The Steuben County Commissioners met at 8:30 a.m. on Monday, May 18, 2020, in the Commissioners’ Room of the Steuben County Community Center. Present this day were Commissioners James Crowl and Lynne Liechty. Also present were Donald Stuckey, County Attorney, Richard Shipe, Steuben County Council President and Kim Meyers, Steuben County Auditor and Kelli Johnson, Chief Deputy Auditor. Participating telephonically were Commissioner Ronald Smith, Erin Schiffli, Karen DeForest, Bill Schmidt, Brett Hays, Debbie Schoenecker-Dixon and Kevin McAbee.

Lynne Liechty made a motion to approve the claims submitted for payment this day totaling $279,323.81. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

The Commissioners signed the Plat for Moody Estates.

Lynne Liechty made a motion to approve the minutes from the April 23, 2020 Special Commissioners’ Meeting, the May 1, 2020 Commissioners’ Meeting and the May 4, 2020 Special Commissioners’ Meeting. James Crowl seconded that motion and the motion carried with two (2) ayes and one (1) abstention.

Tami Sumney, IT Director, submitted quotes for scanners and printers for the Sheriff’s Department. Lynne Liechty made a motion to accept the low quote from Insight in the amount of $1,607.92. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Ms. Sumney also submitted a three (3) year renewal contract with Frontier for the County phones. She said the only thing that changed was that the price increased slightly to $36,684.00. Lynne Liechty made a motion to approve the renewal contract with Frontier. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Ms. Sumney also submitted the Cyber Security Agreement with FireEye that is now mandated by the State. She said until December 31, 2022, this is a funded mandate because the State received a grant for three (3) years. Ms. Sumney said FireEye will work with what is currently already in place for Steuben County. The Commissioners tabled the matter for the next Commissioners’ Meeting.

The Commissioners signed the minutes from the March 16, 2020 Commissioners’ Meeting, the March 17, 2020, Joint DeKalb and Steuben Commissioners’ Meeting, the April 6, 2020 Commissioners’ Meeting and the April 20, 2020 Commissioners’ Meeting, all of which were approved at a previous meeting.

Gary Fair, Community Center Building Manager, submitted lawn care quotes for the Community Center. Lynne Liechty made a motion to accept the low quote from All Green in the amount of $1,000.00. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Mr. Fair said he has been working on getting quotes for the repairs needed to the monument. He also spoke to Rathburn’s regarding the tuckpointing on the monument as well.

Brett Hays, NICC, requested permission to utilize the area above Work Release. Mr. Hays said this space was occupied by the Clerk’s Office and had court files in it. They have since scanned all of the files and they are no longer using the area. He said this space is very important to Work Release, especially now, because the max capacity has been halved to comply with social distancing guidelines.

Mr. Hays said there is a question on how to proceed as the Architect wants to meet with a Contractor and most of the Contractors want to have plans drawn up by an Architect before they quote anything. He said Wagler & Associates have talked to the Architect that was used the last time and he is willing to draw up the plans and submit those to the State. He said that way quotes are apples to apples, but it will cost some money to get done. Mr. Hays said he would like them to work together, have the County pay for the plans, send the plans to the State and while the State is reviewing the plans, they can get quotes based on that plan with the understanding the plan may change.
James Crowl made a motion to allow Mr. Hays to move forward with obtaining quotes for the renovation. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Lynne Liechty made a motion to approve the May 8, 2020 Payroll in the amount of $411,794.62. James Crowl seconded that motion and the motion carried with three (3) ayes.

Patrick Kirkpatrick, EMS Director, submitted March, 2020 Write Offs in the amount of $946.13 for approval. Lynne Liechty made a motion to approve the March, 2020 Write Offs. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Lynne Liechty made a motion to approve the Administrative Meeting Memo from the April 23, 2020, Administrative Meeting. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Frank Charlton reported that the Campground Lottery was held over the weekend and went well. He stated two (2) mowers were down for over a week.

Tami Mosier, Purdue Extension, stated that Purdue University has released guidance for County 4-H Fairs. She said it is up to the local entities to decide whether or not the local fair will continue as usual or be cancelled.

James Crowl said he would like to proceed with the fair and it may be only 4-H participants and their families that are allowed on the Fairgrounds at that time. Lynne Liechty said Purdue University has very strict guidelines. Ms. Mosier said that it may be possible to have a virtual fair.

Lynne Liechty made a motion to approve the 2020 First Responders Contracts. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Karen DeForest, on behalf of the Downtown Angola Coalition, requested permission to apply for a grant and to conduct fundraising to bring a bronze sculpture of Sojourner Truth to Steuben County and place it near the Courthouse which is where she spoke in 1861.

