

BE IT REMEMBERED THAT, The Board of Commissioners of the County of St. Joseph met in a regular session in the County City Building on September 4, 2018 at the hour of 10:00 a.m. (EST) at which time in the following members were present: Dr. Deborah Fleming D.M.D., and Dave Thomas were present.

**PLEDGE OF ALLEGIANCE**

**PRAYER**

The minutes of the last meeting were unanimously approved.

Michael J. Hamann, County Auditor, was present and recorded the minutes of the meeting.

Mr. Woods. The Executive session that was set for 9:30 this morning has been recessed and will be reconvened immediately following this meeting.

**OPENING AND READING OF BIDS ON:**

PSAP: Proposals and authorized review of CAD system.

Raymond Schultz, 58266 Downey Ave.

Motorola

Tyler Technologies

Superion Public Safety

Caliber Public Safety

Mark43 Inc.

TriTech

We received those digitally. I have a binder and I have a flash drive. So, if you want a copy at some point I have that. I am requesting permission to review those proposals with the technical review committee.

Mr. Woods Who is in actual physical receipt of the bids?

Mr. Schultz. They are in binders in my office.

Mr. Thomas. When were they due?

Mr. Shultz. Two Fridays ago.

Mr. Thomas. Generally, when you receive them you would not open them until at this public meeting and authorized to do so.

Mr. Shultz. Some were sent digitally and via flash drive so there wasn't a binder for every proposal.

Mr. Thomas. That was approved by the RFP?

Mr. Schultz. Correct.

Mr. Thomas. You haven't opened those flash drives.

Mr. Schultz. Correct.

Mr. Thomas. I will not make a motion to this I was not a fan and did not support the RFP process. I do not want to spend more money, 3-6 million dollars. I don't think that is the right approach. I think we need to hold Tyler Technologies accountable and I still feel that way.

Dr. Fleming. I agree we need to hold Tyler Technologies accountable, but we also need to plan for the future at some point too. This would just be an assessment. What should we do.

Mr. Woods. Mr. Thomas said he would not make a motion but perhaps you should make a motion to physically accept the bids and have them reviewed and report back at a later meeting.

Dr. Fleming. So moved.

Is there a second?

Mr. Woods. Is there anything in the RFP that has a timing component to this as to the opening of bids?

Mr. Agostino. There were to be received by August 24<sup>th</sup> so, under the statute with the respect to the requested proposals they can be received in the way that they were received. The only restriction is that no vendor be given any advantage by having one received earlier than another or the contents of the proposal be disclosed and that did not happen We are in compliance with the statute in the way this was processed. The bids are stay good for a period up to a year. I would ask Mr. Thomas to reconsider. I think it is important for, not only being prepared for the future but also with respect for the moral of people that have invested lots of time in preparing this RFP. These are local police and fire people that deal daily with the issues there. It is important for us to proceed to see and to also in the event there is litigation, strengthen our position by know what alternatives there are. So, I think it would be more wasteful to not go ahead with the technical review this does not bind anything. The ultimate decision is the Commissioners to decide what to do. I think it is helpful for multiple reasons including potential litigation to have the review occur. I would urge you to allow that to go forward.

Dr. Fleming. I tend to agree with him because it's not that we are approving it we are just accepting it and letting them assess it and then they will come back to us and we can move forward or not depending on that, but we have to accept the bids.

Mr. Thomas. In the best-case scenario going forward if the bids were accepted and there were to be any changes it would take over a year for any of those changes to be implemented is that correct?

Mr. Agostino. I don't know the exact time, but it will take a substantial length of time.

Mr. Thomas. So, waiting a week is not going to kill the desire of some people to spend this money.

Mr. Agostino. We aren't making a decision to spend money. It is a commitment by these units that have committed resources to this process in reliance on this thing going forward that are prepared to review that have committed time to review this. It is frankly disrespectful to them to simply put a halt or break on this at this point when we don't gain anything by doing that.

Discussion continues on this matter and the issue of no money being spent on this at this time.

Seeing no second on the motion this dies for a lack of a second.

#### **REPORTS AND REQUESTS FROM:**

##### **COMMISSIONERS**

###### **A)**

##### **IN THE MATTER OF APPROVING THE ACCOUNTS PAYABLE DOCKETS**

Mr. Thomas moved to accept the Accounts Payable Docket as read and outlined.

