

**MARSHALL COUNTY BOARD OF COMMISSIONERS**  
**MINUTES**  
**MONDAY, MAY 16, 2011**

The Board of Commissioners of Marshall County, Indiana, met in the Commissioners Room, in the City of Plymouth, Indiana at 9:30 a.m., Monday, May 16, 2011, for a regular meeting. Present were Kevin Overmyer, President; Jack Roose, Vice President; Greg Compton, Member; and Auditor Penny Lukenbill. The meeting was opened in due form and the business before it heard.

**PAUL DOCKERY – NEXTERA ENERGY RESOURCES**  
**WIND FACILITY DEVELOPMENT**

Mr. Dockery explained that NextEra is in the early stages of developing a wind energy project in Marshall County and Fulton Counties for the placement of 40 to 70 wind turbines, with an investment of approximately \$180 million, 2/3 of which would be in Marshall County. The project has the potential of generating \$20 million in property taxes and \$20 million in land leases over a 30-year period, and could result in 8 full-time positions filled by local people trained as wind technicians. NextEra will hold informational public meetings from 4:30 to 7:30 pm at the Argos High School gym on June 8 and at the Richland Center Library on June 9. NextEra is based in Juno Beach Florida, and has 85 farms in 17 states, involving 9,000 wind turbines. He expressed appreciation to the Purdue Extension offices in both counties for hosting informational meetings for landowners.

**PUBLIC HEARING – ORDINANCE #2011-05**  
**ZONING ORDINANCE AMENDMENT-WECS**

Plan Director Ralph Booker presented proposed Ordinance #2011-05 to amend Article 6, Section 230 Wind Energy Conversion Systems. The amendment restricts placement of wind turbines near private and public airports so as not to impede takeoff and landing of aircraft, making them subject to the air space height and use restrictions as established by the FAA. The amendment adds definitions to protect air space and approach surfaces above and in the surrounding area. Mr. Booker is in the process of confirming that all 17 public and private airports in the county are still in use, and will ask that the BZA remove those no longer being used.

The Plan Commission issued a favorable recommendation at a public meeting on April 28, 2011. Mr. Booker illustrated areas around the various airports and airstrips, many of which actually overlap. **Jack Roose moved, seconded by Greg Compton to open the public hearing on Ordinance #2011-05-Zoning Ordinance Amendment-WECS. Motion carried 3-0.**

**Public Input**

Dennis Thornton, 590 Juniper Road, Bremen, Indiana, a pilot and former member of the Plan Commission, BZA and Technical Review Committee, spoke in support of the ordinance. He stated that because of the distance required to take off and land, it is important to provide a sufficient safe operating zone for aircraft. He also noted that the proposed ordinance now includes a statutory reference.

Wendell Rust, 7817 East County Line Road, also supported passage of the proposed ordinance. As a member of the executive board of the International Flying Farmers, he stated it was important to clarify and define a safe operating zone for aircraft to agree with FAA and State regulations. He noted he was not against wind towers, but cautioned that some companies have promised wind towers in areas that would violate the safe air space.

**Greg Compton moved, seconded by Jack Roose, to close the public hearing. Motion carried 3-0.**

**Jack Roose moved, seconded by Greg Compton, to suspend the rules and pass on all three readings Ordinance #2011-05 Zoning Ordinance Amendment-WECS Standards. Motion carried 3-0.**

**PUBLIC HEARING – ORDINANCE #2011-06**  
**ZONING ORDINANCE AMENDMENT**  
**TELECOM STANDARDS**

Mr. Booker also presented proposed Ordinance #2011-06 to amend Article 6, Section 210 Telecommunication Facility Standards, adding the same language from the WECS amendment to telecom facilities. The Plan Commission gave a favorable recommendation to the amendment at a public hearing on April 28, 2011.

**Jack Roose moved, seconded by Greg Compton, to open the public hearing on Ordinance #2011-06-Telecommunication Facility Standards. Motion carried 3-0.**

**Public Input**

There was no public input.

**Jack Roose moved, seconded by Greg Compton, to close the public hearing on Ordinance #2011-06. Motion carried 3-0.**

**Jack Roose moved, seconded by Greg Compton, to suspend the rules and pass on all three readings Ordinance #2011-06 Zoning Ordinance Amendment-Telecommunications Facility Standards. Motion carried 3-0.**

Mr. Booker then discussed recent legislative changes in that provide for Commissioners and the County Council to appoint permanent alternate Plan Commission or BZA members who would serve on specific cases when a regular member has a conflict.

