

**MINUTES OF A SPECIAL SESSION OF THE
BOARD OF COMMISSIONERS HELD AUGUST 12, 2013**

Comes now the hour of 8:31 A.M. on the 12th day of August, 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
and Bob Braley & Scott Perry, News Media

**STAR TEAM – USE OF PARKING LOT SOUTH OF
THE PROSECUTOR’S OFFICE FOR CRUISE-IN**

Steve Hook, GIS Director and a member of the Albion Star Team came before the Commissioners to request approval to use the parking lot south of the Prosecutor’s Office for a First Friday event on September 6th for a cruise in.

Dave moved to approve the request. Chad seconded the motion and it carried, 3-0.

**IDEM – CREATIVE WOOD DESIGNS
PERMIT MODIFICATION**

The Commissioners received notice from IDEM that they had received a request from Creative Wood Designs for a permit modification, (H.I.).

TOWN OF ALBION – INVOICE RE: LEACHATE DISPOSAL

The Commissioners received an invoice from the Town of Albion in the amount of \$420.00 for the disposal of 7000 gallons of leachate from the landfill, (H.I.).

**PROPOSALS TO BRICK IN 5 WINDOWS IN
GARAGE AT SOUTH COMPLEX - GANGWER
MASONRY & LEATHERMAN CONSTRUCTION**

The Commissioners received a proposal from Gangwer Masonry in the amount of \$2,039.00 for bricking in 5 windows in the garage at the South Complex, and in the amount of \$2,029.00 to frame, sheet and insulate the window openings, for a total of \$4,068.00, (H.I.).

The Commissioners also received a proposal from Leatherman Construction for the same work in the amount of \$4,536.00, (H.I.).

**PROPOSAL FOR GATE FOR WALK IN DOOR
& COVERS FOR 5 WINDOWS AT SOUTH
COMPLEX GARAGE - KAMMERER INC.**

The Commissioners received the above referenced proposal in the amount of \$2,795.00 for materials and \$850.00 for installation, (H.I.).

**PROPOSAL TO REMOVE WOOD DOOR & FRAME
& REPLACE WITH STEEL DOOR & FRAME IN
GARAGE AT SOUTH COMPLEX - LEATHERMAN CONST.**

The Commissioners received the above referenced proposal in the amount of \$1,835.00, (H.I.). The proposal included an option to paint the door and frame for an additional \$340.00.

**REVISED PROPOSAL TO REPLACE CONCRETE AROUND
COURTHOUSE -LEATHERMAN CONSTRUCTION**

The Commissioners received a revised proposal from Leatherman Construction for concrete replacement which eliminates projects #4 & #6 in their original proposal, which the Commissioners decided not to do, (H.I.).

**LAOTTO REGIONAL SEWER DISTRICT –
MARY PRANGER APPOINTED FOR 2 YEARS &
GUY WHONSETLER RE-APPOINTED FOR 3 YEARS**

The Commissioners received a request from the LaOtto Regional Sewer District for Mary Pranger, to be appointed to replace Jean Campbell who is resigning as of August 31, 2013 as a DeKalb County Director, and for Gary Whonsetler who is a Noble County Director to be reappointed for another three year term ending in August 2016, (H.I.). Dave moved to make both appointments as requested. Chad seconded the motion. Dennis said the way he reads it the Commissioners only appoint Whonsetler, because this went to the DeKalb County Commissioners too, and he would think DeKalb would be appointing Mary Pranger. He said he hasn't seen the creating document to know how it is supposed to be. After further discussion Dennis said the Commissioners could appoint both with whatever authority they have. The motion then carried, 3-0.

**TOWN OF ALBION – RANDY & DAWN
GUNDER VARIANCE REQUEST**

The Commissioners received notice, as an interested party, from the Town of Albion indicating that Randy and Dawn Gunder, doing business as G & G Construction have requested an amendment to a variance they had received previously, (H.I.).