Motion seconded by Dr. Fleming.

Motion adopted by a 2-0 vote.

###### **B)**

##### **IN THE MATTER OF APPROVING A SETTLEMENT AGREEMENT**

Mr. Woods. This is a settlement agreement for a partial taking of property at Fir and Brick Road. This is for round-about project. This is a mediated agreement. Both parties were represented by counsel. As with past practices settlements are approved in an open meeting of the Board of Commissioners so, I am requesting your approval of this settlement agreement. Ms. Clark attended, we think this is a fair resolution of this matter with the home owners.

Mr. Thomas. How many acres does this involve?

Mr. Woods. I think it is .15 acres is that correct Mr. Garrett? He is my law partner and worked on this.

Mr. Garrett. I believe so.

Mr. Thomas. What would that translate cost per acre?

Mr. Garrett. I don't have that figure today.

Mr. Thomas. Would it be around \$350,000 an acre?

Mr. Garrett. I can't guess.

Terry Garrett, 420 LWW., Mishawaka, IN.

Jessica Clark, County Engineer, offices on the 7<sup>th</sup> floor.

The appraisal itself is not just for land acreage it is also for any damages that result in the entire appraisal of the property plus any improvements that are on site. So, merely just projecting out the cost per acre wouldn't be accurate because a percentage of that is the land value per acre the remaining costs of that are damages and any improvements we had to acquire as part of the taking. All of this is outlined in our appraisal packet.

Mr. Thomas would like to table till he gets some answers. Short discussion on steps to get to this point and all parties agreeing.

Dr. Fleming urging Mr. Thomas to move forward.

Mr. Thomas moved to accept this mediation agreement as read and outlined.

Motion seconded by Dr. Fleming.

Motion passes by a 2-0 vote.

C)

IN THE MATTER OF APPROVING  
RESOLUTION R-C-16-2018  
AUTHORIZING PURCHASE OF  
REAL PROPERTY

Bill Schalliol, Economic Development, offices on the 11<sup>th</sup> floor.

This resolution is to set a purchase price and to move forward with the purchasing element of this proposal. The county is seeking to acquire 89.8 acres. That includes a parcel as well as right-of-way along Edison Road east of Walnut. The purchase price would be \$11,000 an acre. The total purchase price would be \$987,948.00.

Mr. Thomas. That money is coming from where?

Mr. Schalliol. It is coming from TIF increment generated within the TIF development area.

Mr. Thomas. Is that money available now or are we going to use bonds?

Mr. Schalliol. We do have cash in hand, but we did sell some bonds previously that are being used to support this purchase.

Mr. Thomas. So, we have outstanding bonds to buy this land?

Mr. Schalliol. We have outstanding bonds, period. The land is one of the things we can use the bond proceeds for.

Dr. Fleming. That was approved to do this last year?

Mr. Schalliol. Two years ago, as part of the bond sale process.

Mr. Thomas. What do they want with this land?

Mr. Schalliol. The goal is, this piece of property is a key piece as it relates to strategic property acquisition within the development area. The Southwest corner of Walnut and Edison is a piece of property that would be used to facilitate the Niespodziany ditch relocation project, rail, plus it provides a 30-sum acre piece of property for future development parcel that would be taxable.

Mr. Thomas. In the meantime, it would be non-taxable.

Mr. Schalliol. For a period of time and actually 47 acres is untaxable as it's set up as a state nature preserve. Some of the property is already untaxable.

Mr. Thomas. The drainage issue when you mentioned the realignment, the drainage board does not support the current proposal of the Niespodziany ditch realignment.

Mr. Schalliol. I don't believe that is correct sir. The last time we were at the meeting I believe we were favorably approved to continue.

Mr. Thomas. No, I think you misunderstand sir.

Continued talk of this back and forth. The minutes of the meeting are to be referred back to in order to find the answer to this question and an answer given to this.

Mr. Thomas. I have not been a fan of this project. Yes, some of it was approved a year or two ago but most of it by a vote of 2-1. I do not approve of taking a million dollars of taxpayer's money to buy land we do not need to take it off the tax rolls on the hope that one day something might happen. The taxpayers have to many more important needs for us to be shoveling a million dollars at.

