

MINUTES  
EMMET COUNTY ROAD COMMISSION  
HARBOR SPRINGS, MICHIGAN

The Emmet County Board of Road Commissioners met in regular session at their offices in Harbor Springs on December 1, 2008. The Chairman, Frank Zulski, called the meeting to order at 8:00 a.m.

Commissioners Present: Frank Zulski, Leroy Sumner, and Richard Bidstrup

Staff Present: Brian Gutowski – Engineer-Manager, Brent Shank – Operations Engineer, Judy Fouch - Clerk

Guests: Bill Dohm – Little Traverse Township; Tom Bernard, Alyce Conrad – Springvale Township; Bob Sandford – West Traverse Township; Gordon Kruskie, Edith Kruskie – Island View Road; Earle Caldwell, Linda Caldwell, Attorney Mark Hilal – Cincinnati Point Trail; David Bedells – Attorney

MINUTES: It was moved by Sumner, seconded by Bidstrup to approve the minutes of the regular meeting of November 14, 2008 with an amendment on Page 4, under “Appointments”, first paragraph, last sentence to read “...acceptable to him ...”.

Ayes: Bidstrup, Sumner, Zulski

Nays: None

Motion carried

ACCOUNTS PAYABLE: The List of Accounts Payable, Voucher No. 0847, checks numbering from No. 29536 to No. 29578, in the amount of \$91,186.97 was presented for approval. It was moved by Sumner, seconded by Bidstrup to approve accounts payable for payment of the same.

Ayes: Bidstrup, Sumner, Zulski

Nays: None

Motion carried

PAYROLL: Voucher No. 0848 for Payroll No. 24, checks numbering from No. 38969 to No. 39019, in the amount of \$66,237.25 was presented for approval. It was moved by Bidstrup, seconded by Sumner to approve accounts payable for payment of the same.

Ayes: Bidstrup, Sumner, Zulski

Nays: None

Motion carried

UNFINISHED BUSINESS:

- a. It was moved by Zulski, seconded by Bidstrup to extend the Engineer-Manager’s employment contract for one-year and offer the same annual adjustment as the union received in their five year contract for the 2009 payroll year.

Ayes: Bidstrup, Sumner, Zulski

Nays: None

Motion carried

UNFINISHED BUSINESS, Continued:

- b. The proposed abandonment of Cincinnati Point Trail was discussed. The petitioners asked that the petition for the proposed abandonment be rescinded. It was moved by Zuluski, seconded by Sumner to approve the request by the petitioners to withdraw the petition for the proposed abandonment of Cincinnati Point Trail.

Ayes: Bidstrup, Sumner, Zuluski

Nays: None

Motion carried

The history of Cincinnati Point Trail was researched and it was discovered that the road was not formally adopted, as mentioned at the public hearing. The road has been maintained by the Road Commission for years, and it was found that it is a private road according to the plat. The Engineer-Manager recommended that the Road Commission acknowledge that it is a private road that has been maintained in error and discontinue maintenance on the road. He stated that if the property owners want the road to be accepted as a public road, it will be necessary to obtain 66' right-of-way and the road will need to be improved to current standards before it can be accepted. It was moved by Bidstrup, seconded by Zuluski to acknowledge that Cincinnati Point Trail has been determined to be a private road that has been maintained in error and that the Road Commission will discontinue maintenance on the road.

Discussion followed. Attorney David Bedells referred to a similar case tried in the Court of Appeals. The Court determined that only Road Commissions can adopt a road under highway-by-user and that landowners cannot assert highway-by-user on the Road Commission. The Court stated that it was maintained in error, and that it was a benefit for the people. Mr. Bedells indicated that it is a legislative decision of the Board to choose their action, but that it would be defensible if the property owners want to assert highway-by-user. Mr. Gutowski indicated that state law requires 33' right-of-way from the center of the road, so if the property owners asserted the highway-by-user, the road could not be maintained because it would impose on residential homes.

Attorney Bedells recommended that the motion be amended to hold the motion in abeyance and continue snow removal services until January 1<sup>st</sup> in order to provide a notice of intentions to the property owners. It was moved by Bidstrup, seconded by Zuluski to amend the motion by holding it in abeyance until January 1, 2009, and continue to provide snow removal services until that date to allow the property owners to be notified that it is a private road that has been maintained in error.