MINUTES APPROVED

After reviewing the minutes and making corrections via the internet the following actions were taken: *July 29, 2013 minutes* - Chad moved to approve them. Dave seconded the motion and it carried, 3-0; *August 5, 2013 minutes* - Dave moved to approve them. Chad seconded the motion and it carried, 3-0.

JANUARY 2014 – DECEMBER 2015 CEDIT PLAN

The Commissioners received the final draft of the above referenced CEDIT Plan for their review and approval, (H.I.). After reviewing the plan and discussing the RDC portion of the plan with the Auditor, Chad moved to approve the final draft of the 2014 – 2015 CEDIT Plan. Dave seconded the motion and it carried, 3-0. _

HIGHWAY BUSINESS – MIKE FITCH & MARK GOODRICH **LPA CLAIM VOUCHER FOR UNITED CONSULTING RE:** **2010-2014 BRIDGE INSPECTIONS**

Mark presented the above referenced LPA claim voucher. Mike said United Consulting should be pretty close to finishing the contract.

Chad moved to approve the LPA claim voucher. Dave seconded the motion and it carried, 3-0.

TREES ACROSS HOME AT BIG LAKE FROM STORM

Mark presented a copy of a complaint from Phyllis Hess about trees that fell on her house during a storm on August 8th at Big Lake. He said they had called the Highway Department in 2010 to request that the trees be taken down. Mark said the Highway Department went and looked at them and they were probably 150' tall, and they weren't anything they had the equipment to deal with. He said when the trees came down they were alive and didn't appear to have any clear problems. He questioned where our liability lies on trees on our right-of-way in residential areas. Mark said if you go into residential areas and start cutting trees down because they are in our right-of-way you get into hot water too.

Mike said if it is platted then anything that shows street right-of-way would be physically street right-of-way. He said if it is not in a platted lot, then technically our right-of-way ends at the edge of our road. Mike said most of the people own to the center of the road so we only claim ownership to the edge of the road. He said we have a right to maintain the side ditches. Mike said our right-of-way changes, depending on how the right-of-way is described.

Mark talked about things that Allen County does that Noble County does not do. He said if we start going along with these (requests), we have a ton of work to do, because the lakes and additions are just full of trees. Mike asked if the tree was dead or hollow. Mark said it wasn't. He said it came down because of the storm, because the roots and all came out. Mike said he thought we would have some liability if it was a dead tree.

Dennis said if we leave a dead tree in our right-of-way we'd have a problem, but not if it is a live tree and it is an act of God by a storm. Gary asked if Wayne had taken any pictures. Mark said he hadn't. He said he would go out and get some pictures of the trees and the damage that was done. Mark asked if he could get back with Phyllis and tell her that the county is not accepting responsibility because we believe it was an act of God that brought the trees down. Dave said she will turn it into her insurance company and if they want to pursue it they will. He said we don't have a policy of taking live trees down.

Chad asked Mark to check with Steuben County who has a lot of lakes, and see what their policy is in regards to trees in the right-of-way. There was discussion that even during storms, the Highway Department tries to stay within our right-of-way when cleaning things up.

SITE DISTANCE ISSUES BECAUSE **OF PLANTED FIELDS**

Mark said for years, farmers have been creeping out on our right-of-way. He said the Highway Department got some complaints last year and they had received some this year

because of site distance issues, particularly where they are planting corn. Mark said one farmer he talked to last year wasn't happy about it, but he told him to take down what needed to be taken down. He said another farmer said he owned to the middle of the road and he was going to farm out as far as he could. Mark said typically what he had been doing is to cut everything right up tight to the corn. He said Russ (previous superintendant) always waited for the corn to germinate and then he cut the tops off down to the ears. Mark asked if we could take everything to the edge of our right-of-way and just mow it down. Dennis said we could unless the property owner is willing to assume the liability and hold us harmless if there is an accident because of the site distance. Chad said he thought if Mark walked in with a "Hold Harmless" agreement that says if there is an accident they are 100% liable, they would probably take the corn down.

