

**MARSHALL COUNTY**  
**BOARD OF COMMISSIONERS**  
**MINUTES**  
**NOVEMBER 18, 2024**

The Board of Commissioners of Marshall County, Indiana, met for a regular meeting in the Commissioner's Meeting Room 203, 112 W. Jefferson Street, Plymouth, Indiana at 9:30 a.m., Monday, November 18, 2024. Present were Commissioners, Stan Klotz, President; Mike Burroughs, Vice President; Kevin Overmyer, Member; County Attorney, James Clevenger; and County Auditor, Angela C. Birchmeier.

The meeting was opened, streamed live at <https://www.youtube.com/@MarshallCountyIN>, the Pledge of Allegiance was given, and the business at hand was heard.

**HIGHWAY DEPARTMENT**

Highway Department Superintendent Jason Peters provided an update on the following projects:  
Bridge 1, Ule Road (Local Project): The letting date will be pushed from November 18, 2024, to January or February 2025. The process of finalizing documents with the landowner of parcel one has begun. Payment has been submitted to the landowners of parcels 2 – 5.

Bridge 232, Randolph Street: A preconstruction meeting was held on November 12, 2024. LaPorte Construction will be providing a start date and is anticipating having the project completed before the Blueberry Festival. If the project is not completed based on the progress of construction, an alternative crossing would be installed.

Bridge 231, Center Street, Bremen: No update.

Bridge 88, 12<sup>th</sup> Road east of Olive Trail: No update.

Bridge 108, East 7<sup>th</sup> Road: The Notice to Proceed was sent to United Consulting for Preliminary Engineering. A scope of work meeting will be scheduled with United Consulting and Indiana Department of Transportation.

Bridge Inspections 2022-2025 Phase II: No update.

Mill Pond Dam Improvements: No update.

Call for Projects (NOFA): There will be additional opportunities during the November call for projects. The proposed projects are Linden Road (80/20), Michigan Road Bridge #2540, north of US 6 over the railroad (80/20), and Safety, a digital speed limit trailer and sign (90/10). A financial commitment letter was presented for Linden Road, south of Dewey Street to State Road 10. The project would be CY2025 through CY2030, with a total project cost of \$6,293,000 and local match of \$1,258,600. A second financial commitment letter was presented for Michigan Road Bridge #2540 Rehabilitation. The project would be CY2025 – CY2029, with a total project cost of \$8,922,183 and local match of \$1,784,437. The call has not been received for the safety project but anticipating a cost of \$500,000 with a \$50,000 match. Superintendent Peters presented the Call for Project letters for approval, explaining this commitment allows him to proceed with the filing of the application. Once submitted and if chosen by INDOT to make a presentation for the project, we can decline to proceed. **Kevin Overmyer moved, second by Mike Burroughs, to approve the submission of the financial commitment letters for both the Michigan Road Bridge #2540 and Linden Road projects. Motion carried 3-0.**

**Mike Burroughs moved, second by Kevin Overmyer, to allow the Highway Department to proceed with the Safety Grant application process. Motion carried 3-0.**

Energy Efficiency Conservation Block Grant (EECBG): The electric chargers should be installed within the next few weeks and the Chevy Silverado is at the dealership.

Annual Bid: The bids will be advertised in the weeks of November 18th and 25th, with bids due in the Auditor’s Office by 8:15 a.m. on December 2nd and will be opened later that morning.

Vice President Burroughs provided clarification to the denied request made by President Klotz to Council at their meeting last week for a tree line between Park Place Estates and the Highway Department. Explaining the Highway Department property is being used to store millings and gravel. The Commissioners agreed years ago to create a barrier. The landowners have planted gardens and trees on county property. It was requested that Attorney Clevenger provide notice to the landowners.

**Mike Burroughs moved, second by Kevin Overmyer, to have the Highway Department construct a berm and plants. Motion carried 3-0.**

### **PROPEL US 30 WEST**

CDM Smith Project Manager Scott Sandstrom provided a PowerPoint presentation on the ProPEL US 30 West Briefing. He explained the purpose of transportation improvements along the US 30 West corridor is to improve regional mobility and safety along US 30 and US 31 and preserve both as vital statewide transportation corridors moving people and goods. He outlined the study schedule, the Level 3 Screening Process, the planning segments and improvement packages. The study is available for viewing in numerous local libraries and online at [www.ProPELUS30.com](http://www.ProPELUS30.com). He stated the study will be completed early next year with the recommendations sent to INDOT. It will likely be six to seven years before construction begins.

