

Mason, Michigan

April 12, 2010

The Board of Ingham County Road Commissioners met for a regular meeting on Monday, April 12, 2010, at 6:00 p.m. in the Board Room of the Road Commission's Austin E. Cavanaugh Administration Building located at 301 N. Bush Street, Mason, Michigan.

Present: Joseph A. Guenther, Chair, Shirley M. Rodgers, Vice Chair, James G. Dravenstatt-Moceri, Member, Thomas M. Mitchell, Member, and Norman L. Gear, Member.

Also Present: William M. Conklin, Managing Director, Robert H. Peterson, Director of Engineering, David E. Francis, Deputy Secretary to the Board, Tina M. Henry, Finance Director, James M. Benjamin, Director of Operations.

Others Present: Will Comstock, Western District employee (ICRC), Daniel J. Troia, Design Engineer (ICRC), Nate Conner, Metro District employee (ICRC), Gerald Richards, Meridian Township Manager, Deb Nolan, Ingham County Commissioner.

AGENDA ITEM #34 – LIMITED PUBLIC COMMENT.

Nate Conner, Metro District employee (ICRC). Mr. Conner asked the Board if there was ever a vote on implementing working four days per week, ten hours per day during the summer. Chair Guenther stated that the Board did not vote. Chair Guenther stated it was his understanding that one union was not in support, one union was at an impasse, and one union was in support of the schedule. Chair Guenther stated in order to implement the schedule all unions have to be in support. Mr. Conner stated he believes there is a cost savings involved. Mr. Conner stated with all the budget concerns he would like to know if that one day off per week would result in a cost savings to the Ingham County Road Commission. Mr. Conner asked if he could get a response at the next Board meeting. Chair Guenther stated it will be looked into.

AGENDA ITEM #4 – LATE ITEMS/DELETIONS/CONSENT ITEMS.

Managing Director Conklin stated there is one deletion from the Board agenda, the meeting with legal counsel, George Brookover to discuss the pending assessment appeal on the Cook and Thorburn Drain. Mr. Conklin stated Mr. Brookover has indicated there is disagreement amongst the parties of the settlement about an exhibit of the document, therefore he canceled.

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri, that the following items be approved under consent:

- A. Agenda Item #5, March 29, 2010 Minutes.
- B. Agenda Item #6, Routine and Special Permits.
- C. Agenda Item #10A, Accounts Payable March 15-28, 2010.
- D. Agenda Item #10B, Act 51 Report.
- E. Agenda Item #11A, Final Pay Estimate for 2009 Local Road Paving Projects.
- F. Agenda Item #11B, Dobie Road Bridge Inter-Agency Agreement and Construction Contract.

- G. Agenda Item #11C, Waverly Road-Willow St. to Grand River Ave. Inter-Agency Agreement and Construction Contract.
- H. Agenda Item 12A, Award of Proposal #1582- Bituminous Surfacing Mixture.

5 yes, 0 no. Motion carried unanimously.

Agenda Item #5 –Minutes.

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri, that the minutes of the meeting of March 29, 2010 be approved as presented. 5 yes, 0 no. Motion carried unanimously.

Agenda Item #6 – Routine and Special Permits.

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri, that routine permits be approved as follows:

10-0118	10-0120	10-0121	10-0122	10-0123	10-0126
10-0128	10-0129	10-0130	09-0512	10-0114	10-0115
10-0116	10-0117	10-0119	10-0124	10-0125	10-0127
10-0131	10-0132	10-00135	10-0133		

5 yes, 0 no. Motion carried unanimously.

Agenda Item #10A – Accounts Payable.

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri, that the accounts payable for the two week period of March 15-28, 2010, totaling \$314,036.32, be approved. 5 yes, 0 no. Motion carried unanimously.

Agenda Item #10B, – Act 51 Report.

RESOLUTION APPROVING 2009 ACT 51 REPORT.

RESOLUTION #033-10

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, that upon recommendation of the Director of Finance, Tina M. Henry, the Board approves the 2009 Act 51 Report.

Agenda Item #11A, – Final Pay Estimate for 2009 Local Road Paving Projects.

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri, that the Final Pay Estimates for 2009 Local Road Paving Projects be approved. 5 yes, 0 no. Motion carried unanimously.

Agenda Item #11B, – Dobie Road Bridge Inter-Agency Agreement and Construction Contract.

RESOLUTION APPROVING DOBIE ROAD BRIDGE INTER-AGENCY AGREEMENT AND CONSTRUCTION CONTRACT.

RESOLUTION #034-10

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, that upon recommendation of the Robert H. Peterson, Director of Engineering, the Board authorizes the Chair to sign the Dobie Road Bridge Inter-Agency Agreement and Construction Contract.

Agenda Item #11C, – Waverly Road Inter-Agency Agreement and Construction Contract.