Mike said if the crops are within our right-of-way we have a right to cut them. He said if it is outside of our right-of-way and there is still a site distance problem, then we should acquire more right-of-way.

CHIP SEAL & MOWING UPDATE

Mark said he had two to three mowers running all but one day last week. He said he has all of his guys chip sealing today. He said from that point on he should be able to keep three mowers out the rest of the month and hopefully for the rest of the year.

415 N DRAINAGE PROBLEM/INTERSECTION

Mark said the Drainage Foreman and an operator went out and checked the drainage problem at 415 N. He said there are several areas where the property owners have filled in the ditch forcing water out to the edge of the road. Mark said to drain it properly they need to go out with a grader and cut ditches. He said they could cut wide sweeping ditches and seed them to where the property owners can maintain them, but it probably wouldn't make the property owners very happy. Mark said there are about half a dozen driveways that need culverts replaced or put in. He said Mike had said in the past that if we are doing a construction project like that it would be our responsibility to put the pipes in.

Doug Harp, Sheriff was present. He said there is talk about doing away with the 4-way stop there, and there is a lot of concern with the neighbors about opening up 1000 E. Doug said if you are going eastbound, it is very difficult to see the southbound traffic. Mike said the trees and weeds need to be cut back to the right-of-way line to improve the site distance. Doug said if you are going east, there is a little bit of a hill there that has caused a lot of concern with the neighbors about doing away with the 4-way stop.

Mark said he would be drafting a letter to drop off at each house to let them know what is going on (with the ditch), and he will have his phone number on the letter in case the land owners want to meet with him personally.

500 E BETWEEN BASELINE & 125 S TO BE CLOSED

Mark said the above referenced road would be closed August 19th to put a culvert in. He said they are allowing a week, but he didn't think they would have the road closed that long.

500 E BETWEEN 500 N & 600 N TO BE CLOSED

Mark reported that on August 26th the above referenced road would be closed to replace a culvert under the road. He said it would probably be closed for two days unless they run into something unexpected.

SPEED LIMIT SIGNS

There was a brief discussion about speed limit signs on 1000 E that are within about 100 feet of each other and about some speed limit signs in other areas.

STOP SIGNS & SPEED LIMIT REQUESTS

Mike said we had some missing stop signs and he had Charisse do some research and she couldn't find an ordinance so he prepared an ordinance to put signs on *Lincoln Street* for eastbound and westbound traffic. He said the east part of Lincoln Street is a dead end street. Mike said *Oak Street* is a through street.

Chad moved to approve proceeding with the advertisement of the ordinance for the placement of a stop sign at *Lincoln Street and Oak Street in Kimmell*, Sparta Township. Dave seconded the motion and it carried, 3-0.

Mike said he was called out to a complaint about high weeds and he noticed that the eastbound right turn lane at the *intersection of CR 900 N and 1200 E* in Wayne Township did not have a stop sign. Chad moved to approve the ordinance for advertisement for placement of a stop sign at 900 N and 1200 E on the turn lane from eastbound on 900 N to southbound on 1200 E. Dave seconded the motion and it carried, 3-0.

Mike said he had a speed limit ordinance for *Jones Lake Road from CR 1050 N to the End*. Mike said it is kind of a gravel/chip seal mixture of road that is like a lane and a half wide. He said they got a complaint that residents were driving excess speeds. Mike said it is a typical lake access type road with quite a few residential properties. He said currently there is no speed limit posted. Mike said he is recommending a 20 MPH speed limit there because of the closeness of the homes to the road and the winding roads. He said there are numerous roads like this in the county that go around the lakes that are not posted.

Chad said he didn't know if when taking care of a lake area we should do the whole lake or not. Mike said we should do a survey of all of them and do a blanket ordinance to catch them all, but that is a time issue. He said now we are just doing them on a complaint basis. Chad said he thought it would make it a lot easier for law enforcement to know that the speed limit is the same at all of the lakes.

