

**MINUTES OF A REGULAR SESSION OF THE  
BOARD OF COMMISSIONERS HELD MARCH 4, 2013**

Comes now the hour of 9:00 A.M. on the 4<sup>th</sup> day of March, 2013, in the Commissioners Court in the Noble County Courthouse, Albion, Indiana, being the time, date and place set for a regular session of the Board of Commissioners of Noble County, Indiana.

Present were:

Gary Leatherman, President  
Chad Kline, Member

Absent was:

David J. (Dave) Dolezal, Vice President

Also present were:

Marion S. Cavanaugh, Deputy Auditor  
Dennis Graft, County Attorney  
and Scott Perry & Bob Braley, News Media

**SHERIFF DOUG HARP – SHERIFF’S BUSINESS  
EQUITABLE SHARING AGREEMENT**

Sheriff Harp presented the above referenced agreement for the Commissioners to approve. Chad moved to approve it. Gary seconded the motion and it carried, 2-0.

**RENEE HARP – EXTENSION OF  
TIME TO USE 2 VACATION DAYS**

Doug said Renee's anniversary date is this month and he asked for approval for Renee to extend for a short time, the time to use two of her vacation days. Chad moved to approve Renee's request for an extension. Her time to use her vacation days will be extended for 30 days after her anniversary date, to April 18<sup>th</sup>. Gary seconded the motion and it carried, 2-0.

**TORT CLAIM**

Dennis reported that there was a tort claim filed on February 26, 2013 on behalf of Vernon Krontz who had been an inmate at the jail. He said they are trying to say we held him too long, but there was a court order because of a body attachment, and he also had charges in another county.

**CLAIMS APPROVED**

After reviewing the claims to be paid today's date, Chad moved to approve them with the exception of #008028 for Weaver Boos in the amount of \$8,998.50, until the Commissioners can clarify the invoice. Gary seconded the motion and it carried, 2-0.

### **KONE INC. – ELEVATOR SAFETY TEST**

The Commissioners received notice from KONE Inc. indicating that they had performed a safety test on an elevator with the State ID #39454. A copy of the report was enclosed, (H.I.).

### **MINUTES APPROVED**

Chad moved to approve the minutes of the *February 11, 2013* meeting as corrected. Gary seconded the motion and it carried, 2-0.

### **RECESSED AND RECONVENED**

The Commissioners recessed their meeting at approximately 9:24 A.M. and reconvened at approximately 9:30 A.M.

### **HIGHWAY BUSINESS – MARK GOODRICH** **JAMES MINER – COMPLAINT ABOUT STONES** **THROWN IN YARD WHEN GRADING**

Mark and the Commissioners discussed the letter and pictures received from James Miner who lives on 250 W between 200 S and 50 S, about stones being thrown in his yard when the gravel road was being graded after it snowed.

### **UTILITY PERMITS**

Mark presented Permit #UP-003-13 from Century Link for work on Weimer Road (CR 200 N) between SR 3 and CR 1100 E in Allen Township, (H.I.). He said it is just a short drop. Chad said everything looked good. Mark also presented Permit #UP-004-13 from United Telephone for work on Summit Drive between Old SR 3 and the end of Summit Road in Swan Township, (H.I.).

### **TRUCK #14**

Mark gave the Commissioners an update on truck #14. He said the repair costs from Cummins were \$4,500.00. Mark said the truck has been a nightmare ever since they got it and he told what some of the problems were. Gary asked how miles there are on it. Mark said it is a 2005 and he guessed it had about 140,000 miles on it. He said he didn't have an exact number.

### **PATCHING - STONE AROUND BRIDGES -** **CRACK SEALING - BRUSH TRIMMING**

Mark said they had started working on their spring projects when the weather permits. He said they are patching today because the weather last week opened up some big holes. Mark said they have started placing stone around bridges that were shown on the bridge inspection that was completed in 2012, where it had washed out enough that the footers were showing. He said they are doing some crack sealing when the weather permits, and when they get the bucket truck back they will start trimming overhead brush to get ready for summer projects.

### **QUOTES ON TRUCK LIFTS**

Mark said he has three quotes on lifts and possibly has another one coming this week. No action will be taken until next week to see if another quote comes in.