RESOLUTION APPROVING WAVERLY ROAD INTER-AGENCY AGREEMENT AND CONSTRUCTION CONTRACT.

RESOLUTION #035-10

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, that upon recommendation of the Robert H. Peterson, Director of Engineering, the Board authorizes the Chair to sign the Waverly Road Inter-Agency Agreement and Construction Contract.

Agenda Item #12A, – Award of Proposal #1582- Bituminous Surfacing Mixture.

RESOLUTION AUTHORIZING AWARD OF PROPOSAL #1582 BITUMINOUS SURFACING MIXTURE.

RESOLUTION #036-10

Moved by Commissioner Mitchell and Supported by Commissioner Dravenstatt-Moceri. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, that upon recommendation of James M. Benjamin, Director of Operations, the Board authorizes the award of proposal #1582 be made to Rieth Riley Construction Company of Lansing.

AGENDA ITEM #7 – MANAGING DIRECTOR REPORTS.

A. Managing Director Conklin informed the Board that he provided William Seck with an update on the Federal Railroad Quite Zone process. Chair Guenther thanked Robert Peterson, Director of Engineering for his response to Mr. Lamoreau, previous Board meeting attendee, concerning the intersection of Waverly Road and Willow Street.

Agenda Item #10C – 2010 Budget Adjustments.

Commissioner Rodgers asked if the local road projects for the townships would be restored under this adjustment. Commissioner Rodgers stated the memo indicates the Local Road Program (LRP) can be fully funded, it does not state the LRP is being proposed to be fully funded. Managing Director Conklin stated he is proposing the LRP be fully funded. Commissioner Rodgers asked Mr. Conklin to clarify what the mini-bridges mentioned in the Board memo are. Mr. Conklin stated the mini-bridges have less than a 20 foot span and are not eligible for federal aid. Mr. Conklin stated that the mini-bridges are in need of repair and/or deck replacement. Mr. Conklin stated all five mini-bridges are on local roads and will be discussed with the respective townships as part of the LRP if approved by the Board.

Managing Director Conklin stated after the Board packets went out he received direction from Michigan Department of Transportation (MDOT) that seven bridges need to be inspected more frequently than the normal every two years. Mr. Conklin stated since all the bridges were inspected in 2009, no inspections were budgeted for in 2010. Mr. Conklin stated that the seven additional bridges will need to be inspected in 2010 for a total cost of \$1595.00. Mr. Conklin asked for approval to add the additional \$1595.00 to the budget adjustment. The Board unanimously agreed to add this change to the budget adjustment.

RESOLUTION APPROVING BUDGET ADJUSTMENT TO THE 2010 INGHAM COUNTY ROAD COMMISSION BUDGET.

RESOLUTION #037-10

Moved by Commissioner Mitchell and Supported by Commissioner Gear. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, that upon recommendation of the Managing Director, William M. Conklin, the Board approves the 2010 Budget Adjustments.

Agenda Item #13A – Meridian Township Petition for 45 mph Speed Limit on Jolly Road, between Hagadorn and Okemos Roads.

Managing Director Conklin stated a petition has been received from Meridian Township requesting to change the speed limit on Jolly Road, between Hagadorn and Okemos Roads, to 45 mph from the current unposted (prima facie 55 mph) speed limit as provided under MCL 257.628 sub-section (4).

Mr. Conklin recalled that the citizenry of Meridian Township requested a speed limit change in this segment. Mr. Conklin stated the request resulted in a speed study being performed and a meeting being held of the two Townships, the Okemos School District, the Michigan State Police (MSP) and the Ingham County Road Commission to consider a speed limit change as provided under MCL 257.628 sub sections (2) and (3), which require basing the speed limit on an engineering study and requiring unanimous agreement of the participating agencies, including MSP. Mr. Conklin stated a unanimous agreement was never reached as MSP preferred a 50 mph speed limit, which was the closest to the 85% speeds found in the study, while Meridian Township and the Okemos School District prefer 45 mph.

Mr. Conklin stated Meridian Township has submitted this petition under MCL 257.628 subsection (4). Mr. Conklin stated this section does not require a speed study and does not require the involvement of the Michigan State Police.

Mr. Conklin stated staff has reviewed the area and aerial photos supplied by Meridian Township and does not believe the necessary criteria of residential lots of 300 feet in width or less for a mile along either side of the road apply for the Meridian Township petition to be valid under subsection (4). Mr. Conklin stated there are houses with their backyards and/or side yards toward Jolly Road for the 0.6 mile between Hagadorn Road and Kansas Street along the north side of Jolly Road. Mr. Conklin stated that staff believes subsection (4) is directed at roads where the houses face and access onto the road in question and that the part of Jolly Road in question is only 0.6 miles in length, not a mile as required by subsection (4). Mr. Conklin stated that he recommends the intent of subsection (4) be clarified, relative to the Jolly Road situation, by a Michigan Attorney General's Opinion that the necessary conditions are present to petition under MCL 257.628 (4).