Dr. Fleming. That is one of the issues I have. It has been over 30 years, and nothing has been done in that area so that is why I am trying to move forward so we can move the economic development forward. I would certainly like to support this, so we can move forward and get economic growth in this area and improve things.

Ken Sebasty, K&K Farms.

On the steel plant I was on negotiations to get the steel plant here through Coldwell Bankers, because I was successful of getting it here they awarded me the lime that is used there to put on my farm. We have had a good business relationship. I wanted you to know that we have a lifetime agreement to take care of the land that was going to weeds before we came. There was a fire caused by the railroad and went through that property. The steel plant didn't want to see that go on like that, so they leased my son and I the property, a lifetime lease. Maybe you shouldn't agree to allow the project to move forward until you research thoroughly what is happening here. This property is well taken care of that was our agreement.

Mr. Thomas. You came to a previous meeting but due to not being able to hear you couldn't follow along is that correct?

Mr. Sebasty. Yes.

Mr. Thomas. You mentioned the steel plants lifetime gratitude to you of letting you have lime for your lifetime, and are you stating that you also have a lifetime lease on this land?

Mr. Sebasty. I am hard of hearing as you say so it is hard to understand. There is problems.

Thomas Zmyslo, 51042 Prairie view Way.

I have to agree with Commissioner Thomas. I am not a fan of my taxpayer dollars going to developers to think about maybe having some business there someday. I am not in favor of the county or city being in the real-estate business, per se. If it is going to be a good project there I would think the developer would be able to negotiate a deal with whoever owns the property personally themselves.

Mr. Thomas. I would comment just for the strictest of understanding this area of redevelopment has taken out bonds, borrowing money and paying interest and not using that borrowed money to potentially buy this land so, technically when you say your tax money it is technically tax money that's being sequestered in this economic zone. When that money is being spent there it's not helping subsidize the rest of county government. Therefore, your ability to feel safe and comfortable is now diminished because one million dollars that should be helping everybody has been pulled off the table. So, technically they are not subsidizing the general fund and general expenditures they are using their own TIF money.

Mr. Schalliol. Mr. Garrett is here to address the issue of farmers rights on that property. There have been a series of farming contracts on that piece of property. There is not currently a contract in place.

Mr. Garrett. There have been four written leases with Mr. Sebasty that the steel mill has provided. The most recent one expired in May of this year. The steel mill is not aware of a fifth lease that would extend it to next year at this time.

Mr. Thomas. Is there any protection for Mr. Sebasty and his family for the hundreds of thousands of dollars of crops they have planted there?

Mr. Garrett. Protection in what?

Mr. Thomas. For the value of all the farm work and improvements they made to that land? They have crops there that I would presume they want to harvest and sell. Are there any provisions or rules on this purchase agreement that's going to be proposed to protect the current leaser of that land and any value of crops they current have there or rights to those crops in the future?

Mr. Schalliol. As the county is not currently the owner or possessor of the land the county has not made contact with anyone to negotiate what future land ownership rights might be available to the Sebasty's on that property. This would be a great opportunity to have that conversation outside a public forum.

Mr. Thomas. Actually, you brought this matter to this public forum.

Mr. Schalliol. I did.

Discussion held on advertising timeline.

Mr. Thomas ask Mr. Garrett about protection rights in contract as previously asked. You mentioned that there were four leases the last one expired May 2018. I would think that would mean that the farmer would have no rights unless it is spelled out in this contract.

Mr. Garrett. The purchase agreement is between the steel mill and the St. Joseph County Redevelopment Commission.

Mr. Thomas. Are there provisions for this?

Mr. Garrett. The purchase agreement makes no provisions for any third parties.

Dr. Fleming and Mr. Thomas have short discussion on purchase agreement provisions.

Mr. Woods. I would like to comment on the publication. I think Marie, consistent with past practices, provided notice that a meeting was going to happen. The meetings are provided at the start of the year there is going to be a meeting today. The agendas are circulated. A governmental entity doesn't necessarily even need to use an agenda. These can be changed or modified at any time even prior to the meeting or during it. So, the meeting was properly advertised. I just wanted to clarify that.

