

Van Buren County Board of Road Commissioners

Thursday, April 18, 2019
Regular Meeting - Administrative Office, Lawrence, Michigan

BE IT REMEMBERED: That on the 18th day of April, 2019 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 Askew (arrived 7:08 PM), Boze, Burleson, Kinney, and Moffat
Engineer-Manager Lawrence B. Hummel, P.E.
Finance Director Linnea Rader
Highway Engineer Barry Anttila
Operations Director Greg Brucks
Administrative Assistant-Board Secretary Jill Brien

GUESTS: Brian Lee, 5/3 Bank
Michael Pavlick, 5/3 Bank
Leigh Schultz, Miller Canfield
Sarah Hartman, Miller Canfield
Mike Chappell, Van Buren County Commissioner
Chad Hunt, Van Buren County Undersheriff

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

Moffat requested Item 6(a), Discussion by Miller Canfield about Labor Law and Employment Services, and Item 6(b), Discussion regarding Engineer-Manager's Employment Agreement be added to the Agenda. Burleson requested that Item 9(a), Sealcoat for Cass County, be added to the Agenda. Motion by Moffat, seconded by Burleson to approve the revised Agenda.

AYES: 4
NAYS: 0
ABSENT: 1
MOTION CARRIED.

Motion by Moffat, seconded by Burleson to approve the minutes of the April 4, 2019 meeting as presented by Board Secretary Brien.

AYES: 4
NAYS: 0
ABSENT: 1
MOTION CARRIED.

The Chairman opened the meeting to public comment. None was received.

Brian Lee of 5/3 Bank presented an Investment Review of the Van Buren County Road Commission's Pension for the Board and those present. Questions were asked by the Board and answered by Brian Lee and Mike Pavlick.

Leigh Schultz of Miller Canfield provided an introduction and overview of Miller Canfield's labor services available. They currently provide legal services for the Road Commission of Kalamazoo County, Cass County Road Commission, and Van Buren County. They currently charge Van Buren County the rate of \$285/hour, and would offer the same rate to the Van Buren County Road Commission. Sarah Hartman also provided an introduction and personal background information for the Board and those present.

Moffat read his Statement of Concerns as follows:

As a member of this Road Commission, I wish to express the following concerns relating to our Engineer-Manager and the Employment Agreement:

To assure effective oversight of the 50 plus Road Commission staff members, efficient operations, optimum productivity and high level of staff training, I believe the Engineer-Manager must be, for the most part, at Road Commission facilities during regular business hours.

Mr. Hummel's Employment Agreement, dated December 6, 2018, provides "the Engineer-Manager shall be considered to have commenced employment on June 14, 1993.[]" During those nearly 26 years, Mr. Hummel has been the constant presence, not Road Commission member[s] nor staff members.

Mr. Hummel's most important work product is to achieve average or better road conditions. During his 26 years of employment, this has not happened. In fact, road conditions have steadily declined.

While residency is not required under the employment agreement, Mr. Hummel resides in Carson City, MI, some 129 miles distant from Road Commission offices. Of added concern is that Mr. Hummel owns and operates Fish Creek Engineering, LLC and is a licensed building contractor operating out of Carson City.

Mr. Hummel is only human. The stress of a 5 hour daily round trip commute to the VBCRC office, as well as his duties to operate engineering consulting and building contracting businesses suggest to me a full time commitment in service to this Road Commission is difficult to achieve, contrary to the employment agreement.

Kinney read the following motion:

I move to terminate Lawrence B. Hummel from the position of Engineer-Manager, effective immediately without cause pursuant to Article VI, Section 2(b) of his Employment Agreement dated December 6, 2018, and to provide Mr. Hummel with compensation and benefits set forth in that Section upon his execution of the Waiver and Release of Claims and Indemnification Agreement prepared by Leigh Schultz, Labor Attorney with Miller Canfield, Kalamazoo, Michigan. Discussion ensued. Motion seconded by Moffat. Roll call vote:

Moffat: Aye
Kinney: Aye
Askew: Nay
Burleson: Aye
Boze: Nay
MOTION CARRIED.

