

CLARE COUNTY ROAD COMMISSION

Minutes of the regular meeting of the Board of County Road Commissioners of Clare County, Michigan, hereinafter referred to as the Board, held at its office at 3900 East Mannsiding Road, Harrison, Michigan on June 5, 2019.

The meeting was called to order at 9:00 a.m. by Commissioner Richard Haynak.

Commissioners present: Timothy Haskin, Richard Haynak and Karen Hulliberger.

Commissioners absent: none.

Staff present: Deepak Gupta, Engineer-Manager.; Kimberly Jones, Finance Director/Board Secretary; Al Leonard, Engineer-Tech/Co-Manager.; Aric McNeilly, Road Maintenance Foreman/Co-Manager and David Bondie, Asst. Road Maintenance Foreman.

Pledge of Allegiance.

Guests present: Angelina M. Barnes, Michael R. Kluck and Associates; Dennis Zimmerman, Lincoln Township Supervisor; Al Housler, Freeman Township Supervisor; Julie Lightfoot, Freeman Township Clerk; Marlene Housler, Freeman Township resident; Leonard Strouse, Clare County Board of Commissioner (3<sup>rd</sup> District); Dan Dysinger, Grant Township Supervisor; David Sunday, Arthur Township resident; Bill Simpson, Hayes Township resident; Russ Hamilton, Surrey Township Supervisor; Mike Haley, Hayes Township Trustee; Pat Maurer, Clare County Review; Robert Buckley, Hayes Township Trustee; Mark Fitzpatrick, Clare County Board of Commissioner (5<sup>th</sup> District); Marion Coon, Frost Township Supervisor; Dale Majewski, Clare County Board of Commissioner (1<sup>st</sup> District); David Hoefling, Clare County Board of Commissioner (6<sup>th</sup> District); Stacie Wilhelm, SD Consulting; Terry Acton, Hayes Township Supervisor; Al Demarest, City of Clare resident; Dianne Alward-Biery, Clare County Cleaver.

The minutes of the May 15, 2019 regular meeting and May 15, 2019 closed meeting were read and approved as read.

The fund balance report was presented and discussed. On a motion by Commissioner Haskin, seconded by Commissioner Hulliberger and approved unanimously, it was moved to approve payments for: Payroll, FICA, PE 5/19, (52960-52969), AP (72419-72475), HRA and MERS totaling \$769,419.88.

Bill Simpson, Hayes Township resident, requested information on how far back board minutes go on CCRC website. Angelina M. Barnes, Michael R. Kluck and Associates, replied back to 2011.

Mike Haley, Hayes Township Trustee, thanked Commissioner Hulliberger and Foreman McNeilly for attending the most recent Hayes Township meeting as well as a prompt response to fixing a road repair in Hayes Township.

Dan Dysinger, Grant Township Supervisor, discussed the following issues: thanked the Board for restoring the in kind and matching funds for 2019 in Grant Township, stated that there are other on going projects he may want to comment or address at a later time, and lastly he discussed MTF funding and stated he is aware of the increases and he is concerned about that.

Mark Fitzpatrick, Clare County Board of Commissioner (5<sup>th</sup> District), discussed the following issues: his FOIA request submitted on May 9<sup>th</sup>, 2019, do all FIOA requests get handled by the attorney and not the FOIA Coordinator, he stated that he had heard from others that they requested information from FOIA's via email and legal counsel wasn't involved

Angelina M. Barnes, Michael R. Kluck and Associates (Labor and Employment counsel for the Clare County Board of Road Commissioners), responded to Commissioner Fitzpatrick's questions as follows: all FOIA requests are received by FOIA Coordinator, Donna Henke, then if she needs assistance, the attorney's office is contacted; Michael R. Kluck and Associates. Reviews are done on a regular routine basis to make sure we're separating exempt materials. Some FOIA requests require intensive IT searching to separate exempt and non-exempt, as well as multiple individuals. Ms. Barnes stated it falls to the discretion of the CCRC Board as to whether or not it wants legal assistance on a request; there is also complication of multiple staff emails which are cc'd to Board members which can bring in the issue of attorney-client privilege.

Leonard Strouse, Clare County Board of Commissioner (3<sup>rd</sup> District), questioned rumors in Clare County about what is going on at the Road Commission, and he spoke of the popularity of Deepak Gupta in the community but hearing not very popular from certain people in the board room. Commissioner Strouse asked what is CCRC's plan moving forward.

Angelina M. Barnes, Michael R. Kluck and Associates, responded saying that the Board cannot speculate on rumors, but that if the Board receives complaints or concerns about something, particularly violations of state or federal laws, as well as its internal policy, the Board has an obligation to investigate those complaints or concerns. And as of now, if you hear rumors about staffing or personnel, those are confidential personnel matters.

Commissioner Haskin said there has been a great deal of rumors, speculation, and the Board has been viciously attacked in the county and by individuals. The Board has been upfront and only stating the facts. They can't disclose any information at this time. In due time, it will all come to pass.

Leonard Strouse, Clare County Board of Commissioner (3<sup>rd</sup> District), asked if Deepak Gupta's job was safe and/or status of his job.