### **CEDIT MONEY**

Mark said the cost of truck maintenance has been high, and he asked if there was any way they could work out getting CEDIT money for the lifts or for a truck. Chad asked if there is a truck budgeted for this year. Mark said he has \$170,000.00 budgeted but he thought a tandem

would be a little bit more than that. Gary said they had discussed buying a truck out of CEDIT. He asked Jackie Knafel, Auditor when the highway budget would be approved. Jackie said she thought it might be approved this week.

#### **DRIVEWAY PERMIT REQUEST - COBBLESTONE**

Mark said they received a request for a driveway permit, which they denied because of the decision that had been made in a meeting. He said the lady that requested the permit is trying to back out of her contract and the contractor requested a written denial. There was discussion as to whether there had been any progress on the road discussions. Mark said he would get back with Scott Derby in Kendallville to see if they are going to take action on this. Chad said they talked like they were going to do that and the next step would be a public meeting.

#### **SEVEN GENERATIONS ARCHITECTURE & ENGINEERING, LLC - US 33 ROAD ENTRANCE**

Andrew Rossell, P.E. of Seven Generations Architecture & Engineering from Benton Harbor Michigan was present to discuss Dollar General and a road entrance concern on US 33 in Merriam that was discussed January 28<sup>th</sup>. He said he had talked to Mike (Fitch, Highway Engineer) and he was going to do a conference call today. Chad said Mike had emailed him this morning and said he wouldn't be able to do the conference call. Andrew said the Commissioners had been copied on some of the emails, and Mike thought it might be good for him to come and discuss it and give an update on where they are now. He said he had been working with Mike on the driveway and he gave an update on discussions that began in September or October of last year with Steve Kirkpatrick, Plan Commission Director. Andrew said late last year Steve had asked him to contact the other county departments. Andrew said they talked to the Health Department and they told them to work with IDEM for the well and the Indiana State Department of IDEM for the septic. He said they had contacted the Highway Department to see if they could submit a preliminary plan, and at that point they were told they would need to submit an application and a set of construction plans to be reviewed. Andrew said they were working with the Surveyor at that time for the split and the drainage. He said in late November they had the survey done and submitted everything to Steve's office and they were on hold until after the first of the year to see if it would actually go through. Andrew said after the first of the year they found that the plan did go through and the property was split and rezoned. He said at that point they had been approved on design and they started the discussions for the driveway. Andrew said they are working with Randy Sexton on the drainage, and he discussed the options they had explored. Andrew said they approached the DOT and the DOT asked them to submit their drainage plans, and last week they got approval from them for the drainage. Andrew said they are still awaiting approval of the Surveyor's Office. He said he had been working with Mike Fitch on the driveway. Andrew told about the original design and how they had re-designed their site and moved the drive approximately 40' south and they are now about 125' from the intersection. He said they pushed the driveway as far south as they could in order to make it so the semi could work and to make it so they don't access US 33 directly and instead to access CR 50 W. Andrew said they had submitted the new driveway plan to Mike Fitch and Mike preliminarily blessed the site. He said a few weeks later there was some concern about future development south of them for the 12 acre tract and also the intersection. Andrew said Mike had asked if they would consider overlaying 50 W up to their drive to increase the base of the roadway and they agreed to do that. He in the last chain of emails there was some more brought up about the intersection and the improvements to it. Andrew said Mike had talked about two different options and he said the developer couldn't do the first option because

of the time involved and the need to acquire additional right-of-way. He said the second option Mike had proposed was to increase the radius from CR 50 W on to southbound US 33, and Mike asked if they would consider a shared cost in that. Andrew said he thought the last correspondence was that they agreed to pay the overlay costs, and if that could be included in the improvements, that is what his client would contribute to the joint project. Andrew asked where they go from here.

After a question from Gary about how far they could move the driveway back Andrew showed the Commissioners some plans and it was discussed. Chad said he thought the biggest concern was the 150' set back. There was discussion about different possibilities of re-arranging things so they could get the 150' set back and still have the space needed for the semis to back up to the building for deliveries. Chad said he thought that based on what Mike (Fitch) had said, if they get the 150' he would be ready to sign off and the Highway Department would do the extra work to make the intersection work. Andrew said he will check to see what can be done to get the 150' site distance.

### **RICHARD HATTON – UNSAFE BUILDING @ BEAR LAKE**

Dick Adair, Building Inspector reported that he had heard from the sister of Richard Hatton, and she told him they have family and friends that will take the house down. He said they have already removed a tree. Dick said they were all in the house and they realized it wasn't safe to be in it. He said they are going to pull the house down to the south and dispose of it. Dick said she is asking us to give them until the end of May to have it cleaned up. Richard said he doesn't have a problem with that as long as they are showing progress. Gary asked if they would take care of cleaning the site up. Richard said they would.