Motion by Moffat, seconded by Kinney to authorize the Chairman or Vice-Chairman to sign the written Waiver and Release of Claims and Indemnification Agreement on behalf of the Board of County Road Commissioners. Discussion ensued. Roll call vote:

Kinney: Aye
Moffat: Aye
Askew: Nay
Burleson: Aye
Boze: Nay
MOTION CARRIED.

Undersheriff Hunt left the meeting with Hummel to provide Hummel with transportation to his residence.

Motion by Burleson, seconded by Moffat to recess the Call of the Chair at 7:46 PM for five minutes.

AYES: 5
NAYS: 0
MOTION CARRIED.

The meeting was reconvened at 7:47 PM with all Members present upon a motion by Chairman Boze.

AYES: 5
NAYS: 0
MOTION CARRIED.

The following bids were opened at 7:47 PM:

Plant Mixed Hot Mix Asphalt Patching Materials:

Contractor	Hot Mix Asphalt Material	Price per Ton
Cass County Road Commission	13A Modified	\$48.00
Wyoming Asphalt	MDOT 13A (Plainwell)	\$55.00
	MDOT 36A (Plainwell)	\$55.00
	MDOT 36A (Lawrence	\$55.00
	Infra Red (Plainwell)	\$55.00
	Commercial Base (Plainwell)	\$48.00
Rieth-Riley Construction	MDOT 13A	\$46.50
	MDOT 36A	\$50.00
Michigan Paving & Materials	MDOT 13A	\$47.00
	MDOT 36A	\$49.00
	LVSP	\$47.00

Motion by Kinney, seconded by Moffat to authorize award by staff, in the best interest of the Van Buren County Road Commission, upon tabulation and review by staff.

AYES: 5
NAYS: 0
MOTION CARRIED.

CR380 from CR681 to Breedsville Village limits, Columbia Township, stump removals, trenching, widening, HMA base paving and drainage improvements:

Rieth-Riley Construction	\$619,076.00
Michigan Paving & Materials	\$480,897.00

Motion by Moffat to authorize award by staff, in the best interest of the Van Buren County Road Commission, upon tabulation and review by staff.

AYES: 5
NAYS: 0
MOTION CARRIED.

Motion by Moffat, seconded by Kinney to recess the meeting at 7:58 PM.

AYES: 5
NAYS: 0
MOTION CARRIED.

Motion by Moffat, seconded by Burleson to reconvene at 8:07 PM with all Members present.

AYES: 5
NAYS: 0
MOTION CARRIED.

Discussion continued regarding issue of acting Managing Director in the absence of Hummel. Different tentative options were discussed by the Board. Motion by Moffat, seconded by Kinney to recess the meeting at 8:15 PM.

AYES: 5
NAYS: 0
MOTION CARRIED.

Motion by Askew, seconded by Burleson to reconvene at 8:32 PM with all Members present.

AYES: 5
NAYS: 0
MOTION CARRIED.

Staff relayed to the Board that a Management Team, consisting of the Road Commission's Management Heads, Barry Anttila, Greg Brucks, Linnea Rader, and Gary Rohacs, could handle the day-to-day operations of the Road Commission on an interim basis pending a final decision to be made by the Board at a later date. Discussion held. Motion by Moffat, seconded by Askew to approve Barry Anttila, Greg Brucks, Linnea Rader, and Gary Rohacs as Interim Managing Directors. Roll call vote:

Askew: Aye
Moffat: Aye
Burleson: Aye
Kinney: Aye
Boze: Aye
MOTION CARRIED.

Budget Review and Finance Director's Update:

- Update regarding Active Shooter training for the Board, and for Road Commission staff.
- Letter from Antwerp Township to "Long Grove" Subdivision Resident. Discussions to be held with Township by Moffat.
- Hiring update.

Update of capital outlay expenditure for the Handy Hitch Rollers by Rader. The Handy Hitch Rollers came in line, as budgeted by the Board; however, installation and delivery needs to be budgeted. Therefore, approval is needed by the Board for installation and delivery of the Handy Hitch Rollers at a cost of \$20,000.00. Motion by Moffat, seconded by Askew to approve the cost of installation and delivery of \$20,000.00.

AYES: 5
NAYS: 0
MOTION CARRIED.

- Review of Punch List schedule.
- Review of Board & Administration Expectations from 3/21/19 workshop.