Angelina M. Barnes, Michael R. Kluck and Associates, stated that comments can not be made on the status on Deepak's job.

Deepak Gupta, Engineer-Manager, stated that he would speak and be happy to answer or comment on all issues.

Angelina M. Barnes stated that he can't comment.

Deepak Gupta, Engineer-Manager, stated the attorney shouldn't be doing an investigation and he has been transparent and the investigation should be over.

Dan Dysinger, Grant Township Supervisor, commented that the Board had appointed personnel to cover Deepak's job. Supervisor Dysinger asked if the appointed decision would be reversed.

Commissioner Haynak, commented it very well could be, we will have to wait and see.

Angelina M. Barnes stated we can't comment. But Deepak is free and clear to do his job.

A question surfaced asking who authorized the investigation. Board Chair, Commissioner Haynak authorized the investigation.

Dale Majewski, Clare County Board of Commissioner (1<sup>st</sup> District), discussed the following: comments he has received regarding the Road Commissions unresponsiveness to return phone calls, road project delays, road maintenance issues. Commissioner Majewski also stated that there are growing concerns that CCRC is not on top of it and with everything else going on from a Board of Commissioners standpoint he would like to hear a plan of how CCRC is going to right the ship.

Deepak Gupta, Engineer-Manager, commented that CCRC's maintenance was lacking and stated staff was okay with that but now they had an awakening and now staff are stating they are on board with a maintenance plan. He also commented he would just like to do his job and address all of the issues.

Commissioner Majewski stated that residents are looking to the Board of Commissioners to take some action and it has gotten to that point.

Aric McNeilly, Road Foreman/Interim Co-Manager, stated that CCRC is currently trying to balance work and manpower. He added that CCRC is currently working on routine maintenance and that in order to balance that out, no gravel projects have been started yet. He also commented that CCRC does receive phone call and return them as requested. If someone is concerned, please call the office and let us know.

Commissioner Majewski asked if he was supposed to believe the complaints. It was stated that if you are hearing complaints, please forward or direct the people calling to the Road Commission. If you, Commissioner Majewski, or the complaints aren't forwarded or received by CCRC, how do we follow up or correct the problem.

Deepak Gutpa, stated his maintenance comments were not based on current year but structural over last few years. And that what is being discussed he is hearing from the community, Board of Commissioners other CCRC employees, and the Township Advisory Group. When Deepak started to speak questioning a Road Foreman on work duties, Angelina M. Barnes stopped him, saying it was related to personnel discussions and could not be discussed.

Commissioner Majewski stated the need for a plan. Commissioner Haskin stated that was acknowledged, but until they can talk, they can't comment.

Commissioner Majewski stated that there is talk out there that the County should take over the Road Commission and they'd like to see the situation remedied.

Commissioner Haynak urged the County Commissioners to be patient and let the Road Commission Board do what it has to do. He also stated that we will be right back on the straight and narrow again.

Al Housler, Freeman Township Supervisor, stated that he has requested the erroneous spreadsheet be corrected. Deepak has been a good representative for the Road Commission. And he asked for CCRC to be remember certain townships have mileages and the information regarding projects would be helpful to receive as soon as possible.

Kimberly Jones, Finance Director/Board Secretary, commented on the erroneous spreadsheet. It was stated that the spreadsheet is accurate. It included all of the information that was requested. All projects that were in CCRC's accounting system that were completed over the last 3 years, in all townships and to include any payments paid towards the projects from any municipality or other entity. It was stated that there was on error in Grant Townships total as well as the entire spreadsheet. The only error was in Grant Township. It was in the column totals. 2 projects had not been included in the totals. Once this was corrected the total cost column (%) increased and the Road Commission (%) in kind increased.

Al Demarest, City of Clare resident, discussed his concerns with Grant Townships 2019 projects, in kind and match money. He was concerned on how and why is was taken away and then reinstated.

Commissioner Haskin stated that the erroneous spreadsheet, that keeps getting mentioned, is correct. The Board of Road Commissioners did indeed reinstate Grant Township's match and in kind for 2019 for a pavement project. This will give CCRC time to get new plan together for the entire county. He also discussed how valuable it was to pave Mannsiding Road and how the traffic count significantly increased. He feels the same may happen with Stockwell.

Commissioner Hulliberger discussed Stockwell Road is on our "wish list".

Both Commissioner Hulliberger and Commissioner Haskin confirmed Stockwell isn't being completed in 2019, it is a "wish list" item.

Al Demarest, City of Clare resident, asked about the current investigation and why can't the Board comment.

Angelina M. Barnes stated that it is confidential and is contains personnel matters.

Commissioner Haynak proposed the following resolution and moved for its' adoption.

We, the Board of County Road Commissioners of Clare County, do hereby request reimbursement in the amount of \$10,000.00 (not to exceed \$10,000.00) for payments made during the period of July 1, 2018 through June 30, 2019 to licensed professional engineers employed or retained by this Commission, in accordance with the following:

Sec 12(2) of Act 51, as amended.

