

October 8, 2009

THAT the meeting was called to order by Commissioner Peckens at 9:30 A.M. in the Board Room of the Livingston County Road Commission, 3535 Grand Oaks Drive, Howell, Michigan. Notice of the meeting was posted in accordance with Act #267 of 1976.

A. ROLL CALL

Commissioners Present: John T. Dunleavy
David R. Peckens
Richard I. Slayton

Staff Present: Michael Craine, Managing Director
Kim Hiller, Utilities and Permits Engineer
Donald Kuchnicki, Finance & Policy Director
Rick Little, Technical Services Supervisor
Steve Wasylk, Director of Operations

Others Present: Mary Baker, Chris Behnan, Cheri Bektoncin, Chris Brodie, Elizabeth Carpenter, Lynn Cermak, Lisa DeGarmo, Steve Feustel, Tim Flynn, Ralph Garry, Bob Gehrke, Greg Good, Tiffany Hartman, Dennis Hoover, Dennis Hoover, Kenneth Hunt, Larry Kipp, Rick Klepek, David Kovarik, David LaClair, Robert MacGillis, L. J. Mahalak, Faith Marquis, Lawrence McColl, Gina McGibbon, Mark Nevenschwander, John Ogram, Greg Sherchik, Dean Tinsel, Andy Warner, Berry Winters, Jim Winters

B. APPROVAL OF AGENDA

ACTION: It was moved by Commissioner Slayton, seconded by Commissioner Dunleavy, to approve the agenda as presented.

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

C. CALL TO THE PUBLIC (1)

Gina McGibbon of Cherokee Bend in Genoa Township addressed the Board regarding surface conditions in the Red Oaks of Chemung Subdivision. She stated that the amount pre-mix patching that has occurred in her subdivision has grown to be ineffective. She stated that by her house there is a school bus stop and it does not remain patched for very long. She indicated that she spoke with the patch crew and learned that if no work were done in the subdivision for a few months, the Road Commission could save enough money to resurface the streets. She said this was much more appealing in these lean economic times than a special assessment district. Mr. Craine indicated that the presentation regarding the North Shore Village Community which was next on the agenda will answer many of Ms. McGibbon's questions. He also indicated that Steve Wasylk, Director of Operations, was present and available for discussion after the meeting. He acknowledged that the pavement conditions in the subdivision were nearing the end of their useful life and that something should be done.

D. ACTION ITEMS

1. Meeting with North Shore Village Community
 - North Shore Phase VII, Section 22, Genoa Township

Chairman Peckens indicated that there was a scheduled meeting with people from the North Shore Village community. He thought it would be useful if Mr. Craine provided a short introduction to the issues surrounding this development.

Mr. Craine displayed a short PowerPoint presentation on the screen. The presentation located the project in Genoa Township and provided a history of the dealings of the developer with the Road Commission. The developer approached the Road Commission in 1999 and indicated that he wanted to dedicate the streets of Phase VII of the site condominium and approval was granted for a period lasting two years, until March 25, 2001. He stated that there was no further contact with the developer until June of 2009.

In the interim the Road Commission has seen a number of changes that in the opinion of staff affected the desirability of accepting this dedication. He displayed graphs and charts showing the declining purchasing power and rising costs that have confronted the Road Commission. He also displayed a table that indicated revenue has been on the decline since 2005. He stated that the Road Commission staff had done a financial pro forma that indicated that the expense of maintaining North Shore streets and those like it exceeded the income generated by approximately \$3,000 per mile per year.

It is this financial inequity that has caused the Road Commission to make large transfers from its primary road fund to the local road fund since 2001. These transfers divert funds from the highest traveled roadways in the county to ones that serve local land access only. He said this was the thought behind his letter to the developer's agent of September 4. As indicated to the Board the developer's agent requested a meeting subsequent to receipt of that letter. Genoa Charter Township also indicated their support of the developer's proposal and stated that it was the only way that this development could access any township maintenance contributions.

Commissioner Peckens then asked if there were any questions from members of the audience.

Gregg Good said that he was active on the association board and that the association wanted to wait until all the homes were built prior to asking for dedication. It took a long time to get paperwork finished with the developer. He said that all the residents were thinking the roads were already public. He stated that they were not aware of the time limit. He emphasized the importance of being able to access the Genoa Township funds. He stated that the township funds would be important for them as the subdivision streets matured.

Dave LeClair of Livingston Engineering said that he represented the developer. He said that he has done work in Livingston County since the early 1990s and was not aware of the requirement to complete a project within two years. He said that this proposed action by the Road Commission represents a major departure from policy. Mr. Craine responded that this procedure has been in effect since 1991. He stated that numerous site condominiums had requested extensions of time for acceptance. He stated that Road Commission staff was also in attendance and could verify this position if necessary.

Jim Winters said that he reviewed the public/private status of the roads in the North Shore community. Mr. Craine displayed a slide that showed which roads were public and which roads were private. Mr. Winters also asked if all the other subdivisions had extensions of time granted to them if necessary. Mr. Craine stated that he believed that they all did but he had not analyzed all the other site condominiums in development in the 1990s and early 2000s.

Dean Tinsel spoke to the Board. He stated that he felt it was very important that their community be able to access the township funding. Greg Sherchik indicated that residents had the expectation that the roads would be public. He further emphasized the importance of having access to township funds. He also made the point that the association had no operating escrow for the maintenance of these roads as private roads. Inasmuch as they did not anticipate the roads being private, they had not set aside capital for future improvement requirements. Ralph Gehrke wondered if the Road Commission had an obligation to tell the developer that their approval period was expiring. Mr. Craine responded that he did not think so. The developers were businessmen who were expected to keep track of these types of details. Further, there were

several site condominiums that asked for concept approval of acceptance as public roads that subsequently chose to stay private and did not communicate this to the Road Commission. Accordingly, the Road Commission had no mechanism but that of relying on the developer.