Commissioner Rodgers stated she was under the impression that someone was going to be requesting Representative Meadows to get an Attorney General's opinion. Mr. Conklin stated he decided not to act on that until the petition had been presented to the Board and the Board formally agree with him. Chair Guenther stated that he will formally agree that he would like to lower the speed limit to 45 mph right now. Chair Guenther stated that whoever opposes can seek the opinion of the Attorney General. Chair Guenther stated if the Ingham County Road Commission has the right to lower the speed limit to make it safer for a community, by their rules, and if there is a gray area let whoever opposes the change seek the advice of the Attorney General.

Commissioner Mitchell stated he tends to agree with staff's opinion that Jolly Road does not meet the definition of subsection (4). Commissioner Mitchell stated he does agree with Chair Guenther and would like to see a 45 mph speed limit on Jolly Road, but Commissioner Mitchell stated he feels it needs to be done within the limits that are allowed by the law.

Commissioner Rodgers stated that this issue was raised at a meeting in January. At that time, it was thought that the subdivision across from the Okemos High School did not meet this definition because none of the houses fronted on Jolly Road. Commissioner Rodgers stated that this was not an official opinion. Commissioner Rodgers stated that she agrees with Commissioner Mitchell that subsection (4) should be used in order to get an Attorney General's opinion but it should not be done in a way that puts the Ingham County Road Commission in a bad position legally. Commissioner Rodgers stated she feels staff recommendation should be followed. Commissioner Rodgers stated she does not have a problem acting on the matter but wants to ensure the Board is in a position to legally act on such matter. Commissioner Rodgers stated that the responsibility of getting the Attorney General's opinion should be that of the Ingham County Road Commission and not Meridian Township's.

Commissioner Dravenstatt-Mocerri stated he supports lowering the speed limit to 45 mph and then asking for an Attorney General opinion. Commissioner Gear stated everyone has agreed to support lowering the speed limit to 45 mph and that the Board needs to ensure proper procedure is followed.

Chair Guenther opened the floor for public comment.

Gerald Richards, Meridian Township Manager, 3986 E. Sunwind Drive, Okemos. Mr. Richards stated the Meridian Township Attorney has reviewed the law and has indicted the law is not clear. Mr. Richards indicated they want the speed limit law to be able to be enforced. Mr. Richards stated the only issue he feels that is in question from subsection (4) is the length. Mr. Richards stated the law does not specify that the entire length must be residential. Mr. Richards stated the subdivision across from the Okemos High School has 166 lots that will eventually access Jolly Road and try to turn left. Mr. Richards stated the section of law meets the definition of residential. Mr. Richards stated from Kansas Street to Hagadorn is the portion of Jolly Road that was originally requested and is close to one mile. Mr. Richards stated there is nothing stopping the actual speed limit from starting just west of Hagadorn Road in order to meet the mile requirement. Mr. Richards stated that all the criteria can be met to reduce the speed limit from 55 mph to 45 mph and the Meridian Township Board voted unanimously to have the petition move forward.

Lynne Page, Chair of Okemos High School Traffic Safety Committee, 3912 Raleigh Drive, Okemos. Ms. Page stated that volunteers from the committee went door to door on both sides of Jolly Road to all the businesses and obtained petition signatures supporting the speed limit reduction. Ms. Page presented the Board with a binder containing all the petition signatures. Ms. Page stated the features of Jolly Road, lack of center turn lane on a four lane road with numerous driveways, a high school, residence and a sidewalk really begs for a reduction in the speed limit for that area. Ms. Page stated the way it is now allows drivers to speed up as they approach this area.

John McKay, 4465 Oakwood Drive, Okemos. Mr. McKay stated he is present on behalf of Mayberry Homes. Mr. McKay stated that Mayberry Homes is in support of lowering the speed limit to 45 mph. Mr. McKay stated there is a very high concentration of inexperienced drivers in that area.

Deb Nolan, Ingham County Commissioner, 4329 Heartwood Road, Okemos. Commissioner Nolan stated she is pleased to see that the meetings are recorded. Commissioner Nolan stated she appreciates the Board is paying attention to the fund balance. Commissioner Nolan stated she had to contact staff to see if she was still receiving the Ingham County Road Commissions Board Agenda. Commissioner Nolan stated she was informed that she was still receiving the agenda and it was from David Francis but with no subject. Commissioner Nolan stated there is a lot of her e-mail that gets deleted like that and if it would have had a subject of Ingham County Road Commission Board Agenda she would have read it.