### **PLAN COMMISSION**

Plan Commission Board President Dave Hostetler provided an update on the hiring of a Plan Commission Director. Discussion was held concerning entering into an agreement with the City of Plymouth for Plan Director services, if Ty Adley is willing. Another option may be to enter into an on-call planning services agreement with an independent contractor for the interim. Discussion was also held concerning the daily operations, approval of payroll and claims. **Kevin Overmyer moved, second by Mike Burroughs, to allow the Board of Commissioners President to approve all claims and payroll beginning December 1st. Motion carried 3-0.**

### **PRIORITY PROJECTS**

Priority Projects Resources, Inc. President Shannon McLeod and Brent Martin of SRKM Architecture explained that the Owner Occupied Housing Project Round #3 bids were opened and read aloud at the November 4<sup>th</sup> Commissioner meeting. Two contractors submitted bids, which have been reviewed and tabulated. In all cases, the bids from Almac-Sotobeer are the apparent low bids as follows:

Home 10 – 905 Center Street, Plymouth (Base Bid and Alternate Bid 4)	\$12,563.00
Home 11 – 609 W. Washington Street, Plymouth (Base Bid and Alternate Bid 1)	\$15,063.00
Home 12 – 19475 9C Road, Plymouth (Base Bid and Alternate Bid 1)	\$24,392.00

Home 13 – 15936 Yarlett Street, Culver (Base Bid and Alternate Bids 3 & 4)	\$23,283.00
Home 14 – 1498 Oak Road, Plymouth (Base Bid and Alternate Bid 1)	\$19,657.00
Home 15 – 908 Center Street, Plymouth (Base Bid)	\$17,916.00
Home 16 – 10199 Queen Road, Plymouth (Base Bid and Alternate Bid 1)	\$17,420.00

It is recommended, subject to the approval of the Indiana Housing and Community Development Authority (IHCDA), awarding the contracts for Homes 10, 11, 12, 13, 14, 15, and 16 to the low bidder, Almac-Sotobeer Construction of Goshen, Indiana in the total amount of \$130,294. **Mike Burroughs moved, second by Kevin Overmyer, to award the Owner Occupied Repair Project Round #3 to the low bidder, Almac-Sotobeer Construction, as presented. Motion carried 3-0.**

Ms. McLeod provided the Marshall County Owner Occupied Housing Rehabilitation Project Independent Contractor Agreement between Marshall County and Almac-Sotobeer Construction. She further explained that an extension will be filed with the IHCDA requesting an extension from the December 31, 2024, deadline. The total grant award is \$500,000. The projected usage is \$443,342 leaving a remaining balance of \$56,658. If the extension is granted, we may potentially be able to help with two additional homes. There is a limit of \$25,000 per home. **Kevin Overmyer moved, second by Mike Burroughs, to approve the Marshall County Owner Occupied Housing Rehabilitation Project Independent Contractor Agreement between Marshall County and Almac-Sotobeer Construction in the amount of \$130,294 and to allow the Board President to sign. Motion carried 3-0.**

### ATTORNEY REPORT

#### Old Business

Plan Commission: Attorney Clevenger was asked to draft an Intergovernmental Agreement between Marshall County and Plymouth for Planning Services while the Marshall County Plan Commission hired a replacement. The draft is on hold until it is determined if Mr. Adley is willing to participate.

Owner Occupied Housing Project Bids: This item was addressed previously in the meeting.

Public Safety Matching Grant Funds Program: At the last meeting it was requested that Attorney Clevenger prepare Inter-Local Agreements between the County and the local units for the public safety agencies (fire departments and EMS departments). Enough information has not been received about the program to proceed. Attorney Clevenger was advised the County was proceeding via Home Rule. If so, the County must adopt an ordinance in addition to the Inter-Local Agreements. The ordinance adoption process should include a public hearing since the program includes expenditure of county funds. Discussion was held with John Grolich, Council President Jesse Bohannon and Vice President Tim Harman concerning the needs of the units and process for implementing the program.

**Kevin Overmyer moved, second by Mike Burroughs, to approve the request for an additional appropriation in the American Rescue Plan Fund in the amount of \$174,991.36 to support the local fire and EMS departments. Motion carried 3-0.**

Food Bank Sub-Recipient Agreements: An agreement has been drafted and shared with the Auditor for review and revision. We are hopeful the agreements will be signed and ready for the next meeting.