Each county road commission shall be reimbursed in an amount to \$10,000.00 per year for the sum paid to a licensed professional engineer employed or retained by the county road commission in the previous year. The sum shall be returned to each county road commission certified by the state transportation department as complying with this subsection regarding the employment of an engineer."

We further state that if we do not have a licensed professional engineer in our employ, copies of billings are enclosed with the completed form to justify the payment.

Resolution seconded by Commissioner Hulliberger and carried unanimously.

North Road project in Surrey Township was discussed. Project is estimated at \$120,000. Township cost is \$80,000. On a motion by Commissioner Haskin, seconded by Haynak and approved unanimously, it was moved to approve the Surrey Township's request to be billed \$40,000 in 2019 and \$40,000 in 2020 to equal their portion of \$80,000.

Culvert repair on Bailey, ¼ mile north of Adams was discussed. A packet with pictures and a detailed list of the repair costs totaling \$6,342.47 was reviewed. Commissioner Haskin addressed Mark Fitzpatrick, Clare County Board of Commissioner (5<sup>th</sup> District) asking him if he had been doing work in the road right-of-way at this property and if he had pulled a permit. Commissioner Fitzpatrick stated that he had cleaned up brush out of the right-of-way a year ago and hadn't pulled a permit because work was being done by others in the area all the time. Commissioner Fitzpatrick stated if CCRC can show him permits, you are setting a precedent. He went on to say he broke off the end of the culvert after a hole appeared in the road and he called Deepak Gupta to report the hole by the pavement and the damaged culvert which he thought had been hit by a mower. Commissioner Haskin described the damage to the culvert and the report he received from Aric McNeilly which described the damage likely being done by a backhoe. Commissioner Fitzpatrick denied damaging the culvert. Aric McNeilly stated it was definitely damaged by having been hooked and pulled resulting in spiral separation under the road and there was no way a mower gets anywhere near that culvert as it is 10' below the road. It was Aric McNeilly's opinion an excavator hooked it and pulled it. Commissioner Haskin said, regardless there was approximately \$6,300 of damage/repair. So next time you work in an easement, get a permit like everyone else does.

Donna Henke, Administrative Assistant, explained Oxcart online payment and permit system. It was a consensus of the Board to move forward with this new system.

Donna Henke, discussed the fair booth at the county fair. She stated that it has been difficult getting volunteers. The Board stated do your best and make the appropriate decision.

Aric McNeilly, Road Maintenance Foreman/Co-Manager and David Bondie, Asst. Road Maintenance Foreman, discussed Sheridan and Arthur Townships major maintenance currently taking place. CCRC has received many thank you(s).

Deepak Gupta, Engineer-Manager, discussed Chip Seal projects, Overlay Projects, a 500' test strip in Freeman Township and the MDOT project on 27 in late July.

Commissioner Strouse, mentioned Brand Road, south of Colonville in Sheridan Township and ditching issues.

Julie Lightfoot, Freeman Township Clerk, requested that CCRC be sure to notify the township when major road issues take place, such as Lake Station Avenue closure. David Bondie, Asst. Road Maintenance Foreman, stated Central Dispatch was notified and he tried to call Township Supervisor.

Dennis Zimmerman, Lincoln Township Supervisor, requested information on the Harding project. Aric McNeilly stated it should be starting approximately Monday, June 10<sup>th</sup> and completed by the end of June. Supervisor Zimmerman requested an update on the turn lane near White Birch. Al Leonard, stated he would need to discuss it with the Commissioners before proceeding with this project request. Supervisor Zimmerman then requested an update on his permit for Lake George. Al Leonard, updated him that our sign person will be providing the signs as we had in the past but we had received the permit, that he was aware of.

On a motion by Commissioner Haynak, seconded by Commissioner Hulliberger and approved unanimously, it was moved to go into closed session at 10:05 a.m. as permitted under Section 8(a) of the Open Meeting Act (OMA), to consider the dismissal, suspension, or disciplining of or to hear complaints or charges brought against a public employee. The session will be closed at the request of Mr. Deepak Gupta. Roll call vote. Tim Haskin, Yes; Richard Hayank, Yes; Karen Hulliberger, Yes.

The Board came out of closed session at 12:46 p.m.

On a motion by Commissioner Haskin, seconded by Commissioner Hulliberger and approved unanimously, it was moved to enter into settlement negotiation with Deepak Gupta and Attorney Barnes.

Angelina M. Barnes, Michael R. Kluck and Associates (Labor and Employment counsel for the Clare County Board of Road Commissioners), stated that the settlements negotiations will be subject to full agreement of the Board.

On a motion by Commissioner Haskin, seconded by Commissioner Haynak and approved unanimously, it was approved to place Deepak Gupta on paid administrative leave effectively immediately. Mr. Gupta is not to conduct any Road Commission business or be communicating with individuals regarding Road Commission business.

All manager duties will be handled by Aric McNeilly and Al Leonard.

Prein Newhof remains the consulting engineering firm, as needed.

There being no further business to come before the Board, the meeting was adjourned at 12:53 p.m.

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Kimberly Jones, Finance Director/Board Secretary

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Richard Haynak, Chairman