraulics would still be under warranty. Mark said they wouldn't be.

NEW TRUCK TO BE DELIVERED THIS WEEK

Mark reported that W.A. Jones said the new truck should be finished up and delivered today or tomorrow.

BRIDGE 12 – ROAD TO BE CLOSED 9/16/13

Mike reported that the contractor called and said they are going to close the road on the 16th and start the construction on Bridge #12.

CONSTRUCTION STANDARDS

Mike said he finished the draft of the Construction Standards. He said he would route it to the Plan Commission and the Surveyor, and he would have them look at it. Mike said he had Engineering Resources review it, because they have some people on staff that are familiar with construction standards and specifications. He said when he gets the comments back he will finalize it for the Commissioners approval. Mike said instead of sprinkling the fees for permits, reviewing plans, etc. throughout the standards, he was going to put them all in one place, and then if any of the fees change there would only be a need to change one page.

Chad asked if there would be something separate for driveways. Mike said he wants to add a standard driveway drawing for residential and commercial driveways and other than that it is pretty much outlined. Chad said under "K" in the driveways it talks about the Unified Development Ordinance (UDO), and he thought that should be taken out because once the Construction Standards are in place, the Driveway Standards will be taken out of the UDO and will refer back to the Construction Standards.

Mark asked if there is anything in place to require an up-front bond for construction of roads in subdivisions in addition to the maintenance bond that is needed. Mike said there are procedures that have to be followed by the developer, and if they don't follow the procedures we won't accept the roads.

Mike said usually the Plan Commission requires the performance bond. He said he will have to check on that. He said if we are in the two-mile jurisdiction then the municipalities will have to make sure the performance bond is in place.

Dave said he thought it would be a good idea if the specifications for the municipalities and the county were the same. Mike said he thought the plans should be submitted to the county for our approval if they expect us to maintain the roads. Gary asked how long a performance bond is good. Mike said normally it is a three year bond, but if we expect a problem we could ask for a five year bond. Mark talked about the cases in the county that he knows of where the developer didn't finish the roads and the people request for the county to do it. There was discussion that when people buy properties they usually think the Highway Department is taking care of the roads

BRIDGE #70 UPDATE

Toby Steffen from Butler, Fairman & Seufert came before the Commissioners to give an update on the Bridge #70 project. He said they are ready to have the documents prepared for the rights-of-way that need to be purchased, and then Mike or Dennis can go out and take care of the procurement of the right-of-way to save money. He said we will not need any right-of-way from the railroad. Toby asked that when Mike and Mark get a copy of the plans that the county go out and do a little bit of shrub and tree trimming. Dave asked if we would be purchasing a lot of right-of-way. Toby said we wouldn't. He said it is mainly to add about a foot on each side to give a little more shoulder. Toby talked about how it is really the decay of the wood piling and wing walls in the substructure that is the problem.

JAY & MARY PAINTER – TREE REMOVAL AT BIG LAKE

Jay said he has a property at 3838 W Lakeshore at Big Lake. He said he was here roughly 26 months ago when he first bought the property and a tree limb fell out of one of the trees that is in the county right-of-way and narrowly missed his car. Jay commended Mark and the Highway Department for coming out and taking care of the tree that fell down during the storm. Jay said two of the trees blew down on August the 7th and destroyed his storage building that was only about a year old, and another tree fell on his neighbor's house adjacent to him, and she had extensive damage. He said he is concerned about the two trees that are still standing. Jay said he is afraid they were weakened by the storm that went through. He said they are about 30 or 40 feet from his house and are about 60 - 70 feet tall. Jay showed some pictures of the damage from the recent storm. Jay said one of the counties contentions is that the trees weren't dead. He said he has a picture of a dead limb that fell down the Friday before the storm that is about 6 inches in diameter and about 12 foot long. Jay said the dead limbs keep coming down and damaging his property and he is concerned that the whole tree is going to come down and damage his whole house with him possibly in it. He said Mark asked him to get some quotes, and he got a quote in the amount of \$1200.00 to take two trees down and remove all of the debris, and he would like for the county to allocate some funds if they could. Jay said he got another quote but it was \$2,600.00. Gary asked what kind of trees they are. Jay said they are Cottonwood trees. Jay said he has taken 7 trees down on his property already. He said there are four other neighbors the two trees could hit. Jay said Mr. Sprague, whom he got the \$1200.00 quote from had taken some trees down in the area and he did a good job. He said the estimate doesn't include removing the stump. Mark asked if Mr. Sprague is bonded and insured. Jay said Mr. Sprague said he was, but he hadn't personally checked that out.

