

## Van Buren County Board of Road Commissioners

Wednesday, September 19, 2012  
Regular Meeting - Administrative Office, Lawrence, Michigan

BE IT REMEMBERED: That on the 19<sup>th</sup> day of September, 2012 at 7:00 PM, E.D.T., the Board of County Road Commissioners for the County of Van Buren met in regular session in the offices in Lawrence, Michigan.

PRESENT: Road Commissioners Boze, Kinney, Ray, Stein and Svilpe  
Engineer-Manager Lawrence B. Hummel, P.E.  
Accountant Gregory M. Pardike  
Highway Engineer Barry Anttila

ABSENT: None

GUESTS: Laura Carr, Lakeland Asphalt Corp.  
Kevin K. Kusmack

Chairman Svilpe called the meeting to order at 7:00 PM.

No additions/deletions to the Agenda.

Motion by Boze, seconded by Stein to approve the Agenda.

AYES: 5  
NAYS: 0  
MOTION CARRIED.

Moved by Ray and seconded by Stein to approve the minutes of the September 5, 2012 meeting as presented by Board Secretary Pardike.

AYES: 5  
NAYS: 0  
MOTION CARRIED.

The Chairman opened the meeting to public comment. Kevin Kusmack, Decatur Township Supervisor Elect, introduced himself to the Board.

The Board Secretary-Accountant provided a review of the operating budgets and operating fund. Township invoices are going out now. Largest pay item in Voucher is for the new truck.

Moved by Boze, seconded by Kinney to approve the following Road Commission Vouchers:

Voucher #1702	\$85,729.62
Voucher #1703	\$89,690.03
Voucher #1704	\$581,155.07

AYES: 5  
NAYS: 0  
MOTION CARRIED.

The following bids were received at 7:30 PM for Cold Patching Mix:

Delivered to Road Commission, as indicated, on an as-needed, where-needed basis:

Company	Material	Lawrence Yard	Bloomingtondale Yard
Saginaw Asphalt Paving	CP6	\$92.37	\$92.37
	QPR	\$110.50	\$110.50
Arnt Asphalt Sealing, Inc.	UPM	\$113.00	\$117.00
Klink Group	BMP	\$119.00	\$123.00
Lakeland Asphalt	CP6	\$80.25	\$80.25

Picked up by the Road Commission on an as-needed basis:

<u>Company</u>	<u>Material</u>	<u>Price Per Yard</u>
Cass Co. Road Comm.	GTSMF	\$95.50 (Minimum 400 ton purchase)
	BTMP	\$85.50
Arnt Asphalt Sealing	UPM	\$109.00 (1-5 tons)
	UPM	\$105.00 (5-10 tons)
Lakeland Asphalt	CP6	\$77.25

Motion by Stein, seconded by Boze to authorize the Engineer-Manager to award, in the best interest of the Van Buren County Road Commission, upon review and tabulation by staff.

AYES: 5  
NAYS: 0  
MOTION CARRIED.

Engineer-Manager updated the Board on the award of bids as follows:

- 44<sup>th</sup> Avenue, Arlington Township, HMA paving and shoulders to Michigan Paving & Materials, the as-read low bidder (\$97,859.80)
- 57<sup>th</sup> Street, Columbia Township, HMA paving and shoulders to Michigan Paving & Materials, the as-read low bidder (\$82,924.75)

Engineer-Manager provided details to the Board in follow-up to discussions regarding after-the-fact permits. Upon a Motion by Ray, seconded by Boze, the Board adopted an amended Fee Schedule Policy to add language for those who fail to obtain any appropriate permit. The Road Commission shall have the right, in such an instance, to halt the activity until such time that adequate compliance is made, including, but not limited to:

- Obtain the necessary permit(s)
- Pay all associated permit fees
- Pay a \$100 penalty fee

In addition, if any work has occurred that is not according to specification, the Van Buren County Road Commission may require the work to be (a) removed; (b) restore the area to its previous condition; and/or (c) work with them to find an acceptable alternative.

AYES: 5  
NAYS: 0  
MOTION CARRIED.

Upon a motion by Boze, seconded by Stein, the Board authorized a contribution of \$30.00 towards the cost of flu vaccinations for employees and/or their spouses in the event Blue Cross Blue Shield denies the claims.

AYES: 5  
NAYS: 0  
MOTION CARRIED.

Motion by Ray, seconded by Stein to accept Ken Smith's offer to extend 2012 slag prices to start supplying 2013 quantities.

AYES: 5  
NAYS: 0  
MOTION CARRIED.

