

**MINUTES OF A REGULAR SESSION OF THE
BOARD OF COMMISSIONERS HELD July 22, 2024**

Comes now the hour of 8:30 am. on the 22nd day of July, 2024 in the Commissioners Room in the Noble County Annex building, 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
Anita Hess, Vice President
Gary Timmerman, Member

Also present were:

Jacqueline L Knafel, County Coordinator
Dennis Graft, Noble County Attorney
Matt Getts, KPC Media
Zack Smith, Highway Engineer

Gary Leatherman, Commissioners President, brought the meeting to order at approximately 8:30am.

CORRESPONDENCE

- Monthly report – Clerk of the Courts June 2024
- Monthly report – Noble County Treasurer - June 2024
- Gary Timmerman brought up the letter written to Gary Timmerman from Ronda Salge. In particular, he wanted to address the potential “conflict of interest” by a Plan Commission member and the attorney for the Plan Commission. Dennis Graft suggested that Gary T. contact the plan commission to get a copy of the minutes that addressed this issue months ago. Gary T. indicated that he would contact Teresa Tackett to see if he could get a copy of those minutes. Regarding the rest of the letter and the requests that were mentioned, Dennis suggested that since the letter was ONLY addressed to him and not the board of commissioners, that this should be his response rather than the boards response.

MINUTES

Minutes of the July 8, 2024 meeting were read and approve as written with a motion from Anita Hess and a second coming from Gary Timmerman. Motion carried 3-0.

Minutes of the July 8, 2024 special meeting were approved as written. Gary Timmerman moved to approved the minutes. A second came from Anita Hess. Motion carried 3-0.

Minutes of the July 10, 2024 special meeting were approved as corrected with a motion from Anita Hess. Gary Leatherman seconded the motion. Motion carried 3-0.

CLAIMS

The 13-page report totaling \$1,898,905.83 was reviewed by the commissioners. Gary Timmerman moved to approve the claims as presented. Anita Hess seconded the motion. Motion carried 3-0.

PAYROLL

Payroll dated 7/25/24 was reviewed by the commissioners. Anita Hess moved to approve the 3-page report totaling \$527,413.75. Gary Timmerman seconded the motion and the motion carried 3-0.

OLD BUSINESS

Gary Leatherman told the group that he had been contacted by Black Pine Animal Sanctuary about expansion. Dennis Graft, County Attorney, told the commissioners that with the 4-H park having a 99-year lease on this property, discussions will need to be had between Black Pine and the 4-H group.

CVB – Jackie Knafel, County Coordinator, told the commissioners that she had responded to an e-mail from the CVB about planning events the summer of 2025. They were wanting an update on the construction of the courthouse as to whether the lawn and surrounding areas of the courthouse would be available.

NEW BUSINESS

A contract from Peterson Consulting Services, Inc. has been received for commissioners' approval. This is for capital asset management. The amount of the contract is \$3,675.00. Gary Timmerman moved to approve the contract. Anita Hess seconded. The motion carried 3-0.

HIGHWAY

Richard Rogers, Highway Inspector, was present with construction information for the commissioners:

- Utility Permits from NIPSCO – one for 8600 N 700 Ligonier and the other for Lima Rd in Kendallville
- Richard also has a driveway variance for a Chris Noll on 200 S. Richard reported that the sight distance and drainage are good but it sits too close to another driveway across the road. After review of the sight, Gary Timmerman moved to approve the variance. Anita Hess seconded the motion. Motion carried 3-0.

Zack Smith, Highway Engineer, has the following engineering business to come before the commissioners:

- Highland Dr Ligonier - Several of the residents of Irish Hills, that live on Highland Dr would like for the county to take this road into the county's inventory. In order to do that, the road will need to be brought up to highway standards. According to the neighbors in attendance, William Baker, Wayne Eash and Chris Replogle, this was the intent at the time that the sub-division was developed, but nothing was never done to make that happen. Richard Rogers has inspected the road and indicated that the residents have done their best to patch and somewhat maintain the road. Zack has the following estimates of what it will cost to bring the highway up to standards: Option 1: would be to double chip and seal the road. This is cost of material only and the county will do the work. Option 2: would be an asphalt overlay at .5 square yards at a cost of \$30,000.00 and Option 3: would be a complete reconstruction of which a contractor would be hired and that estimated cost would be \$67,020.00. Zack had provided this information to the homeowners prior to a meeting that they had to discuss how this project would be paid for. Mr. Eash told the commissioners that there were 10 residents in attendance and that the consensus was to do the cheaper of the options – double chip and seal. They also want assurance that once this is done the county will assume Highland Dr into the county mileage and will maintain the road going forward. Gary Timmerman made a motion to double chip and seal Highland Dr. with the homeowners paying upfront \$10,000.00. The county will provide all labor to get this job done and will complete the job as soon as they can after receipt of the \$10,000.00 check. And once complete, the county will take this road into their mileage inventory and maintain the road from that time on. Anita Hess seconded and the motion carried 3-0.
- LINE STRIPING - Accurate Striping will extend their contract with 2024 being the same as 2023 at .814 per l/f, 2025 would be .915 per l/f and 2026 would go to .1015 per l/f. This continues to be considerably less than two other bids that were received 3 years ago. Motion to approve the extended contract with Accurate Striping for three more years came from Gary Timmerman. Anita Hess seconded. The motion carried 3-0.
- HMA 2024-01 – Zack reported that he has submitted the contract with Phend and Brown to the state for approval
- HMA CN-01 – the contract with Pulver's has been submitted and approved. This work should be done yet this year.
- Bridge Deck overlay – this work has been completed and inspected.
- Bridge Inspection – this is the off year for bridge inspections.
- 400 N – Zack reported that paving will begin this week and indicated that with the cement stabilization that this will be one of the better built roads in the county. Zack provided pictures of the work being done.
- Bridge 136 - Zack said with the recent rains that we have gotten; the crews are battling erosion on this project. The crews will concentrate on bank work to avoid these issues. There is an LPA voucher for review for this project. The voucher is in the amount of \$29,060.95 and is approved with a motion from Gary Timmerman. Anita Hess seconded. The motion carried 3-0.
- Bridge 44- there is an LPA voucher for this bridge project as well. This is for construction engineering in the amount of \$271.06. Gary Timmerman moved to approve this as well. Anita Hess seconded the motion and it carried 3-0.
- Ball Road – Letting will be in December of 2024

- Bridge 134 – letting is set for October of 2025 and is tracking underbudget at this time.
- Bridge 69 - letting is also set for October of 2025.
- Old State Road 3 – letting is set for July of 2025.
- Bridge 61 – SJCA has been selected as the design consultant
- Bridge 56 – United was selected for this project.
- Albion Excess Parcels – Bid opening. Only one bid was received for the parcels:
D & P Busche Farm LLC submitted the bid: parcel 1 NO BID
Parcel 2 NO BID
Parcel 3 \$10,050.00
Parcel 4 \$10,050.00
Parcel 5 \$5,050.00

Nick Busche has submitted a letter indicating that he had NO interest in the parcels advertised but was interested in 57-15-08-200-024.000-021. Zack will look into this a bit further.

Jerry Busche has an e-mail to Zack indicating that if parcel 1 and 2 were not bid on, he would be interested in purchasing them. Anita Hess moved to allow this to happen. Gary Timmerman seconded and the motion carried 3-0. Zack will take the next steps in this process.

- 500 S culvert – Typically small structures are taken care of in-house but this was a different situation and Zack has secured an agreement from Civilcon, Inc which specializes in these types of structures. The design of this is estimated to be around \$79,000.00. Gary Timmerman moved to approve the agreement with Civilcon, Inc not to exceed \$79,000.00. Anita Hess seconded. The motion carried 3-0
- 50 E – Scott Ziegler had contacted Jackie Knafel, wanted to give the county a strip of right of way on 50 just north of CR 900 N. Scott indicated that he would prepare the deed and pay for the recording but was not interested in paying for title insurance. After discussion with Zack as to whether or not this would be useful for the county, Anita Hess moved to move forward with the acceptance of the right of way once the county had a title search done at the county’s expense. Gary Timmerman seconded the motion. Motion carried 3-0

COURTHOUSE RENOVATION

Zack Smith, Project Manager, updated the commissioners on the progress at the courthouse:

- There is drywall work being done and things are looking really good.
- Zack reported that Jason is becoming the “leak detective” doing exploratory work after each rain.
- Duct work on 1st and 2nd floor continues.
- Meeting minutes and pictures were provided to the commissioners along with an updated schedule.
- Proposal # 5 was reviewed – this consisted of small detail of construction
- PCO #54 – this is for existing wall hydrant at a cost of \$741.75 to be charged to contingency. Motion to approve came from Gary Timmerman. Anita Hess seconded. The motion carried 3-0
- PCO #65 – this is for 2nd floor flooring at the new doors. Zack explained that there was an issue in matching up new doors with the existing flooring. This comes with a cost of \$2,593.51 to contingency. Gary Timmerman approved the change. Anita Hess seconded and the motion carried 3-0.
- PCO #68 - Daylight windows, frames etc. were added for a cost of \$1,086.45. Motion to approve this came from Gary Timmerman. Anita Hess seconded. Motion carried 3-0.
- PCO #69 - There is a need to replace the gas regulator at the cost of \$1,582.04. The approve of the money coming from contingency came from Gary Timmerman. Anita Hess seconded. Motion carried 3-0.
- PCO #70 – Drains were installed on the north side of the courthouse to prevent the flooding of the side walk in that area. This has been an issue for some time and will be corrected with this installation. This will charge \$8,706.93 to contingency. Gary Timmerman moved to approve the PCO #70. Anita Hess seconded. Motion carried 3-0.
- American StructurePoint has submitted a proposal for extended oversight of the courthouse renovation. This was originally set to expire in September. The courthouse is scheduled to be completed in January of 2025, so Zack is asking that the commissioners considered this extended proposal. Motion to approve the extension in the amount of \$64,700.00 came from Gary Timmerman. Anita Hess seconded. Motion carried 3-0.

- Zack's contract for project manager is also set to expire at the end of this year. He told the group that his intention was to finish the project and was not proposing anything. If the commissioners want to pursue something with the council that is up to them.

911 DISPATCH

Shelley Coney, 911 Director, was present concerning the temperature at the sheriff's department where the radio system is stored. She told the commissioners that the temperature should be in the area of 65-70 degrees. It was 76 degrees. She is trying to prevent a problem with the system that was experienced earlier. She told the group that Brad Rollins had found a stand-alone cooling device that he thought would work for this area at a cost of around \$786.00. Anita Hess moved to approve the purchase not to exceed \$1000.00. Gary Timmerman seconded the motion. Motion carried 3-0.

UNSAFE HOUSING

Mike Klopfenstein, Building Inspector, was present along with the owner of the property located at the corner of State Road 9 and US 6. The property is in need of some major repairs and the owner would like to save the structure, but is having issues with getting a reliable contractor to give him a good estimate of the costs. With the comments from Mike and the pictures provided at the last meeting with the commissioners, most thought that the best thing and most cost-effective thing to do would be to tear the structure down. All thought that the owner would have much more in repairing the structure than he would have in building a same office space to start his business. The owner was insistent that the commissioners give him more time to get some costs and make that decision. He told the commissioners that if the costs are too much, he will take the structure down himself. Anita Hess then moved to give the owner 60 days and set a hearing for September 23, 2024 at 10:00 AM. The motion also included permission for the building department to secure bids for demolition of the property. Gary Timmerman seconded the motion. Motion carried 3-0.

HEALTH DEPARTMENT

Melayna Gingerich, Health 1st Coordinator, was present along with Tina Lough and Carrie Ryan from the health department. Also present were a couple of representatives from the state to discuss vector control and lead management. Melayna explained that through the Health 1st program, they would like to hire a person to do vector control, pool inspections, and conduct lead assessments in homes when there is discovered to be a problem in that home. The representatives spoke on behalf of the need to have someone to assist the public with all of these issues and that education in these areas are of most importance when it comes to mosquito control. When it comes to the lead – this would be in home assessments, such as identifying the source of where the lead is coming from. When the commissioners asked about contracting these services, Carrie Ryan, Health Nurse, told the group that she has called around to other counties that have someone in this position and that they do not have the time to contract with other counties. Gary Timmerman indicated that mosquito control was only seasonal and that the 3 public pools in the county typically were well managed and controlled by the owners of the businesses. He didn't think that it was necessary to hire another full-time employee and pay the cost of benefits. Anita Hess went ahead and made a motion to allow the department to hire someone for this position. Gary Leatherman seconded the motion. The motion carried 2-1 with Gary Timmerman voting against the hiring of a full-time employee.

11:45 AM recessed

1:00 back in session

UDO AMENDMENTS

The commissioners came back into session to discuss the UDO recommendations that will be sent to the Plan Commission board for discussion. A large group had gathered for this discussion, but because this was not a public hearing, no outside comments were allowed. Teresa Tacket was present for this discussion as well.

Anita Hess started the discussion, and told the group that she has been thinking about a lot of these issues for some time. The following were her recommendations:

1. Bigger Setbacks - Anita is proposing that the setbacks for the solar be set at 750 ft. She went on to explain that she had talked to some local farmers and that they felt that this would give some reasonable ground to be able to farm around these panels. Currently the setbacks are 50 ft from the property line or 300 ft from a residence. Anita Hess moved

to recommend increasing the solar setbacks to 750 Ft from the property line on all sides with the opportunity of a waiver if the non-participating land owner is willing. Gary Timmerman seconded the motion. Motion carried 3-0.