**WES BURDEN – HEALTH DEPARTMENT**  
**PROPOSED OFFICE IMPROVEMENTS**

Mr. Burden requested an update to the status of his pending request to make changes to the Health Department office. The project involves reconfiguring the present full wall with two pass-through windows, and minor electrical upgrades. Michiana Contracting has submitted a proposal for \$9,500, and the cost would be paid from the H1N1 fund. The Commissioners had no objections to the project and recommended replacing the carpet if sufficient funds are available.

**Greg Compton moved, seconded by Jack Roose, to approve the project in the Health Department, and to recommend replacing the carpet if funds are available. Motion carried 3-0.**

**JEFF MILLION-DLZ**  
**BRIDGE 89 UPDATE**

Mr. Million reported that pilings are in and footings have been poured on pier 2. However, as a result of recent heavy rains, there is river water in the coffer dam which has prevented further work on pouring the stem. At his urging, the contractor is now clearing the east bank and removing pavement, and hopes to work on the road until weather allows work to continue on the bridge.

The company has asked for a 28-day extension, but DLZ feels that only five are warranted, pushing the completion deadline to July 18. However, Mr. Million feels that a September 1 completion is now likely. The contractor is subject to a \$5,000 penalty for each day beyond the July 18 deadline. The regularly scheduled progress meeting has been postponed to May 23 at 9:00 a.m.

## NEAL HAECK – HIGHWAY REPORT

Road cuts: CenturyLink has requested a 2250 ft. road cut along Nutmeg between 12<sup>th</sup> and 11B, and on 12<sup>th</sup> Road, 300 feet east of Nutmeg to install new internet service.

**Greg Compton moved, seconded by Jack Roose, to approve CenturyLink’s road cut request along 12<sup>th</sup> and Nutmeg Roads in Center Township. Motion carried 3-0.**

Midwest Toxicology Labs contract: Mr. Haeck requested approval of the contract with Midwest Toxicology Labs to perform the random drug and alcohol testing for the Highway Department. He explained that the company performs the tests on site, and is very familiar with Department of Transportation regulations and requirements. Mr. Clevenger requested additional time to review the contract.

Pierce Street Bridge #225: The bids for the bridge construction came in considerably lower than originally estimated, with a low bid of \$1,072,929.43 from Northern Indiana Construction. INDOT now requires a letter of concurrence from the commissioners, recommending acceptance of the bid.

**Jack Roose moved, seconded by Greg Compton, to approve the letter of concurrence, and to recommend that INDOT award the bid for construction of Bridge 225 to Northern Indiana Construction for \$1,072,929.43. Motion carried 3-0.**

Because of the low bid on the Pierce Street Bridge, the county is eligible to apply for additional credits on this project. Working through MACOG, Mr. Haeck anticipates receiving credits of approximately \$126,000, reducing our match to 90/10.

Prepayment approval: Mr. Haeck requested prepayment approval for a check to Oliver Ford for \$24,750 covering the purchase of an F-250 pickup.

**Greg Compton moved, seconded by Jack Roose, to approve the request for prepayment of the invoice to Oliver Ford for \$24,750. Motion carried 2-0-1, with Mr. Roose abstaining.**

7<sup>th</sup> Road: Mr. Haeck is submitting a request for an additional \$2 million in federal funds for 7<sup>th</sup> Road, to add to the \$4 million already received. MACOG is assisting with the request, and the funds will flow through INDOT.

**Jack Roose moved, seconded by Greg Compton, to approve the financial commitment letter requesting additional funds for 7<sup>th</sup> Road, and to authorize Kevin Overmyer to sign on behalf of the board. Motion carried 3-0.**

Olive Trail-Dixon Lake outlet: Mr. Haeck continues to work on securing the necessary permits for the work on Olive Trail.

1<sup>st</sup> Road and Maple addresses: Mr. Overmyer requested additional time to discuss the matter with emergency services before taking action.

Position replacement: Mr. Haeck requested approval to replace a recently vacated driver position. He reminded the board his staff is down two employees from last year and that the Department continues to assist with hauling at the Pine Road construction site and is involved with a great deal of drainage work. Mr. Compton requested additional information on the Highway staff.