Chad moved to allow until May 31<sup>st</sup> to have the site cleaned up, and after that the county would take action to do it ourselves. He said that includes the house being down, the foundation gone and filled in. Gary seconded the motion and it carried, 2-0.

### **BIDS FOR REMOVAL OF GLEN WOODCOCK'S UNSAFE BUILDING IN WASHINGTON TOWNSHIP**

Dick said Caskey's had agreed to stay with the original price of their bid, and they will put a barrier down and seed it. Hearing that, Chad moved to accept the bid from Caskey Excavating & Trucking for \$4,800.00, to demolish the building at 0758 S Highland Drive, Cromwell and to refill the site. Gary seconded the motion and it carried, 2-0. Chad asked if they gave a time on when they could begin. Richard said they didn't, because they didn't know who would get the bid. The Commissioners agreed they will give them until April 30<sup>th</sup> to complete it.

### **STAIRWAY AT SOUTH COMPLEX**

Chad asked Dick if he had talked to Pulver's about the stairwell at the south complex. Dick said there was no written agreement, just discussion. Dick said he would talk to them about getting a quote. Chad said we don't want a gate there. He said we want something kids can't put their head through and something that is a little more solid than what is there.

### **RECESSED AND RECONVENED**

The Commissioners recessed at approximately 10:28 A.M. and reconvened at approximately 10:34 A.M.

### **LAWN MOWING QUOTES**

Auditor Jackie Knafel showed Gary and Chad the specs that have been used in the past to request lawn mowing quotes. She said she would just like for them to make sure they are okay to be used again this year. Chad asked if they need to be told not to mow when it doesn't need it or if we need to put something in the specs to indicate that the Commissioners could direct them to stop mowing until further notice from them if we have dry weather or something. Gary said he would also like to see herbicide applied to control broadleaf.

After Jackie made the changes that were discussed, Chad moved to approve to advertise for mowing quotes for the 2013 season. Gary seconded the motion and it carried, 2-0.

### **TAX SALE (CERTIFICATE SALE) UPDATE**

Sheri Auld, Deputy Auditor in charge of tax sales presented an updated list of the properties to be discussed, (H.I.). She said no one had redeemed any of the properties. Sheri said the deadline for petitioning the court is April 18<sup>th</sup>, and if we don't petition before then the petitions would be voided. She said one of the questions people that have shown an interest in acquiring the properties are asking her is if there will be a cost or fee to them. Dennis said that hadn't been discussed. Sheri said she has had several people ask how the property would be split if there is more than one person interested. She asked if a survey is going to be required, if that is going to be at the cost of the interested people. Sheri said she had told some people that since they would get this property with all taxes written off, they may have to pay for a survey. There was discussion as to whether the county would want to have any of the properties go to tax exempt entities or not, because the idea is to get the properties back on the tax roll.

Gary asked how many properties there are that more than two people are interested in. Sheri said #23 which is abandoned railroad has more than two, but they only want the pieces of ground adjacent to their properties.

Dennis said if a survey is required, it should be at the acquiring party's cost. There was discussion about other properties on the list.

Gary asked what had been done in the past about the legal fees. Dennis said they have never gone past the process of acquiring properties before. He said the last five that were acquired are still in the county's name. Dennis said once the properties are acquired by the county, then the Commissioners will have to make all of the decisions regarding whether we want to give the property to the surrounding landowners; whether they want to sell them; how the properties would be split; who they would be offered to; who would pay the costs; etc.

There was discussion about what to put in a letter to interested people to let them know that there could be some costs involved. There was also discussion about what would happen if there would be two people interested initially and then one backed out. Gary said if the interested people are sent a letter telling them there could be some fees involved for legal fees and possibly a survey and they back out, then the county won't acquire the property. Because of that Sheri will send a letter to the interested parties telling them that they will have to respond in writing by March 15<sup>th</sup> stating that they are interested in acquiring the property, and that they will receive the properties as is.

Dennis asked if any of the properties were worth anything that we should consider actually selling them. There was discussion about possible liens on property(s) within city

limits. Chad said he thought we should call Kendallville and make sure no liens would be put on them after the county acquires them.

Chad said he thought if we don't address someone taking over #30 we would have to pay to address it, because the building needs to come down.