Motion by Askew, seconded by Burleson to approve the following Vouchers:

Voucher #2089	\$113,466.82
Voucher #2090	\$23,107.72
Voucher #2091	\$60.09
Voucher #2092	\$281,773.11

AYES: 5
NAYS: 0
MOTION CARRIED.

Discussion held regarding proposed sealcoat work for Cass County Road Commission. Concerns expressed relating to equipment, time, addressing Service Requests, etc., which were responded to by staff to the satisfaction of the Board.

Rader updated the Board on the award of bids, in the best interest of the Van Buren County Road Commission and the respective townships as follows:

- 41st Street, Decatur Township, to as-read low bidding contractor, Michigan Paving & Materials (\$78,750.00).
- Evergreen Bluff Drive, Kassian Court, and Allen Court, South Haven Township, to as-read low bidding contractor, Michigan Paving & Materials (\$165,438.00).

Rader reviewed a request by South Haven Township for advance use of its 2020 millage allocation in the approximate amount of \$45,653.00. Discussion was held regarding

pending projects in the Township, project estimates, and bids received. Motion by Askew, seconded by Burleson to approve the advance use by South Haven Township of its 2020 millage allocation.

AYES: 5
NAYS: 0
MOTION CARRIED.

Motion by Moffat, seconded by Burleson to recess the Regular Meeting at 9:08 PM to move into a Closed Session for the purpose of considering written material subject to the attorney-client privilege. Roll call vote:

Moffat: Aye
Askew: Aye
Burleson: Aye
Kinney: Aye
Boze: Aye
MOTION CARRIED.

Motion by Kinney, seconded by Burleson to reconvene the Regular Meeting at 9:27 PM with all Members present.

AYES: 5
NAYS: 0
MOTION CARRIED.

Discussion held regarding Ackley Lake drainage cost share by the Board, and its previous decision made at the April 4, 2019 Regular Meeting. Motion by Kinney, seconded by Burleson, on advice of counsel, to stand by the offer previously made to Paw Paw Township to contribute funds to cover half of the actual cost of the pipe and structure under the road.

AYES: 5
NAYS: 0
MOTION CARRIED.

CRA Official Ballot, Amendment to the Constitution and Bylaws, was reviewed by the Board. Upon discussion it was moved by Askew, seconded by Burleson to table the decision until the next Regular Meeting of the Board.

AYES: 5
NAYS: 0
MOTION CARRIED.

The revised draft letter to Antwerp Township was reviewed by the Board and discussions were held. By a show of hands, the Board decided to approve Option 2 on Page 2 of the draft letter. Further discussions were held. Motion by Moffat, seconded by Kinney to table the finalization of the draft letter until the next Regular Meeting of the Board.

AYES: 5
NAYS: 0
MOTION CARRIED.

Anttila presented Resolutions for the Board's consideration for the Road Commission's 2019 submission to the Local Bridge Program.

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

RESOLUTION 2019-06

WHEREAS: The Board has reviewed the application for Local Bridge Funding for the replacement of the bridge in 2022 that carries 2nd Avenue over the Mentha Drain in Pine Grove Township; and,

WHEREAS: The bridge does not meet present day standards for shoulder clearance or traffic lane widths, and the bridge does not provide the safety margins now required by present day design standards; and,

WHEREAS: Because of the deterioration of the present structure a complete replacement would be in the best interest of the traveling public.

NOW, THEREFORE BE IT RESOLVED: That the Board concurs in the importance of the replacement of this structure and urges approval of the application for Local Bridge Funding for the structure that carries 2nd Avenue over the Mentha Drain in Pine Grove Township.

IT IS FURTHER RESOLVED: That plans for said replacement can be ready within 120 days after notification of a successful application.

AYES: 5
NAYS: 0
RESOLUTION ADOPTED.

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

RESOLUTION 2019-07

WHEREAS: The Board has reviewed the application for Local Bridge Funding for the replacement of the structure in 2022 that carries 40th Street over the Paw Paw River, in Waverly Township; and,

WHEREAS: The bridge does not meet present day standards for shoulder clearance or traffic lane widths, and the bridge does not provide the safety margins now required by present day design standards; and,

WHEREAS: Because of the deterioration of the present structure, a full replacement of the superstructure would be in the best interest of the traveling public.