Chad moved to approve the advertising for the speed limit ordinance for Jones Lake Road. Dave seconded the motion and it carried, 3-0.

HIGHWAY ENGINEER POSITION

Mike said he hadn't received any more applicants for the Highway Engineer position. He asked about advertising for a more expanded area outside the Fort Wayne area at a cost of \$195.00 for thirty days. The Commissioners agreed it would be ok.

RECESSED AND RECONVENED

The Commissioners recessed their meeting at approximately 9:51 A.M. and reconvened at approximately 10:08 A.M.

STEVE BAUMAN TAX SALE PROPERTY

Sheri Auld, Deputy Auditor in charge of tax sales came before the Commissioners to discuss a tax sale property previously owned by Steve Bauman that the Commissioners have taken title to in Ligonier. The Commissioners are thinking of splitting the property for two adjacent owners if they pay all costs, and there have been allegations that Willie Huff, father of Jessica Huff who is one of the adjacent owners, has been placing junk cars on the lot already. Dennis said he thought it would be good to have Willie Huff and his daughter come in. Chad said since there is some potential conflict there, he thought it would be best to set up an appointment to have the Huff's and the Belmares' (Ciro & Teresa) come in to discuss this.

**ADDITIONAL APPROPRIATION
FOR SIDEWALK REPAIRS**

The Commissioners and Auditor discussed how long it would take to get an additional appropriation to pay for the work to be done. There was also discussion about proposals that had been received for other work that is to be done regarding county property.

**PROPOSED RELEASE RE: SRO/SPECIAL DEPUTY FOR IMPACT
INSTITUTION, A FOUR COUNTY VOCATIONAL SCHOOL**

Sheriff Doug Harp came before the Commissioners to discuss a proposed release for an SRO (School Resource Officer) for the IMPACT Institution, a four county vocational school. (no copy for file) Doug said when he had talked to the Commissioners previously about possibly having retired police officers for SRO's there were some concerns. He said he met with Tim Holcomb from the IMPACT Institute, which was formerly the Four County Vocational, and he had expressed an interest in doing that. Doug said after he talked to the Commissioners the last time he talked to Jared Ramer (County's Insurance Agent) and he researched it and didn't see any issues with liability coverage for a special deputy. He said it is similar to what we have now with the reserves and other special deputies. Doug said the other issue was with equipment and things like that, and Four County Vocational basically said they would pick up any equipment costs. He said another issue was the "hold harmless" agreement. Doug said whenever we have a full time officer that is employed for security like at the Windmill Museum for weddings and things like that, they are required to have a hold harmless agreement signed by the employer. He said Tim had already talked to his board and they didn't see any issues with that. Doug said he didn't have a signed document today, but what they are talking about is using the grant dollars through the state, and because of that they are looking at probably January before they would have the position in place.

Chad said one of the liability issues was with the two insurance companies working together. He asked if there would be an issue with the school's insurance company. Doug said Tim had told him that is not a problem. Gary asked if on the agreement where it says they would hold the Noble County Sheriff's Department harmless, if it shouldn't say Noble County. Dennis said he would want it to say both. Dave asked if the SRO would be at the facility by the old Wal-Mart. Doug said they have several buildings in and around Kendallville. He said there have been different scenarios, and it might be that there would be two officers splitting duties. Doug said they have two retired police officers that work for them now.

Dave asked if there is an issue with the uniform. Doug said the way the statute reads the uniform can be the same as the county uniform and they could just put a pin on them that says, "SRO". He said there is no one that polices uniforms that close.

Chad asked who would be administering the training. Doug said the Sheriff's Department will. Chad said he didn't see anything in there where they would reimburse for that. Doug said we have to do training classes anyhow, and he didn't see it as an issue to just absorb them in.