More discussion held on this. The meeting was legally advertised. The agenda can be modified at any time.

No action taken on this item.

**D)**

**IN THE MATTER OF APPROVING  
A PURCHASE AGREEMENT-INLAND  
STEEL (ARCELMITTAL) PROPERTY**

No action taken on this item.

**ASSESSOR**

**E)**

**IN THE MATTER OF APPROVING  
FOR TWO LEASED VEHICLES**

This lease is for a 2018 Ford Escape and a Buick Encore.

Mr. Thomas moved to accept the above agreement as read and outlined.

Motion seconded by Dr. Fleming.

Motion adopted by a 2-0 vote.

**PUBLIC SAFETY CONSORTIUM**

**F)**

**IN THE MATTER OF APPROVING  
A MOTOROLA SERVICE AGREEMENT**

Raymond Schultz, 58266 Downey Ave.

This was approved in 2015 as part of the radio contract by the Board of Commissioners.

When we accepted the project completion it kicked in a service agreement for maintenance. Due to the changes that have happened we thought it was a good idea to bring this back to you for approval.

Mr. Thomas moved to accept the above agreement as read and outlined.

Motion seconded by Dr. Fleming.

Motion adopted by a 2-0 vote.

**BOARD OF PUBLIC WORKS:**

<b>Development / Subdivision Requests</b>
<b>Description</b>
<b>Special Event Requests</b>
<b>Description</b>
Hospice Foundation and Bike Michiana Coalition Annual Bike Michiana for Hospice

Traffic Regulatory Requests
Description

Project Completion Affidavit
Description

Mr. Thomas moved to approve the above request as read and outlined.  
 Motion seconded by Dr. Fleming.  
 Motion adopted by a 2-0 vote.

A)  
 IN THE MATTER OF APPROVAL  
 OF A MEMORANDUM OF  
 UNDERSTANDING FOR THE  
 RAILROAD OVERPASS OVER  
 THE CANADIAN NATIONAL  
 RAILROAD TRACKS IMPROVEMENTS  
 ON DOUGLAS ROAD

Jessica Clark, County Engineer, offices on the 7<sup>th</sup> floor.  
 This is for a potential future project on Douglas Road to build a grade separation over Canadian National. We are partnering with the City of Mishawaka. With the grant our commitment would be between \$4-4.5 million out of the overall \$27 million project. Mr. Thomas gives thanks to the Engineering Department and the City of Mishawaka. Dr. Fleming also gives her praises.

Mr. Thomas moved to approve the above request as read and outlined.  
 Motion seconded by Dr. Fleming.  
 Motion adopted by a 2-0 vote.

**OLD BUSINESS: None**

**PUBLIC COMMENTS:**

Thomas Zmyslos Sr., 51042 Prairie view Way, South Bend, IN.  
 We have a situation that was created in the county by the City of South Bend in regard to development in the Portage-Prairie project which has caused a great concern which we tried to warn about. I am kind of disappointed in my Commissioner, I am glad that the Engineer is here today. In regards to the traffic, the noise and the safety issues we have out on Adams Road, Portage Highway, Orange Road and Mayflower Road. We just had an issue with my neighbors traffic sign being knocked down about 25 feet from his daughter's bedroom window from someone speeding on the wrong side of the road and missing a telephone pole by about a foot. There are a couple people who live on Adams Road that had both of their children's vehicles hit coming out of one of the businesses there that didn't stop for a stop sign. This is a horrible situation. Our traffic has increased, and I would like to ask if there is something that could be done. We have traffic that is flying up and down the road, drag racing, we have motorcycles going on one wheel down the road. I have a statement from a neighbor. My concerns are speeding down Adams down Portage intersection west of east jackrabbits starts. Speeding from Adams away from Portage intersection to west jackrabbits starts in the Portage Adams intersection all directions. I would welcome and encourage increased police presence along Portage and Adams Roads. I believe the increased presence of traffic patrols would go a long way towards calming down vehicles or behavior. Let's not wait until someone gets killed. If there is something the County Engineer could do that would be appreciated. There are other neighbors that have the same concern.  
 Mr. Thomas. On the issue of the annexation that happened in German Township years ago by previous South Bend boards it was very unfair to the residents of German

Township that you are getting annexed by a South Bend city board that you have no vote or control over. They really didn't listen to you citizens at all. It is a shameful thing that they didn't. The current City Council Board seems to be very responsive. Protecting the rights and seeing the lunacy of trying to realign the south shore through Ardmore. In the meantime, we have inherited this somewhat of a mess. What is City what is County? Our engineering department works diligently to address these problems and work with South Bend, try and get this area more on the radar. Thank you for sharing your concerns and I am sure we will ask Public Works to look into it.