Roll Call Vote:

Bidstrup – yes

Sumner – yes, due to the extension

Zuluski - yes

Motion carried

PUBLIC COMMENT: Alyce Conrad inquired about the status of Graham Road, and was informed that the road was adopted into the county road system.

ENGINEER-MANAGER'S REPORT: Damien Henning has indicated that Littlefield Township will discuss the proposed sewer line along Lakeview Road, and he felt that they would be willing to accept the responsibility for it to make sure that it is maintained properly. A notice was received from the County Road Association on a recommended amendment to the by-laws. The amendment would change the General Policy Rules to vote on CRAM by-laws at the Annual Meeting. It was moved by Sumner, seconded by Bidstrup to approve the amendment to vote on CRAM by-laws at the Annual Meeting.

Ayes: Bidstrup, Sumner, Zulski

Nays: None

Motion carried

Other items included the Southern Road Commissions Conference to be held next week in Lansing, upcoming budget preparation, and a new copy machine recommended by Van's Business Machines. Mr. Bidstrup suggested that a new copy machine be discussed after 2009 equipment needs are known.

OPERATIONS ENGINEER'S REPORT: Mr. Shank mentioned that Leo Hagan of State Road plans to attend the meeting on December 30<sup>th</sup> to discuss the driveway violation. He received the letter from Mr. Shank stating that driveway improvements are required, but he feels that his driveway should be grandfathered in since it falls under the original PUD. Information will be provided to the Board prior to the meeting. Mr. Bidstrup felt that driveway requirements in general should be revisited.

CLERK'S REPORT: The Clerk reviewed the 2008 Act 51 budget and recommended the following amendments:

Primary Heavy Maintenance .....	\$ 970,000
Local Heavy Maintenance .....	1,850,000
Local Maintenance .....	2,030,000
Debt Interest Payments .....	100,000

It was moved by Bidstrup, seconded by Sumner to approve the 2008 Act 51 budget amendments as recommended.

Ayes: Bidstrup, Sumner, Zulski

Nays: None

Motion carried

COMMISSIONERS' REPORTS: Mr. Bidstrup indicated that he discussed the status of Branch Road with the foreman. The foreman has received abusive phone calls from the resident, and Mr. Bidstrup felt that it might be useful to consider tape recording phone calls to create a record. Mr. Bidstrup stated that he would like to resolve the issue on Branch Road.

Commissioner Sumner suggested that hams be provided to the employees as a safety gift. It was moved by Sumner, seconded by Bidstrup to approve the purchase of hams for the employees as a safety gift.

Roll Call Vote:

Bidstrup – yes

Sumner – yes

Zulski - yes

Motion carried

COMMISSIONERS' REPORTS, Continued: Mr. Zulski felt that it would be a challenging budget year with revenues predicted to be less, and felt that a reduction should be reflected in the budget to help maintain a cushion. He suggested it in the event of actual reductions and the commitment of the five year union contract, wanting to be honorable about retaining jobs other than through attrition. Mr. Bidstrup stated that he was impressed with the sound ideas of the Board, which Mr. Zulski credited to the Manager.

Attorney Mark Hilal entered the meeting and stated that he was astonished to hear about the action taken by the Board on Cincinnati Point Trail. He stated that the petition was withdrawn, so he questioned why the Board made such a decision. Mr. Gutowski indicated that the Board accepted the withdrawal of the petition for abandonment, then acknowledged that it was a private road maintained in error that would no longer receive snow removal services as of January 1, 2009. Mr. Hilal questioned the action in the absence of public comment. He stated that he was disappointed in the action since it had not been conveyed to him by Attorney Bedells, but rather, thought that there would be a meeting before a decision was made. Mr. Hilal stated for the record that the Caldwells tried to work with county officials on the matter and it was never represented that there would be a decision made that the road would be abandoned. He also stated that the county maintained the road for over 50 years and received funding for that purpose, and he felt that it was an inappropriate and hasty decision. Mr. Zulski clarified that the action was taken because it was determined to be a private road, and the Board acted in the best interests of the public. Mr. Gutowski clarified to Mr. Hilal that the road was not abandoned.

ADJOURNMENT: There being no further business, Chairman Zulski adjourned the meeting at 8:46 a.m.

Clerk of the Board – Judy Fouch

Date