New Business

Lake of the Woods Establishment of Conservancy District: Attorney Clevenger informed Surveyor Cultice and the Drainage Board that Judge Sarber has scheduled a hearing on the pending petition to establish a district for Friday, December 13, 2024, at 10 am.

Council V Commissioners and Tamarack Solar: Attorney Clevenger explained that on Wednesday, November 6<sup>th</sup>, the Marshall County Council filed a Complaint for Declaratory Judgment alleging the Decommissioning Agreement with Tamarack Solar is void. The complaint was filed by Michael Roose, Lee and Zalas, PC of South Bend, with Marcel Lebbin also appearing on behalf of the Council. The complaint was filed with the Circuit Court.

Thursday, November 7<sup>th</sup> the Commissioners were forwarded a copy of the complaint obtained through the court filing system. Service of process was set-up for certified mail to the Commissioners. Judge Surrisi entered her standard order of recusal, referring the case to Superior Court 3. The summons was not referred to the Clerk for processing.

Thursday, November 14<sup>th</sup> Judge Sarber entered an Order of Disqualification. The summons was forwarded to the Clerk's Office for processing. As of November 15, 2024, the Commissioners were not officially served. Tamarack Solar, by Alan Townsend of Bose McKinney & Evans, LLP entered an appearance and filed a motion for Change of Venue. The parties have seven days to agree on a special judge, or if there is no agreement, the selection of the judge and venue will be made pursuant to the trial rules.

Attorney Clevenger has not entered an appearance for the Board of Commissioners and suggested the Commissioners consider hiring a special litigation counsel. Lisa Lee of Ice Miller along with her partners, Mike Wukmer and Tim Ochs, have agreed to serve as legal counsel to defend the lawsuit and have provided an engagement letter that requires board approval. **Kevin Overmyer moved, second by Mike Burroughs, to approve the engagement letter with Ice Miller.** Commissioner Klotz questioned if the engagement was necessary. **Motion carried 2-1, with Stan Klotz voting no.**

**AUDITOR REPORT**

November 4, 2024 Minutes: **Mike Burroughs moved, second by Kevin Overmyer, to approve the November 4, 2024 minutes as presented. Motion carried 3-0.**

November 4, 2024 Executive Session Minutes: **Kevin Overmyer moved, second by Mike Burroughs, to approve the November 4, 2024 executive session minutes as presented. Motion carried 3-0.**

November 14, 2024 Special Meeting Minutes: **Mike Burroughs moved, second by Kevin Overmyer, to approve the November 14, 2024 special meeting minutes as presented. Motion carried 3-0.**

November 14, 2024 Executive Session Minutes: **Kevin Overmyer moved, second by Mike Burroughs, to approve the November 14, 2024 executive session minutes as presented. Motion carried 3-0.**

Accounts Payable Claim: **Mike Burroughs moved, second by Kevin Overmyer, to approve the accounts payable claims as presented. Motion carried 3-0.**

Payroll Claim: **Kevin Overmyer moved, second by Mike Burroughs, to approve the payroll claims as presented. Motion carried 3-0.**

Travelers Casualty & Surety Company of America Release and Assignment: **Kevin Overmyer moved, second by Mike Burroughs, to approve the Release and Assignment in the amount of \$27,454.36 for the loss dated April 12, 2024, and to allow the Board President to sign. Motion carried 3-0.**

### **PUBLIC COMMENT**

Council members Tim Harman and Deborah Johnson discussed whether the Commissioners had authority to approve a contract for an interim Plan Commission Director or if a favorable recommendation was needed from the Plan Commission Board.

Sharon Mrozinski, 4057 Olive Road, Plymouth, requested the results of the MACOG traffic counter. The results have not been received.

### **COMMISSIONER ITEMS**

Annual Compliance – Nepotism, Contract Disclosure & Conflict of Interest: Auditor Birchmeier reported all required forms have been returned by the elected officials. **Kevin Overmyer moved, second by Mike Burroughs, to accept the Annual Compliance - Nepotism, Contract Disclosure and Conflict of Interest Statements. Motion carried 3-0.**

President Klotz requested any personnel or policy changes happen next calendar year.

### **ADJOURNMENT**

With no further business to come before the board, **Kevin Overmyer moved, second by Mike Burroughs, to adjourn the meeting at 11:34 a.m. Motion carried 3-0.**

\_\_\_\_\_  
Stan Klotz, President

\_\_\_\_\_  
Mike Burroughs, Vice President

Attest:

\_\_\_\_\_  
Kevin Overmyer, Member

\_\_\_\_\_  
Angela C. Birchmeier, Auditor