**Jack Roose moved, seconded by Kevin Overmyer, to recommend replacement of a driver position for the Highway Department. Motion carried 3-0.**

Midwest Toxicology contract: Having reviewed the Midwest Toxicology contract, Mr. Clevenger recommended deleting the provisions for service charges and interest on late payments, automatic renewal, and dispute resolution in Marion County.

**Jack Roose moved, seconded by Greg Compton, to approve the contract with Midwest Toxicology Labs with the recommended changes. Motion carried 3-0.**

Miscellaneous: The Commissioners expressed their appreciation to Mr. Haeck and the Highway Department for their efforts in repairing and reopening Olive Trail so quickly.

## COUNTY ATTORNEY REPORT

County Attorney James Clevenger presented his report, which included:

### **Old Business:**

**Jail sewer line easement:** Mr. Clevenger has contacted the DLZ land appraisal department and requested a quote for assistance. He is waiting on a more specific description of the easement, which RQAW indicated they will provide. Mr. Eckert now has an attorney, who has requested a meeting to discuss the matter.

**Crowel v. Drainage Board:** The appeal is still pending, although the Appellate Clerk had some confusion over the filing of the record.

**US 31 Relinquishment:** Mr. Clevenger is still attempting to schedule a meeting with Commissioner Roose and the Town of LaPaz representative.

### **New Business:**

**Tax-sale certificates sale:** The City of Plymouth has adopted a resolution accepting assignment of tax certificates on three parcels along the river north of Jefferson Street. A resolution authorizing assignment of the certificate by the Commissioners has been prepared and is ready for signatures.

**Jack Roose moved, seconded by Greg Compton, to approve Resolution #2011-04, authorizing Marshall County to transfer to the City of Plymouth Tax Sale Certificates for parcel #50-32-93-102-821.000-019; 50-32-93-102-822.000-019; and 50-32-93-102-823.000-019. Motion carried 3-0.**

### **AUDITOR'S REPORT**

**Minutes of May 2, 2011 regular meeting:** Greg Compton moved, seconded by Jack Roose, to approve the minutes of the May 2, 2011 meeting as presented. Motion carried 3-0.

**Minutes of May 2, 2011 emergency meeting:** Jack Roose moved, seconded by Greg Compton, to approve the minutes of the May 2, 2011 emergency meeting as presented. Motion carried 3-0.

**May mid-month claims:** Greg Compton moved, seconded by Jack Roose, to approve the May mid-month claims as presented. Motion carried 3-0.

### **COMMISSIONER ITEMS**

**Plymouth Public Library Board appointment:** The commissioners received a letter from Library Director Susie Reinholt, advising that board member James Causey will be completing his fourth 4-year term and cannot be reappointed. She recommended the appointment of Sarah Lukenbill for a four-year term from July 1, 2011 through June 30, 2015.

**Jack Roose moved, seconded by Greg Compton, to appoint Sarah Lukenbill to the Plymouth Public Library Board of Trustees, effective July 1, 2011 through June 30, 2015. Motion carried 3-0.**

**Board of Health appointment:** The Board of Health recommended the appointment of Michelle Riise, principal at Washington Elementary School in Plymouth, replacing Triton Superintendent Carl Hilling as the school representative on the board.

**Jack Roose moved, seconded by Greg Compton, to appoint Michelle Riise as the school representative to the Marshall County Board of Health, effective January 1, 2011 through December 31, 2014. Motion carried 3-0.**

### **CLERK JULIE FOX**

#### **PERSONNEL REPLACEMENT**

Ms. Fox returned once again to request approval to replace a Deputy Clerk position, after receiving a favorable recommendation from the County Council. Mr. Roose asked whether she had considered part-time help, but Ms. Fox explained that the position is not compatible with part-time, as many of the duties must be performed by a sworn deputy.

**Greg Compton moved, seconded by Jack Roose, to recommend replacement of the Deputy Clerk position. Motion carried 3-0.**

**ADJOURNMENT**

With no further business to come before the Board, **Jack Roose moved, seconded by Greg Compton, to adjourn the meeting at 11:15 a.m. Motion carried 3-0.**

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**Kevin Overmyer, President**

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**Jack Roose, Vice President**

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**Greg Compton**

**Attest:** \_\_\_\_\_  
**Penny Lukenbill, Auditor**