Ronald Smith said it would be most appropriate to have a statue of Sojourner Truth placed at the Courthouse. Ms. DeForest stated the statue would be paid for entirely through the grant and the fundraising. The artist, James Haire, would be providing the statue base and plaque.

Ronald Smith made a motion to approve the Downtown Angola Coalition to apply for the grant and to conduct fundraising to acquire the statue of Sojourner Truth. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Jennifer Sharkey, Highway Engineer, submitted NIPSCO Utility Permit #2884 for approval. Lynne Liechty made a motion to approve the Utility Permit. James Crowl seconded that motion and the motion carried with three (3) ayes.

Ms. Sharkey submitted a Preliminary Engineering Reimbursement Voucher for the 100 N/200 W Roundabout Project for approval. James Crowl made a motion to approve the Reimbursement Voucher. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Jennifer Sharkey requested official approval on the new Highway Department vehicle decals. Lynne Liechty made a motion to approve the new vehicle decals. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Ms. Sharkey also requested clarification on the following Holidays and employee pay during the Highway Department’s summer hours:

- Good Friday – ½ day Friday was observed as 5 hours on Thursday
- Memorial Day – full day Monday; observe as 10 hours on Monday
- Election Day – full day Tuesday; observe as 10 hours on Tuesday
- July 4 – full day Saturday; observe for County on Friday; observe for Highway as 10 hours on Thursday
- Bereavement, sick, vacation and personal days shall be paid/charged 10 hours when taking leave.
Lynne Liechty made a motion to approve the plan laid out by the Highway Department. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Lynne Liechty made a motion to approve the Highway Department’s Annual Operations Report. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

Debbie Schoenecker-Dixon, 4525 W. Nevada Mills Road, stated she is looking for guidance on a flooding problem. Ms. Schoenecker-Dixon said they filed a formal complaint last year for several reasons and at that point, the culvert under Nevada Mills Road was blocked. She said Jen Sharkey informed her if they were to unblock the culvert, it would make the problem worse.

Ms. Schoenecker-Dixon said she isn’t sure if this is something the Commissioners need to take care of because it has created worse flooding. She said she isn’t sure if the complaint was served to the property owners at 4555 W. Nevada Mills Road or not. She said Mr. Mauritzen passed away a couple years ago, his wife is now living in Florida and their son Bill is also living out of state. Ms. Schoenecker-Dixon said she was in touch with the son last year and they don’t have any intention of doing anything.

In addition to the flooding, she said the property itself is quite literally falling to ruins. She said she can’t believe it isn’t an unsafe structure.

Debbie Schoenecker-Dixon said her main issue is the flooding problem because it is eroding the yard, the lake front, washing silt and various other things into the lake and has been much worse by the culvert that was just recently put in and she is looking for guidance on what can be done.

James Crowl asked Jennifer Sharkey if the culvert put in was needed. Jennifer Sharkey said last July the water was surface draining over the roadway to that property and if it was channelized, the water would get there faster. Unfortunately, due to the safety of the traveling public through the road corridor and the standing water, a culvert had to be installed.

Jennifer Sharkey asked Ms. Schoenecker-Dixon if the Taylor Farms Drainpipe is a buried tile with a stand pipe on the north side. She said that is supposed to convey the farm water through the drainpipe, through the property to the lake. Ms. Schoenecker-Dixon said when the sewers came in, that tile was damaged. Ms. Sharkey asked if that was Steuben Lakes Regional Waste and Ms. Schoenecker-Dixon said it was. James Crowl asked if SLRWD has been contacted because the Commissioners have nothing to do with the sewer.

Debbie Schoenecker-Dixon said she’s addressed issues with the Building Department, Health and Safety and wanted to speak to the Commissioners. She said there are ordinances in Steuben County’s documents regarding developments stating the County will take measures to prevent runoff flooding on property. She said her assumption would be that the County would want to fix this and then charge either Taylor’s or Mauritzens’. Donald Stuckey said those ordinances are applicable for developments after the ordinance was passed and he is not sure if the north side of the roadway was developed before the ordinances. Jennifer Sharkey said the north side is the farm area and all of that water does come down to the low point. She said if that is a private drainpipe, that would need to be improved or maintained by the owner of that pipe. Ms. Sharkey said they offered to put a catch basin on the south side where the surface pipe comes in, but then again it would be the property owner’s responsibility for the tile to the lake to convey that water. Debbie Schoenecker-Dixon said June Maurtizen is quite elderly, Bill Sr. passed away, Bill Jr. lives in Texas and he has known about this. She said due to the ordinances in place, she would expect the homeowner to be cited.