Motion by Boze, seconded by Kinney to adopt the following Resolution:

**PERFORMANCE RESOLUTION FOR  
GOVERNMENTAL AGENCIES**

*This Performance Resolution is required by the Michigan Department of Transportation for purposes of issuing to a municipal utility an "Individual Permit for Use of State Highway Right of Way," or an "Annual Application and Permit for Miscellaneous Operations Within State Highway Right of Way."*

RESOLVED WHEREAS, the Van Buren County Road Commission, hereinafter referred to as the "GOVERNMENTAL AGENCY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under State Highway right of way at various locations; within and adjacent to its corporate limits; NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL AGENCY agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. Any work performed for the GOVERNMENTAL AGENCY will be solely as for the GOVERNMENTAL AGENCY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL AGENCY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof will be the sole responsibility of the GOVERNMENTAL AGENCY.
3. The GOVERNMENTAL AGENCY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
4. The GOVERNMENTAL AGENCY It will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL AGENCY'S facilities according to a PERMIT issued by the DEPARTMENT.
5. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL AGENCY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
6. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
7. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL AGENCY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL AGENCY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the GOVERNMENTAL AGENCY.

Name and/or Title: Lawrence B. Hummel, P.E., Engineer-Manager; Barry J. Anttila, Highway Engineer; Joel Hoort, Engineering Technician; Gregory M. Pardike, Accountant; Linnea Rader, Account Clerk

AYES: 5

NAYS: 0

RESOLUTION ADOPTED.

The Board signed the signature page for incorporation into the Title Sheet for the 47<sup>th</sup> Street Bridge over the Dowagiac Drain.

### **Road Commissioner's Township Meeting Attendance Report**

From September 5, 2012 to present:

Boze: Hamilton Township, concern that drain proposal will flood CR215. Asked that Road Commission staff review with Drain Commissioner Parman. Trees along 72<sup>nd</sup> Avenue are hanging low along roadway west of CR215. Staff review. Happy with Dust Control application. Lawrence Township, asked about Red Arrow Highway ditchline West of Clark's Auto Parts. Work is being completed today. Hartford Township, asked if staff could review their parking lot for ideas on how to repair.

Kinney: Decatur Township, questioned, again, on signs on CR669 at Old Swamp Road. Also working on a plan with staff for future tree trimming work.

Ray: Pine Grove Township, happy with 23.50th Street and with 6<sup>th</sup> Avenue Sealcoat. Still interested in pipe extension on 6<sup>th</sup> Avenue. Columbia Township, provided detail of road funding. Requested review of 47<sup>th</sup> Street at CR380.

Stein: Attended South Haven Township. All is going well. Attended Geneva Township, questions on order of ditch work being performed. Asked why a section originally planned did not get done first. Questions why they have not received estimate for CR380 reconstruction.

Svilpe: Antwerp Township, 23<sup>rd</sup> Street South of Red Arrow Highway, report of cracks in the road surface in the 53000 block some place near the edge. Almena Township, report of large surface cracks near the intersection of 31<sup>st</sup> Street and 26<sup>th</sup> Avenue. Potholes in the intersection of 45<sup>th</sup> (46<sup>th</sup>?) Avenue at M40, and 42<sup>nd</sup> Avenue at 30<sup>th</sup> Street. Porter Township, a resident of Cedar Lake reported that their stop sign on Cedarama needs replacing.

### **Construction Update**

Highway Engineer Barry Anttila reported on the following:

- The following projects are all being scheduled with paving contractor. As soon as dates are confirmed, Barry will let all know:
  - 44<sup>th</sup> Avenue, Arlington Township
  - 57<sup>th</sup> Street, Columbia Township
  - 60<sup>th</sup> Street, Geneva Township
  - Mental Health parking lot
- 68<sup>th</sup> Street drain crossing South of 8<sup>th</sup> Avenue, waiting for change to permit required by MDEQ for larger pipe.
- Meeting regarding Meijer, Bronson and Walmart projects
- Peninsula Drive, Columbia Township, project is underway. Cross-pipe installation tomorrow.

Engineer-Manager's Update:

- Keeler Township, request for signs along bike route
- Summer hours end next week; next board meeting is Thursday, October 4<sup>th</sup>
- Update regarding status of: Bronson, Meijer, Walmart
- Decatur Township, Old Swamp Road at CR669
- Liquid Dustlayer, equipment requirements for 2013

### **Legal Issues:**

Engineer-Manager provided an update for the Board regarding Jacobs' Fruit Market's request for a driveway permit. Also provided an update regarding *Jacobs v. Van Buren County Road Commission*.

A motion was made by Boze and seconded by Kinney to adjourn the Call of the Chair at 8:35 PM.

AYES: 5  
NAYS: 0  
MOTION CARRIED.

Secretary

Chairman