NOW, THEREFORE BE IT RESOLVED: That the Board concurs in the importance of the replacement of this structure and urges approval of the application for Local Bridge Funding for the structure that carries 40th Street over the Paw Paw River in Waverly Township.

IT IS FURTHER RESOLVED: That plans for said rehabilitation can be ready within 60 days after notification of a successful application.

AYES: 5
NAYS: 0
RESOLUTION ADOPTED.

Motion by Askew, seconded by Moffat, to adopt the following Resolution:

RESOLUTION 2019-08

WHEREAS: The Board has reviewed the application for Local Bridge Funding for the replacement of the structure in 2022 that carries 8th Avenue over the Black River in Geneva Township; and,

WHEREAS: The bridge does not meet present day standards for shoulder clearance or traffic lane widths, and the bridge does not provide the safety margins now required by present day design standards; and,

WHEREAS: The current structure restricts the waterway causing scour and erosion issues; and,

WHEREAS: Because of the deterioration of the present structure a complete replacement would be in the best interest of the traveling public.

NOW, THEREFORE BE IT RESOLVED: That the Board concurs in the importance of the replacement of this structure and urges approval of the application for Local Bridge Funding for the structure that carries 8th Avenue over the Black River in Geneva Township.

IT IS FURTHER RESOLVED: That plans for said replacement can be ready within 120 days after notification of a successful application.

AYES: 5
NAYS: 0
RESOLUTION ADOPTED.

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

RESOLUTION 2019-09

WHEREAS: The Board has reviewed the application for Local Bridge Funding in 2022 for preventative maintenance to the bridge that carries CR384 over the Black River in Geneva Township; and,

WHEREAS: The bridge is in need of new joints, concrete pile repairs, rip rap and scour protection, and a new HMA surface; and,

WHEREAS: Preventative maintenance work on the structure would be in the best interest of the traveling public as it would prolong the life of the structure.

NOW, THEREFORE BE IT RESOLVED: That the Board concurs in the importance of the preventative maintenance on this structure and urges approval of the application for Local Bridge Funding for the structure that carries CR384 over the Black River in Geneva Township.

IT IS FURTHER RESOLVED: That plans for said preventative maintenance can be ready within 120 days after notification of a successful application.

AYES: 5
NAYS: 0
RESOLUTION ADOPTED.

Motion by Moffat, seconded by Burleson to adopt the following Resolution:

RESOLUTION 2019-10

WHEREAS: The Board has reviewed the application for Local Bridge Funding in 2022 for preventative maintenance to the bridge that carries 18th Avenue over a Tributary of the South Branch of the Black River in Columbia Township; and,

WHEREAS: The bridge is in need of concrete seal, pave approaches, and joint repair; and,

WHEREAS: Preventative maintenance work on the structure would be in the best interest of the traveling public as it would prolong the life of the structure.

NOW, THEREFORE BE IT RESOLVED: That the Board concurs in the importance of the preventative maintenance on this structure and urges approval of the application for Local Bridge Funding for the structure that carries 18th Avenue over a Tributary of the South Branch of the Black River in Columbia Township.

IT IS FURTHER RESOLVED: That plans for said preventative maintenance can be ready within 120 days after notification of a successful application.

AYES: 5
NAYS: 0
RESOLUTION ADOPTED.

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

RESOLUTION 2019-11

WHEREAS: The Board has reviewed the application for Local Bridge Funding in 2022 for preventative maintenance to the bridge that carries CR687 over the South Branch of the Black River in Bangor Township; and,

WHEREAS: The bridge is in need of concrete sealer, concrete patching and joint repairs; and,

WHEREAS: Preventative maintenance work on the structure would be in the best interest of the traveling public as it would prolong the life of the structure.

NOW, THEREFORE BE IT RESOLVED: That the Board concurs in the importance of the preventative maintenance on this structure and urges approval of the application for Local Bridge Funding for the structure that carries CR687 over the South Branch of the Black River in Bangor Township.

IT IS FURTHER RESOLVED: That plans for said preventative maintenance can be ready within 120 days after notification of a successful application.