Mike Quiroz, 51024 Prairie view Way. I am a resident with my daughter's bedroom 25 feet away from where this vehicle possibly almost hit the telephone pole. I have lived there for about a year. I will second what Mr. Zmyslo said. It is dangerous out there. The speed limit is 40mph these people are doing 60 plus, 70 by the time they reach our house which is about 200 feet from the corner of Adams and Portage. I personally have seen multiple times motorcycles riding wheelies. I have seen cars drag racing. I have seen commercial vehicles, which there are clearly no signs for trucks out there, from the industrial park down there. I am not going to name names, but it is a pop delivery service and it is a mail delivery service out there. They are doing 60-70 mph trying to speed back to the warehouse at the end of the business day. My concern is why are they driving down there if they aren't conducting business. These people are driving crazy at all times of the day and night, weekdays and weekends. The biggest concern is the safety issue someone is going to get hurt or killed out there eventually. If there is anything that can be done that is what I would ask. I would request maybe we could get a few stop signs out there or maybe even some speed bumps.

Ken Sebasty, K&K Farms. We have the traffic problem because the toll road has increased the price of using the toll road, so they get off on the 31 bypass and come to 2 and 20. We live on 20 and see how bad the traffic is. We need a light at Larrison because of all the semi's coming in and out of there, including our own. It is a serious situation. That is a state-controlled traffic but maybe the County officials can relate to what's happening out there with the traffic. I also want to say on my property out there, there has been some movement going on about taking our farm away from us for future industry. That farm is not for sale and will not be used by any county officials. When I say our farms not for sale it's a family farm. It is for our children, for our grandchildren and so on. If they come out there with the idea they are going to tear our farm up I am saying it's not going to happen. If we have to go to court, we'll to court.

Mr. Thomas. When people say your land isn't developed, does that hurt you? Because you've spent 80 plus years and as an American veteran, developing that land that your family farmed. When they tell you that it's not developed how does that make you feel?

Mr. Sebasty. Naturally, I have been there my whole life and I have farmed my whole life and I know how to be successful and running an operation. That's why our farm operation has growed to 50-52 farms. We aren't small potatoes. Maybe as a farmer we don't get the respect that we need but that's not too much to be asking for.

Mr. Thomas. Isn't it true that your land has abnormally high yields because it's such good farm soil and that in fact you draw a lot of seed corn. Which is what all the other farmers on the planet are dependent upon? Because your soil is so good.


Mr. Sebasty. We have seed corn, regular corn and soybeans that makes up our operation.

Mr. Thomas. I have often said there is a need for a light at Larrison and 2. There have been serious accidents and several deaths that the state needs to wake up and put a stop light there.

Delores Schosker, 23381 Adams Road which is three houses away from Mayflower. Our road has gotten out of hand and so many people from the new factories run our road like it's a racetrack. We have a young man that comes down about 8:30 every night doing a wheelie. He starts at the bypass and he goes all the way to Portage. Should he come down that hill before Mayflower and a car goes through there he's gonna cut the car in half and possibly kill a mother and a couple of children. There was just an accident at Mayflower and Adams. I am not sure who was at fault. There have been a lot of wrecks at the new factory. They come out of the parking lot, they don't stop for anybody on Adams Road. Down the road Joe Agostino's daughter, who just got her license, somebody came out of that factory and didn't even stop they ran right into her. I think that is horrible for a teenager to start off her driving life like that.

There being no further business to come before the Board at this time, ~~Mr. Kostichney~~ asked for a motion to recess, Mr. Thomas so moved, seconded by Dr. Fleming. Meeting recessed by a 2-0 vote.

Correction  
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ST. JOSEPH COUNTY COMMISSIONERS