Bob McGillis indicated that the roads were not completed do to some inadequacies that were going to be remedied and encouraged the Board to accept the roads as public roads. Andy Warner stated that he thinks it would be important to determine the date of concept approval extension and determine what policy had really been. There were numerous other comments of a similar nature from other members of the North Shore community.

Commissioner Peckens indicated that there were a number of issues to be reviewed and that the Board would not be making a decision at today's meeting. Commissioner Slayton asked Mr. Craine if he felt this were the Road Commission's problem or the developer's problem. Mr. Craine stated that the issue was one that principally belonged to the development.

There being no further discussion, the commissioners thanked the representatives of the North Shore community for attending the meeting and for their thoughtful comments and suggestions.

2. 2010 Mineral Well Brine Prices
● Service Contract Authorization
(Resolution 0910-055)

Steve Wasyk, Director of Operations, provided the Board with details of an offer from Michigan Chloride Sales to extend the 2009 mineral well brine prices for the 2010 dust control season. Staff has been completely satisfied with this company and their product and recommended accepting their offer.

ACTION: It was moved by Commissioner Dunleavy, seconded by Commissioner Slayton, to approve Resolution 0910-055. (Certified Copy on file in the Board Meeting Resolutions.)

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

3. Association of Southern Michigan Road Commissions (ASMRC)
● Election of ASMRC Directors
● Election of ASMRC Director to Serve on CRAM Board
● Amendment to Article VIII—Dues

Board members discussed the ASMRC voting and a consensus was achieved. The Road Commission cast its vote for Joseph Pulver, Clinton County, and Steve Warren, Kent County. Further, board members supported the by-laws amendment regarding dues.

ACTION: It was moved by Commissioner Dunleavy, seconded by Commissioner Slayton, to cast a ballot for the election of Joseph Pulver, Clinton County, Steve Warren, Kent County, and in support of the by-law amendment as proposed by the ASMRC Board.

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

4. Project Agreement—MDOT
● Old US-23, Center Left-Turn Lane
Newfound Gap Northerly to Covington Drive
Sections 16 and 17, Brighton Township
(Resolution 0910-056)

Mr. Craine reviewed with the Board the contract proposed by the Michigan Department of Transportation for the center left-turn lane work on Old 23 in Brighton Township. Plans and specifications were reviewed and approved at a previous board meeting. Staff reviewed the MDOT contract proposal and recommended it to the Board for approval.

ACTION: It was moved by Commissioner Dunleavy, seconded by Commissioner Slayton, to approve Resolution 0910-056. (Certified Copy on file in the Board Meeting Resolutions.)

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

5. **Faes v Asphalt Specialists Incorporated, et al**
● **Authorization of Settlement**
(Resolution 0910-057)

Mr. Craine submitted a proposed resolution to the Board authorizing a settlement of the case of Faes v Asphalt Specialists Incorporated and the Livingston County Road Commission. The economic damages issue was resolved between the paving company and the property owner. The judgment releases the Road Commission with prejudice and without any financial cost.

ACTION: It was moved by Commissioner Slayton, seconded by Commissioner Dunleavy, to approve Resolution 0910-057. (Certified Copy on file in the Board Meeting Resolutions.)

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

6. **Pavement Patching Project**
● **Various Locations**
(Resolution 0910-058)

Mr. Craine provided the Board with a staff proposal to improve several areas of roadway with hot mix asphalt this fall. Based on quotations received for the project, staff recommended a budget of \$150,000 for the project and requested Board approval.

ACTION: It was moved by Commissioner Slayton, seconded by Commissioner Dunleavy, to approve Resolution 0910-058. (Certified Copy on file in the Board Meeting Resolutions.)

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

E. INFORMATION ITEMS

The following items were presented to the Board as information only:

1. Clip Sheets (September 24-30, 2009)
2. Clip Sheets (October 1-7, 2009)
3. Status of High Impact Permits

F. CALL TO THE PUBLIC (2)

No Response

G. LEGAL

No Report

H. ADMINISTRATIVE BUSINESS

1. Minutes

a. Regular Board Meeting September 24, 2009

The proposed minutes of the meeting of September 24, 2009, were presented to the Board for its review and approval.

ACTION: It was moved by Commissioner Slayton, seconded by Commissioner Dunleavy, to approve the meeting minutes of September 24, 2009.

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

2. Bills

ACTION: It was moved by Commissioner Slayton, seconded by Commissioner Dunleavy, to approve vouchers 067165 through 067245 in the net amount of \$211,393.48.

Ayes: Commissioners Dunleavy, Peckens, Slayton.

Nays: None.

Motion Carried.

3. Meetings Announced

a. Next Regular Board Meeting October 22, 2009 - 9:30 a.m.

4. Financial Reports Reviewed

- a. Cash Position Statement
- b. MTF Comparison Report

5. Miscellaneous Road Items

Mr. Craine gave a short report on the status of construction on the Winans Lake/Hamburg Road Bridge projects and the Grand River stimulus project.

In light of the lengthy conversation with the North Shore community members, Commissioner Peckens provided the Board with a statement that he had overheard at a real estate open house. The realtor was telling a potential customer that the road that accessed the property was going to be improved by the Road Commission "next year." Mr. Peckens stated that as far as he knew there were no plans to improve the road and that this was a reckless representation by the realtor to a potential customer. He indicated that he thought it was another reason why people should do substantial research before buying a property.

I. ADJOURNMENT

There being no further business to come before the Board, Chairman Peckens declared the meeting adjourned at 11:15 a.m. Motion carried.

Signed _____
David R. Peckens, Chairman

Signed _____
Michael Craine, Managing Director