AYES: 5
NAYS: 0
RESOLUTION ADOPTED.

Motion by Burlison, seconded by Askew to adopt the following Resolution:

RESOLUTION 2019-12

WHEREAS: The Board has reviewed the application for Local Bridge Funding in 2022 for preventative maintenance to the bridge that carries 16th Avenue over the Black River in Geneva Township; and,

WHEREAS: The bridge is in need of new joints, scour, approach slab repairs, and a healer sealer on the concrete deck surface; and,

WHEREAS: Preventative maintenance work on the structure would be in the best interest of the traveling public as it would prolong the life of the structure.

NOW, THEREFORE BE IT RESOLVED: That the Board concurs in the importance of the preventative maintenance on this structure and urges approval of the application for Local Bridge Funding for the structure that carries 16th Avenue over the Black River in Geneva Township.

IT IS FURTHER RESOLVED: That plans for said preventative maintenance can be ready within 120 days after notification of a successful application.

AYES: 5
NAYS: 0
RESOLUTION ADOPTED.

Operation Director's Report:

Maintenance Operations:

- Pothole patching with hot mix.
- Slag delivery continues.
- Gravel shoulder repairs, county-wide.
- De-berming operations continue.
- Miscellaneous ditching.
- Boom mowing.

Equipment Report:

- New loader to be delivered at the end of the month.
- Sealcoat equipment being calibrated.

Highway Engineer's Update:

- Grade Inspection for 10 bridges was held.
- Grade Inspection for Red Arrow Highway is next Wednesday.
- Working with Paw Paw Schools regarding speed zone.
- Pipe has been installed on CR665, Waverly Township.
- Placing pipe on CR388 in Bloomingdale Township.
- Paving next week in Antwerp Township in Whispering Woods Subdivision, Martha's Vineyard Subdivision.

- Spoke with Supervisor Ruzick regarding the Long Grove Subdivision project (driveway pipes, rock wall encroachment, etc.). Also reviewed neighboring Kalamazoo County subdivision.
- Spoke with Supervisor VanTassel regarding 30th Street trees and survey work.
- Still have a couple of paving projects to let for bid.
- Materials should be done soon for 36th Avenue project, then contractor can mobilize either there, or on 63rd Avenue, Antwerp Township.

Board discussed ideas and how to approach the hiring process of the Engineer-Manager and the desires of the Board to fill the position or positions. The Board agreed that staff needs to provide them with input. Suggested meeting next week to discuss ideas. Motion by Kinney, seconded by Moffat to hold a Special Session of the Board on April 25, 2019 at 4:00 PM.

AYES: 5
 NAYS: 0
 MOTION CARRIED.

Rader reported that the Workers' Compensation file has been successfully transferred to Varnum Law.

Commissioner Updates and Reports:

- Askew: Attended Covert Township, Geneva Township, Bangor Township and South Haven Township board meetings.
- Boze: Attended Hamilton Township, Lawrence Township and Hartford Township board meetings.
- Burleson: Attended Pine Grove Township board meeting. Service Request for holes on CR653 South of Chip Ray's property - two holes on the west side; also on CR388 near the mailbox 27887 - large spot needs attention; also in Columbia Township, bump signs disappeared on CR380 in Grand Junction.

Rader provided discussion regarding an issue in Columbia Township that took place when an employee was injured on the job. The specific matter arose due to the ambulance service that responded to the call. The matter is being handled by the Road Commission, together with Columbia Township.

- Kinney: Attended Paw Paw Township, Decatur Township, and Arlington Township. Service Request for complaint by resident on Harrison Road regarding potholes; also pothole at 52471 - 34th Avenue, Arlington Township, and numerous potholes on 52nd Street, Arlington Township.
- Moffat: Attended Porter Township; brought question regarding pilot project on 80th East of M40; also discussion regarding abandonment of road ends at lakes. Attended Almena Township; compliments regarding de-berming and pothole patching.

Burleson discussed a missing streethead sign on CR653 past Chip Ray's the road goes right.

Motion by Moffat, seconded by Burleson to adjourn the Call of the Chair at 11:02 PM.

AYES: 5
 NAYS: 0
 MOTION CARRIED.

Secretary

Chairman