Gary said he is not opposed to having retired police officers in the schools, but he thought the officer or the school should fund the equipment, including a handgun, and not the county. He also expressed his concern that a person may have been a fully trained police officer and then decided to become a teacher. Gary said he wanted to make sure that the former officer, now

teacher, would not be allowed to be an SRO since they are now a teacher. He said we don't want any gray area. Doug noted that SRO's would not have any police powers when they are off duty.

Dennis asked what the memorandum of understanding would be like. He said he thought Doug had an understanding before that he had proposed. Doug said he had one with Central Noble, but this one would be a little bit different. Dennis asked Doug to get him a copy of it. He said also, he would want something in writing from our insurance carrier that this idea is agreeable with them, and he would want the same thing from the insurance carrier for IMPACT. There was much discussion about having something signed by the insurance companies. Doug thought the SRO's would have the same coverage as reserves and special deputies.

Dennis said this is a new thing and we need to make sure the other insurance companies are going to be covering it under their "workman's comp", so there isn't any dispute if something happens down the road. Dennis said he wouldn't have a problem except that IMPACT is a group of schools lumped together, and there is only one signature on the agreement. Dennis said his concern is that the agreement was signed by the Director (Tim) and he hasn't seen anything from his board giving him that authority.

Dave asked if the person would be on the Sheriff's payroll and then he would get reimbursed. Chad said they would be strictly an employee of the vocational school under a "Special Deputy" status.

Gary said the separation for him is that if an off-duty officer does work at the Windmill Museum or wherever, they are covered. He said then you have a retired police officer and they are now John Q. Citizen, and there is no coverage for them. Dennis said with any current police officer, any time they are out there, they are covered, even if they are off duty.

Jared Ramer was present at this time. Gary said the Commissioners want to make sure where they are with a retired officer being paid by IMPACT, and if the insurance company is ok with it. Jared said the special deputies while at the school are an employee of the school. He said IPEP's (insurance company) stance would be that the school systems would cover them for the workers comp while they are employed by the school. Jared said he contacted Downey (insurance broker) and they had a different stance with this than they did with arming teachers. He said according to Downey, IPEP is fine with this scenario, because the SRO would be the school's employee.

Chad said he doesn't have a problem with it as long as the school's insurance company knows, and we have written verification that their insurance company knows, that they are 100% responsible for that person in regards to liability and workers comp. Dave said we aren't subsidizing them in any way except training, and they are not going to be on our payroll. There was discussion that the person would be added to the county's insurance by putting them on the list that they are a special deputy under the Sheriff's Department. Dennis said he thought if we do this, we should notify Jared immediately and get him a copy of the agreement. Jared said he would contact the school's insurance company.

WECARE REPORT – JANUARY–JUNE, 2013

Jackie gave the Commissioners a report from the WeCare Clinic that shows that the county had \$175,000.00 savings in the first six months of 2013, (H.I.). Jackie reported that Central Noble has instructed that if someone is injured and the clinic isn't open and they have to go to Occupational Health, that if a follow-up visit is needed it is to be done at the clinic. She said she didn't know if the county wanted to do that too.

There was also discussion about the possibility of the clinic doing the DOT physicals for the Highway Department employees like they do the school bus drivers, to save the county money. Jackie said she would talk to the Highway Superintendent to see what his concerns would be regarding the clinic doing them.

HANDBOOK DISCUSSION
SMOKE FREE WORKPLACE

There was a brief discussion about changing the handbook to include exclusion of things such as battery powered cigarettes that don't actually contain tobacco.

Chad moved to add a line to the ***SMOKE FREE WORKPLACE*** section in the handbook, and also to enact a policy immediately, that Noble County prohibits the use of electronic cigarettes or E cigarettes within county buildings or within 8 feet of a doorway. Dave seconded the motion and it carried, 3-0.

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 11:22 A.M. recessed from day to day until the 19th day of August, 2013.

Gary Leatherman, President

David J. Dolezal, Vice President

Chad Kline, Member

ATTESTED: _____
Jacqueline L. Knafel, Auditor