James Crowl said there was never water there until SLRWD put their sewer in. Consequently, the Sewer District has probably hit a tile that comes off of that field that goes to the lake and is probably the main cause of this. If that is the case, SLRWD is responsible for fixing that tile but since it has been several years, she will have an uphill battle with them. Ms. Schoenecker said she does believe her parents addressed that with the SLRWD and that is the problem. She said they are looking for guidance and help and everyone just washes their hands of it and says it isn’t their issue.
Donald Stuckey said the County can’t do anything off of the road right of way so if there is something outside of the road right of way, unless it is a legal drain, they have no authority to act. Mr. Stuckey said if there is something the County can do inside the road right of way, the County Engineer is saying she will do what she thinks is appropriate, but it won’t do any good unless the drain from the road to the lake is improved by the property owner. Mr. Stuckey said the County has no right to go on private property to improve that facility. Ms. Schnoenecker-Dixon says she understands what Mr. Stuckey is saying but she also understands that the rules, according to what she read, consider a brand-new culvert to be a development and the development should not make a problem for the property owners. Donald Stuckey said he disagrees with that analysis and he believes the County has the right to put a culvert in to take care of their roadway, in fact, they have a legal obligation to put a culvert in to make sure the roadway is safe. She said she doesn’t disagree with that, but she disagrees that the County is not responsible for the environmental impact it has. Donald Stuckey said they have a disagreement on the legal issue then and the law is very clear that the County cannot do any improvements off the road right of way.

Jennifer Sharkey said she believes a lot of that water is coming from the farm field and from looking at it, she assumes the tile was put in to help convey that water to the lake. If that tile is damaged, that is why the surface water over the road became such an issue for the safety of the traveling public and required the new culvert. She said it isn’t that more water is being conveyed, it is just the water is coming through the culvert instead of over the roadway. Ms. Sharkey said the next step would be to get that private drain tile improved, if is in fact damaged and she thinks that is where the issue is. Donald Stuckey said if the damage is in the road right of way, which it should be if the SLRWD caused the damage, then the County can address it, but if the damage is on private property further toward the lake, they can’t address it. Jennifer Sharkey said if it is a private tile and the Highway Department damaged it, they would fix it, but asked if another entity damaged it within the right of way, how would that does that work. Donald Stuckey said the other entity is ultimately responsible, but the County can work on it.

Debbie Schnoenecker-Dixon asked how to address any of the issues at hand and how to get the homeowners to act. James Crowl said he will personally go to the Building Department and Health Department and ask them to take a look at this issue. He said that is all he can do for the time being and, in the meantime, there isn’t much Jennifer Sharkey can do. Ms. Sharkey said they would be happy to put in the catch basin if the tile would go to the lake. Lynne Liechty said the whole problem comes down to locating the problem, where the problem is and if and how it can be fixed because right now they are just guessing. James Crowl said legally they cannot go onto someone else’s property and arbitrarily start digging.

Commissioner Crowl said he will do what he can. Ms. Schnoenecker-Dixon asked when should she check back and whom should she contact. James Crowl said once the Building Department and the Health Department come back with a report, the Commissioners will be in touch with her.

James Crowl requested Jennifer Sharkey to give a report on the bridge at Crooked Lake that leads into the County Park. Jennifer Sharkey said the small structure has been inspected, they’ve done routine maintenance and minor rehab, but at this time it is fully functional as intended and is a safe structure. Commissioner Crowl said the request to tear that out and make it taller so boats can get underneath it is not a feasible request at this time. Ms. Sharkey agreed especially with two (2) other bridge projects that are on the schedule for replacement due to structural stability and weight limit requirements. She said raising that bridge would be a challenge there as well, just being able to tie in the roadway itself because of the room for the approaches. Ms. Sharkey said if the time came where it was necessary, they could certainly look at it but it is not slated for any type of improvement of that manner.

James Crowl said there is a gate located at the entrance of Parkside Addition raising some questions. Kevin McAbee, 340 Lane 103, Crooked Lake, said he believes the gate is in the easement on the road, but the question is what is the center of the road and then how far is the easement. He said the gate is located on what he believes is his property. Mr. McAbee said there has been many problems with the gate being either open or closed. He said he has done some investigation and they have come down to the fact that there really is no ownership of the gate.

Mr. McAbee said there is not an HOA any longer and he’s not sure why they dissolved the HOA. Mr. McAbee said back in the minutes a gentleman decided the road was going to be deemed a private road, then someone else decided it was county property. The gate has become an issue of who owns it, who has the authority to keep it open or not keep it open and that is where he needs the Commissioners to decide. He said he needs the
help to decide if the gate is on his property and if it is then he would like to remove the gate completely. Mr. McAabee does realize that would open up the possibility of people going down the road at 40 mph and it becomes a safety issue.