### **RECESSED & RECONVENED**

The Commissioners recessed their meeting at approximately 11:16 A.M. and reconvened at approximately 11:27 A.M.

### **COMMUNITY CORRECTIONS ORDINANCE DISCUSSION**

Present for this portion of the meeting were Stacey Beam, Chief Probation Officer; Steve Clouse, Prosecutor; Jim Abbs, Chief Public Defender; Judge G. David Laur; Danyel Wagner, Court Services; Judge Michael Kramer; Judge Robert Kirsch; and Sheriff Doug Harp.

Judge Kramer said they are here to talk to the Commissioners to request that they go ahead with the Community Corrections (ordinance). He said he thought we need to do it now, especially with what they are doing with the criminal code. Judge Kramer said he is not sure what they are going to do, but they are talking now about keeping all of the violent offenders in for almost all of their sentence with no good time credit. He said the other side of that is that the lower level non-violent people are not going to be accepted at the Department of Correction, and they are requiring that we have intensive supervision for them here in Probation. Judge Kramer said he thought that would be a bit of an unfunded bandage, to the extent that if counties are compensated it is going to be through Community Corrections. He said the amount we would receive through Community Corrections is determined by the number of D felons that we send to the Department of Corrections, which is why we are getting a fairly decent amount right now. Judge Kramer said as the new law takes affect, we won't be able to send D Felons unless they change the formula. He said he doesn't want to have to come back and ask for money out of the general fund to do what we can get the state to help us pay for. Judge Kramer said we are going to beef up our home detention to make sure they are supervised and that we follow the guidelines of the state, and if they aren't obeying what they have to do it is his understanding that we could send them to the Department of Corrections then. He said he wants to protect the citizens of Noble County.

Chad asked if the Commissioners take something out of the (proposed) ordinance that was submitted, if it would have to come back to the Commissioners before that could be put back into the ordinance. Judge Kramer said they have to go by whatever the Commissioners say in the ordinance. Stacey asked Chad what part of the ordinance he didn't like. Chad said it is Work Release. Chad said he thought as long as work release is housed in the jail that the Sheriff needs to have all of the say in it. Stacey said they don't want to take that on themselves. Gary asked Doug what his thoughts were on it. Doug said Work Release is only geared for ten people and we have nine in it today. He said as long as it isn't impacting the Sheriff's Department or the county in an adverse way, he thought we were ahead of the game by laying things out ahead of time. Chad said he didn't want the board to become the designee of accepting it. Judge Kramer said he didn't have a problem with taking work release out of the ordinance. Judge Laur said he didn't think that was ever their intention. He said their intention was to discuss with Doug to see what could be done at the jail to expand the program. Judge Kirsch said a little problem could be that if they have a chunk of money that they could use to

help expand work release at the jail, then they couldn't use that money toward that purpose. Judge Kramer said they would just have to come back to the Commissioners.

Gary asked if Community Corrections would be self supporting through the grant that will come from the state. Judge Kramer said it should be self supporting. He said they also get fees from people. Judge Kramer said it is an unknown, because a lot of the people wouldn't be working. Judge Laur said at this point it would be self sufficient. Chad said he looked at about twenty different counties that have it to see what their fees are, and a lot of them have the per-day fee and an initial fee that includes the drug screen fee. He asked if the fees are set fees or if they are based on whether or not the person can actually afford it. Stacey said they are set fees which they are trying to make like probation user fees. Judge Kirsch said they are set fees, but we won't collect 100% of what people owe.

Gary and Chad said they would like for Dave to be here before they make a decision. The issue will be put back on the agenda for March 11<sup>th</sup> at 11:30 A.M. for the first reading of the ordinance. Judge Kramer will make the corrections that had been discussed and send a revised copy for the Commissioners.

### **COURTHOUSE EXTERIOR**

Judge Laur asked if something is going to be done to the exterior of the courthouse. Chad said there is already a contract in place and they are just waiting for a time when the ground is solid to come and do the work.

### **COURTHOUSE ELEVATOR**

Judge Laur said he had talked to the elevator repair people when they were here last week and they mentioned that there are a lot of components that are no longer available for it. He said it was installed in the 1950's and they said it is the oldest passenger elevator they've worked on.

### **ADJOURNMENT**

This session of the Board of Commissioners of Noble County was at approximately 11:50 A.M. recessed from day to day until the 11<sup>th</sup> day of March, 2013.

---

Gary Leatherman, President

---

David J. Dolezal, Vice President

---

Chad Kline, Member

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