2. Wildlife corridor - Anita again had did some research as to what other areas had done for this concern and suggested larger holes in the fencing be considered for small animals such as rabbits and squirrels and that an unfenced passageway be considered for large animals such as deer. Teresa suggested that simply adding this to the definitions might clarify this issue. Anita Hess moved to add this clarification to the definition in Article 11 the fencing regulations. Gary Timmerman seconded. The motion carried 3-0.
3. Under article 10 - Anita is suggesting the adding of "land" in front of owner. She feels this would clarify the property owner and rather than the confusion between the owner of the land and owner of the panels etc. Dennis Graft suggested that if owner becomes landowner, then this needs to be done throughout the UDO and that there needs to be a definition of landowner. Anita Hess moved to change owner to read "landowner" throughout the UDO and created a definition of Landowner. Gary Timmerman seconded. Motion carried 3-0
4. Insurance – along these same lines, she feels that there needs to be proof of liability insurance provided annually by the landowner. There was considerable discussion on this topic as well considering the enforcement and monitoring of such requirement. Anita Hess moved to add the requirement of the landowner providing a Certificate of Liability Insurance form annually to the county. Gary Timmerman seconded. The motion carried 3-0.
5. Cash Escrow - This topic has been debated several times, but Anita would like to have the solar ordinance match the wind ordinance and have this be a cash escrow as well. Gary Timmerman moved to approve the language to read that there must be a cash escrow provide in the amount of at least 125% of the decommissioning cost, but to be determined by the commissioners. The wording for this will mirror that of the wind ordinance. This will be set up in a separate interest-bearing account and be reviewed or revisited every 3-years to make sure that the funds are sufficient for decommissioning. Anita Hess seconded. Motion carried 3-0.

Gary Timmerman told the group that a lot of issues he had as well were addressed by Anita, however, he did have some things to discuss:

1. Gary is asking why this is not be rezoned. He believes that this should follow the same criteria as others when they put a business on their land. Teresa Tacket responded to this, stating this was an attempt to preserve the original intent of the ground, by putting an overlay on solar, when solar goes away, this will go back to agricultural status. She assured Gary that the same protocol of notification will be done whether it is an overlay or a rezoning. All adjoining property owners (landowners) will be notified of the intent.
2. Drainage - The board told Gary that the Noble County Surveyor was looking into this issue of damaging field tiles and that it will be a part of the drainage ordinance.
3. Lastly, HB 1183, Gary is in hopes that this can be addressed in some areas of the local ordinance. This is a state law that was recently adopted restricting the purchase or leasing of ground by any foreign adversaries mentioned in HB 1183. After some discussion, it was decided that this will be added to the application for a solar plan. Anita Hess moved to add this to the application. Gary Timmerman seconded and the motion carried 3-0.

Gary brought up the letter he had received from Ronda Salge and is asking that Teresa respond to the question about conflict of interest for a plan commission member as well as the plan commission attorney. Teresa had indicated earlier that this issue had been addressed and Gary is asking that she respond to that question. Gary Leatherman and Anita Hess reiterated that the letter was addressed to him directly and so any response that he makes to this letter needs to clarify that this is his opinion and not that of the board.

ORDINANCE

Dennis Graft, Noble County Attorney, has drafted an ordinance amending 2012-4 and 2017-. This will allow the highway department and the sheriff's department to purchase supplies and services with an estimated cost of less than \$10,000.00 on the open market without inviting or receiving quotes or bids and without prior approval of the Noble County Commissioners. Motion to approve the ordinance came from Anita Hess. Gary Timmerman seconded and the motion carried 3-0.

LANDFILL

A letter from IDEM had been received concerning some issues that had come up during the semi-annual inspection concerning cracked surface pad at GP-21, gaps at GP-04 and GP-20, silt

blockage at GP-02 and GP -04 and leachate seeps. A copy of this report was given to all of the commissioners.

HIGHWAY

Zack had just received a quote for refrigerant and brought it in for commissioner's approval. The quote was from Napa Auto Parts was in the amount of \$6,896.68 and was approved with a motion from Gary Timmerman and a second from Anita Hess. Motion carried 3-0.

ADJOURNMENT

This session of the Board of Commissioners of Noble County was at approximately 3:00 PM am adjourned from day to day until August 12, 2024

Dated this 12th day of August, 2024



Gary D. Leatherman, President



Anita Hess, Vice President



Gary Timmerman, Member

ATTESTED: 

Michelle Mawhorter, Auditor