He wants to know if it is possible for the County to come back in and claim ownership for this road. He said it is a private road, but no one is being taxed, no one has ownership, there is no HOA and no one wants to do maintenance on the road. He said he keeps the gate open so he can bypass all the pot holes. Donald Stuckey said it is not a county road, it is a private road which means the County has no control over it. He said as to whether or not Mr. McAbee can remove the gate, as far as the County is concerned, he can remove anything he wants because the County has no control over it. Mr. Stuckey said whether or not there are covenants or restrictions in the chain of title which entitles other property owners to have that gate, he wouldn’t know without a title search. Mr. Stuckey said the County wouldn’t have anything to do with whether the gate is removed or not because it is private roadway.

Mr. Stuckey said as far as bringing the private road up to County specifications, that is what would have to be done in order for the County to take over and the Engineer can tell him what it would take to bring it up to County specs. As the road is described, he assumes it would cost thousands and thousands of dollars to bring it up to County specs. Mr. Stuckey said the road would probably have to be widened substantially which means property would have to be voluntarily given up in order to bring it up to specs. He said there is nothing the County can do to force people to participate in bringing the road up to County specs because it is not the County’s road. Donald Stuckey said there is nothing the County can do because they do not have any legal right to the roadway.

Mr. McAbee asked if the easement on the road is intact because the County has no interest in this road, meaning the gate is located within that easement in between two telephone poles. Donald Stuckey said it depends on the dedication of the plat as to whether they created an easement for the benefit of the public at large or just for the people within the subdivision and without reviewing the plat he wouldn’t know for sure. Donald Stuckey informed Mr. McAbee he would have to pull the plat of Parkside Subdivision and look at the dedication language within the plat as to who has the right to use the easement. Mr. Stuckey said there has to be a right of way or an easement showing on the plat to access the properties but if there is nothing referencing the gate in the chain of title, then there is no right to have a gate there. Donald Stuckey reiterated this has nothing to do with the Commissioners as they have nothing to do with private roadways or the gate.

James Crowl said this is a civil matter. Donald Stuckey agreed with that assessment and said it is a private roadway and the County Commissioners have no right to do improvements and they can’t use taxpayer money to do improvements.

Kevin McAbee said he has tried to find ownership of the road, who is being taxed for it and he can find nothing. He isn’t sure how to go about finding more information on this. Donald Stuckey said Mr. McAbee should hire an attorney or title company and ask them to do the research for him because they will know more of what they are looking for. Mr. Stuckey said this is a private matter between him and the other property owners, the County has nothing to do with this matter.

The Commissioners reviewed the rental rate for WIC and determined that the rental rate would not be increased for 2021.

Brent Shull, Hamilton Town Manager, sent a letter recommending Thomas P. Walker as a replacement for the vacancy left by Linda Bireley on the Hamilton Plan Commission. Lynne Liechty made a motion to appoint Thomas P. Walker to the Hamilton Plan Commission. Ronald Smith seconded that motion and the motion carried with three (3) ayes.

James Crowl stated the next Administrative/Emergency Expenditure Meeting will be held on Tuesday, May 26 at 8:30 a.m. Commissioner Crowl also said that the next regularly scheduled Commissioners’ Meeting on June 1, 2020, will be held telephonically.

The Commissioners received the following correspondence: State of Indiana re: Coronavirus Relief Funds; Anne Meyer, NE Indiana Works re: Postponed opening; Joy Hudson, HPG Network re: IN Reimbursement Process; Glen Rogers re: Website Contact Request; Regional Chamber of NE Indiana re: Membership; Janel
May 18, 2020 Commissioners’ Meeting Continued

Meyer, SCSWCD re: Board Meeting Agenda; Joy Hudson, HPG Network re: CARES Act Funding; Susanne Hogan re: Website Contact Request; Lois, Silver Lake re: Silver Lake Campground; Kate Virag, NEIndiana re: Reopening Guidelines; SCEDC re: Resources to Roadmap to Reopen; Office of Intergovernmental and External Affairs re: White House Invitation; Maria Davis re: Advice for Small Business Reopening; Rose Knowlton re: Website Contact Request; Max Barker re: Website Contact Request; Joy Hudson, HPG Network re: COVID-19 Revised Expense Worksheet; Kelly Bailey, SUP 101 Lakes re: Crooked Lake Beach; Unknown, Meeting Request; P Jaeger re: RV Parks and Campgrounds are Essential for Indiana’s Economic Recovery; Joy Hudson, HPG Network re: COVID-19 Response Actions; Mike Landram, SCEDC re: Healthy Reopening Webinar; Joy Hudson, HPG Network re: Mayors & Commissioners Caucus Meeting.

STEUBEN COUNTY BOARD OF COMMISSIONERS

_____________________________________________
Ronald L. Smith, President, South District

_____________________________________________
James A. Crowl, Vice President, Middle District

_____________________________________________
Lynne Liechty, North District

Attest:  __________________________________
Kim Meyers, Steuben County Auditor

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