Commissioner Nolan stated she knows if there was a second death of a high school student this would not be a question. Commissioner Nolan stated she would appreciate the speed limit being lowered pending an Attorney General's opinion. Commissioner Nolan stated Attorney General's opinions can take up to one year. Commissioner Nolan stated she encourages the Board to take the position of lowering the speed limit and then going forward with the Attorney General's opinion.

Toni Helgesen, 3850 Hemmingway Drive, Okemos. Ms. Helgesen stated she is a concerned parent. Ms. Helgesen stated she has been a part of the Okemos High School Traffic Safety Committee since the beginning of the year. Ms. Helgesen stated she has always felt Jolly Road has been unsafe. Ms. Helgesen stated as a concerned parent she supports lower the speed limit to 45 mph. Chair Guenther asked Lynne Page if any of the students are members of the committee. Ms. Page stated there is a lot of active support from the students who have created a facebook page that has over 500 members.

Melissa Itsell, 3826 Crooked Creek, Okemos. Ms. Itsell stated she is a concerned parent. Ms. Itsell stated she agrees with Ms. Helgesen. Ms. Itsell stated she has been an attorney for 25 years. Ms. Itsell stated if

the law specifically said the residential lots had to face and/or have curb cuts on Jolly Road then she would say the criteria of the Michigan Motor Vehicle Code could not be met. Ms. Itsell stated that since it does not specifically say that in the law, it is subject to interpretation. Ms. Itsell stated there is a risk of liability if something were to happen again and the Ingham County Road Commission could have acted on lowering the speed limit but chose not to.

Chair Guenther stated it is up to the Board to decide one of two things. The Board can wait for an Attorney General's opinion or lower the speed limit tonight to 45 mph and wait for an Attorney General's opinion that could take up to one year. Commissioner Gear stated that he would like to make a motion changing the speed limit on Jolly Road to 45 mph pending an Attorney General's opinion. Chair Guenther passed the gavel to Vice Chair Rodgers and seconded the motion.

Commissioner Rodgers stated she wanted to make sure the Ingham County Road Commission proceeds with getting an opinion from the Attorney General. Commissioner Dravenstatt-Moceri asked Managing Director Conklin how soon the signs would be able to be changed. Director of Engineering, Robert H. Peterson stated once the Traffic Control Order was signed MISS DIG would have to be notified and they take up to 72 hours to mark the right-of-way. Mr. Peterson stated if the Board wants, he will have the Traffic Control Order completed and signs installed as soon as possible. Commissioner Rodgers stated the Traffic Control Order can be completed first thing Tuesday and signed by Managing Director Conklin.

Commissioner Gear agreed that policy does need to be followed but policy cannot stand in the way of public safety.

RESOLUTION APPROVING THE SPEED LIMIT OF FORTY-FIVE MILES PER HOUR ON JOLLY ROAD FROM HAGADORN ROAD TO 0.6 MILES WEST OF OKEMOS ROAD.

RESOLUTION #038-10

Moved by Commissioner Gear and Supported by Chair Guenther, after passing the gavel to Vice Chair Rodgers. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, the Board authorizes a speed limit of 45 miles per hour on Jolly Road from Hagadorn Road to 0.6 miles west of Okemos Road.

Agenda Item #13B – Request to recall laid-off AFSCME member.

RESOLUTION AUTHORIZING RECALL OF LAID-OFF AFSCME MEMBER.

RESOLUTION #039-10

Moved by Commissioner Rodgers and Supported by Commissioner Gear. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, that upon recommendation of the William M. Conklin, Managing Director, the Board authorizes the recall of the next highest seniority AFSCME member currently on lay-off, Robert Walter, on Monday May 3, 2010, to his former position in the Metro District.

Agenda Item #8 – Closed Session.

Moved by Commissioner Dravenstatt-Mocerri and Supported by Commissioner Mitchell, that the Board enter closed session at 7:10 p.m. with its labor counsel, Peter Cohl to discuss pending SEIU Arbitration and pending labor contract negotiations. Roll call vote: Commissioner Guenther, yes, Commissioner Rodgers, yes, Commissioner Mitchell, yes, Commissioner Dravenstatt-Mocerri, yes, Commissioner Gear, yes. 5 yes, 0 no. Motion carried unanimously.

The Board reconvened to open session at 7:55 p.m.

Commissioner Rodgers made a motion to authorize its labor counsel Peter Cohl to settle the SEIU, Guevara and Arnett arbitrations.

RESOLUTION #040-10

Moved by Commissioner Rodgers and Supported by Commissioner Dravenstatt-Mocerri. 5 yes, 0 no. Resolution carried unanimously.

BE IT RESOLVED, the Board authorizes its labor counsel, Peter Cohl, to settle the Bob Guevara and Dale Arnett arbitrations.

No public comment was offered. The meeting adjourned at 8:04 p.m.

Joseph A. Guenther, Chair

David E. Francis, Deputy Board Secretary