Gary said he thought the county would be setting a precedence by taking down trees in the right-of-way. He said we have 800 miles of road and if you double that for right-of-way, we have 1600 miles of right-of-way. Gary said he thought we would have to determine if the trees are healthy or not and if the root balls are compromised. He asked if the county should bear the full cost of taking down a tree if it is in the right-of-way or do we share the expense. Chad said the Indiana Department of Natural Resources has a Forrester that we can contact to come out and make a determination whether or not the trees should come down. Jay said he could go along with that. He said his concern is his health and welfare if he is in his house and the tree comes down across it. Mike talked about right-of-way situations. He said from what he can determine on how insurance companies interpret this is that if a dead limb falls off a tree and does damage, the county is liable, but if a limb or tree falls down and does damage during a storm, that is considered an "Act of God" in Indiana. Mike said typically wherever the tree fell, the property owner is responsible to take care of what is on his property and the county is responsible for any

part of the tree that fell on the right-of-way. He said we have thousands of trees that are in the right-of-way and we don't have any financial resources to go in and take them down. Mike said we don't have the equipment to take trees down. Chad said if Jay is willing, the Commissioners will make contact with the Forrester and have him meet out there with him and one of the Commissioners, and then submit a report on the trees. Jay said he is retired and could be there about any time.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 10:08 A.M. and reconvened at approximately 10:16 P.M.

BAUMAN TAX SALE PROPERTY - CIRO & TERESA BELMARES AND JESSICA HUFF

Present for this portion of the meeting were: Jessica Huff and Ciro & Teresa Belmares.

Gary asked for an update on where we stand today on this property. Jessica said the last she knew they were waiting for the Judge to sign off on it for it to be split.

Chad asked if Jessica and Ciro & Teresa are aware that they would each receive half of the property and are in agreement on making the split.

Teresa said if she can't have the whole property she doesn't want any of it. She said the reason is that her house is in the corner, and all of the way around the corner of her house and crossing Water Street it is a mess. Teresa said if the Commissioners give the other half to Jessica there is going to be more mess around her house. She said there are cars all over and that area is not clean at all. Teresa said she thought the City was responsible for making sure there is no junk. She said for a while no one lived in the house, but she didn't know if they do now. Jessica said there is someone living there. Teresa said her husband is taking care of their trees to make their area look clean. Teresa said she didn't know how anyone could live there with such a mess.

When talking about where the cars are that Teresa is concerned about, Jessica said they are across the street and it has a variance. She said it has been a junk yard for a long time.

Chad told Teresa that she said if she couldn't have the whole property she didn't want any of it which would mean Jessica would get the whole thing. Teresa said her concern was what the City would do if Jessica got the whole thing. Chad said in order for them to put cars on there, they would have to have a variance, and to get a variance all of the neighbors would have to be notified and there would be a public hearing. When asked, Dennis said if there is a dispute about dividing the property then the Commissioners could put it up for bids, and if the property goes up for bid, then possibly neither of them would get the property. When asked, Teresa said she would rather take a chance of paying a few thousand dollars to get the property and then she can keep it clean. Dave asked Teresa if she was clear that if they didn't take the split now they would be competing with other people. Teresa asked the reason for splitting the property. Chad said to be fair to each person owning the lots adjoining the property they would split it, which would extend each person's property line.

Teresa explained the situation with the property where the Bauman Junk Yard was. She said her dad owned it and he sold it to Steve Bauman, and then he bought it on land contract from Steve 12 years ago and paid for it. Teresa said Steve lives in Oklahoma and won't sign a deed for it, so even though it is paid for it is technically not her dad's. She said the City sued her dad because they knew he was the one that had been there, and he paid \$10,000.00 to clean it up.

After taking time to discuss with her husband what to do, Teresa said she didn't think it was fair for the Commissioners to split it, but if that is what they are going to do she will go along with it. Chad said it would be fairer to the public for the Commissioners to sell the property to recoup some of their money, but they are willing to give it to the adjoining landowners for the cost of the attorney fees and the survey fees.

Chad moved to start the process to deed the property to Jessica Huff and Ciro & Teresa Belmares once the survey is completed. Dave seconded the motion and it carried, 3-0. Chad said once the survey is done, they will have to pay their share of the survey and the attorney fees involved. Dave said that would be a lot less than buying it on the open market.

JUNE & JULY AUDITOR/TREASURER REPORT

Jackie presented the reports for the Auditor and Treasurer reconciliations and she explained the reason for the discrepancies, which have been taken care of. Chad moved to approve the reports. Dave seconded the motion and it carried, 3-0.

STATE'S APPROVAL OF ADDITIONAL'S

Jackie reported that additional appropriation requests for \$4,000.00 for the sidewalk and the Highway Departments \$250,000.00 plus \$25,000 for a Highway Engineer, if we get one, have been approved by the State.

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.).

LANDFILL PROPOSALS & MONITORING

Dave asked about the two proposals the Commissioners had received regarding the landfill and if we are ok time-wise. Chad said he thought we were ok.

There was then discussion about the number of properties Weaver Boos in monitoring near the landfill and that they have been monitoring 9 homes and they would like to drop 5 of them because of monitoring results on those 5 properties. Weaver Boos would like to send a letter to IDEM asking permission to drop the 5 properties from the monitoring, (H.I.).

Chad moved to approve for Weaver Boos to send a letter to IDEM regarding the residential monitoring. Dave seconded the motion and it carried, 3-0.

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 10:54 .M. recessed from day to day until the 16th day of September, 2013.

Gary Leatherman, President

David J. Dolezal, Vice President

Chad Kline, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor