

The Menominee County Board of Road Commissioners held a regular meeting in their offices north of Stephenson on Tuesday, August 13, 2019.

Chair Kakuk called the meeting to order at 9:00 a.m. with the following persons present or absent:

Present: Kenneth Bower, Anthony Kakuk, Kenneth Kline, Darrell Moilanen, Darrell Cass and Lisa Savord. Also present were Joe Linder, Larry Johnson Jr., John Davis, Mike Foley, Chuck Behrend, Larry Phelps, Larry Barker, Charlene Peterson, Charles Schmidt and Dana Dziedzic.

Absent: None.

The Pledge of Allegiance was recited.

Public comments – Charles Schmidt asked what the cost was for the road commission to maintain a mile of local road. Moilanen responded that it varies. An average cost will be provided to Mr. Schmidt after the meeting adjourns.

Public appearances – None.

Additions/corrections to minutes for 07/09/19 – There being no additions or corrections, Kakuk declared the minutes will stand as written.

Financial Report –

	Receipts	Expenditures	Payables / Reserves	Balances
Balance, July 8, 2019				\$4,401,398.50
Receipts thru 07/31/19	232,140.13			
Expenditures thru 07/31/19		554,107.92		
Balance, July 31, 2019				\$4,079,430.71
Michigan Transportation Funds	464,946.73			
Receipts thru 08/12/19	0.00			
Expenditures thru 08/12/19		502,913.76		
Set aside for purchase of graders in 2020			800,000.00	
State Maint. & Equip. Advances			146,143.00	
Balance, August 12, 2019	697,086.86	1,057,021.68	946,143.00	3,095,320.68
<u>Payables &amp; Reserves</u>				
Payroll 08/22 and 09/05 (Est.)			175,000.00	
Soc. Sec. 08/22 and 09/05 (Est.)			13,387.50	
Reserve for workers compensation insurance			25,729.08	
Reserve for liability insurance			41,853.00	
Reserve for rental grader leases - John Deere (Oct 2015)			38,167.00	
Reserve for rental grader leases - Cat Financial (Dec 2015)			172,626.82	
Reserve for Forest Funds			161,011.03	
Reserve RR X'ing closure funds for Meyer Twp. projects			199,788.35	
Reserve for Federal Aid Match for No. 5 Rd. Bridge			0.00	
Reserve for Federal Aid Match for CR360 project			12,000.00	
Reserve for Federal Aid Match for CR400 project			157,063.20	
Reserve for Construction Engineering for CR360			2,146.63	
Reserve for Scour Protection bid documents & oversight			1,512.96	
Reserve for Bridge scour protection			0.00	
Reserve for Construction Engineering for C-1 Bridge			66,697.12	
Reserve for Construction Engineering for CR400			16,196.34	
Reserve for 2019 Bridge Inspections			14,200.00	
Reserve for LaBelle Road pavement inspection/testing			5,400.00	
Reserve for crushing 36,000 tons of 22A gravel			70,560.00	
Reserve for 2019 Culverts			0.00	
Reserve for County Wide Chip Sealing			0.00	
Reserve for 3 Heavy Duty Tandem Dump Trucks			730,704.00	(1,904,043.03)
				\$ 1,191,277.65

There being no questions or comments, Kakuk declared the financial report accepted as read.

Vouchers # 19-0047, 19-0049, 19-0731 and 19-0050 – Moved by Kline, seconded by Bower that the vouchers be approved and ordered paid. Carried unanimously.

Open bids for M-35 at Bis Creek pavement patch – Bids were opened and read aloud as follows:

Bacco Construction Co., Iron Mountain, MI	\$31,000
Payne & Dolan, Gladstone, MI	\$22,500

Moved by Kakuk, seconded by Kline to award to the low bidder – Payne & Dolan, pending MDOT approval. Carried unanimously.

Permission to bid/purchase used Mechanic Service Truck and Hydro Seeder – Moved by Kakuk, seconded by Bower to allow Moilanen to go out for bids for a used mechanic service truck and a new or used hydro seeder. If a satisfactory service truck is not bid, then online auction sites will be reviewed for possible purchase. Carried unanimously.

Permission to bid roof replacement on Stephenson old & new salt sheds and possibly Menominee salt shed truss & roof repair – Moilanen explained that he would like to go to bid for roof replacement on the Stephenson old & new salt sheds right away. Due to its poor condition, he would like to find out if MDOT has any programs coming up in the near future to replace the Menominee salt shed. If not, then the roof and trusses on that building might need to be replaced. Moved by Kline, seconded by Bower to have Moilanen go to bid for 3-tab asphalt shingles, with alternate bids for steel roofing. Carried unanimously.

Permission to bid replacement of overhead doors and installation of openers, where needed, in Menominee and Powers – Moved by Bower, seconded by Kakuk have Moilanen go out to bid for the doors and openers where needed. Carried unanimously.

Discuss second mowing on county roads – Moilanen advised that the cost for a second mowing on all county roads would be \$41,428.90 and the cost to mow the paved roads only would be \$20,405.87. Moved by Kakuk, seconded by Bower to have all county roads mowed for the second time, starting on the south end of the county after Labor Day. Carried unanimously.

Moilanen also advised that the road commission was down to just one brush chopper that was operational and asked for permission to have S&S Mowing come in to do a demo on one or two miles of roadway of what they would provide for the \$90/mile for light brushing. Moved by Kline, seconded by Kakuk to have Moilanen setup the demo. Carried unanimously.

Discuss/vote on ballot for CRASIF Board of Trustees – Moved by Kakuk, seconded by Bower to vote for the three incumbent candidates on the ballot – John Hunt, Mary Sholander and Jerry Smigelski. Carried unanimously.

Review/sign Form 2067 – Annual Certification of Employee-related Conditions - Moved by Bower, seconded by Kline to have Kakuk & Savord sign the form and submit it to MDOT. Carried unanimously.

Discuss exchange of federal aid funds with Oakland County Road Commission – Moilanen advised that the agreement to sell our Federal Aid Funds to Oakland County Road Commission for \$0.80 for each \$1.00 had been drawn up and was ready for signature.

Commissioner Kakuk moved for the adoption of the following resolution:

WHEREAS, it is the intent of the Menominee County Road Commission to sell Federal Aid Funds to the Board of County Road Commissioners of Oakland County for the 2020 construction season at a rate of \$0.80 of non-federal transportation funds for each \$1.00 of Federal Aid Funds.  
AND WHEREAS, it is necessary to complete the agreement for the sale of such funds,  
NOW THEREFORE BE IT RESOLVED, that the Chair or Vice-Chair are herewith authorized and empowered to enter into and sign any and all agreements necessary to initiate the above mentioned sale of Federal Aid Funds.

It was seconded by Commissioner Kline and carried by the following vote: Ayes: 3; Nays: 0.

Discuss request to sweep River Road from City of Menominee to G-08 for the Rumble for Hunger Ride being held on August 17<sup>th</sup> – Moilanen stated that the group had requested that any stones on River Road be broomed off prior to the ride for the safety of the motorcyclists. Moved by Kline, seconded by Bower to have the road swept prior to the event. Carried unanimously.

Discuss request to transfer jurisdiction of Bone Yard Road to the DNR – Moilanen explained that this road had been decertified since December, 2003 and that the road commission no longer maintained it. The road leads into state land and the DNR would like to take jurisdiction over the road so they can make improvements if needed for logging operations. Following discussion, this item was tabled until a later date.

Discuss request from Village of Daggett for assistance with improvements to Heidenreich Road – Moved by Kakuk, seconded by Kline to help the Village of Daggett assess possible updates to the road and prepare the bid specifications for the work. Carried unanimously.

Discuss/Adopt Highway Abandonment Policy – Moved by Bower, seconded by Kline to adopt the following policy regarding abandonments. Carried unanimously.

MENOMINEE COUNTY ROAD COMMISSION  
POLICY for ABANDONING A ROAD OR PORTION OF A ROAD

I. BASIC REQUIREMENTS FOR A PETITION TO ABANDON A ROAD

- A. The Petition must be signed by 7 or more freeholders (someone holding either a fee interest or lifetime estate) of the township where the road to be abandoned is located. MCL 224.18(4).
- B. Where abandonment of an entire road is requested, the Petition must describe the road in general terms, which can be simply the name by which it is commonly known. However, where abandonment of only a portion of a road is requested, the Petition must specifically describe that portion of a road. MCL 224.18(4).
- C. The Petition must also be accompanied by a true and correct list of the names and mailing addresses of the occupants or each parcel of land abutting the road or the portion of the road to be abandoned. This list must be certified by one of the persons making or presenting the Petition. MCL 224.18(4).

II. PROCESSING THE PETITION AND ISSUANCE OF NOTICE

- A. Within twenty days after receiving the Petition, (1) if all the owners and occupants of the land abutting the portion of the road to be abandoned have signed the Petition (as determined from the records in the office of the register of deeds and the certified list accompanying the Petition), and (2) if the road to be abandoned does not border on, cross, run adjacent to, or end in a lake or stream, then the Board of County Road Commissioners (“Board”) must either grant or deny the Petition without further proceedings. MCL 224.18(5).
- B. In all other cases, (1) where the road or portion of a road to be abandoned borders on, crosses, is adjacent to, or ends at a body of water or (2) where the Petition does not contain the signatures of all owners and occupants of land abutting the road or portion of the road, the Board must issue a written Notice within 20 days after receiving the Petition that states the (1) object of the Petition and (2) the time and location for a hearing on the Petition. MCL 224.18(5).
- C. Appropriate Service
  - 1. At least 30 days before the scheduled hearing, the Board must serve a copy of the Notice by first-class mail addressed to (1) the township board of the township in which the road to be abandoned is located and to (2) the residence of each owner of record or occupant of the abutting land at their last known residence. Further, if (1) the owner does not reside upon the land or (2) the owner of record or occupant cannot be found within the county where the land is situated, the Board must serve the Notice (1) by posting the Notice in 3 public places in the township *and* (2) by publishing the Notice in a newspaper circulated in the county at least 30 days before the hearing on the Notice. MCL 224.18(5).

2. If the road to be abandoned borders, crosses, is adjacent to, or ends at a lake or a stream and the proposed road abandonment would result in the loss of public access, the Board must also notify the township or municipality within which the road is situated, the state transportation department, and the Department of Natural Resources at least 30 days before the hearing on the Petition. MCL 224.18(5)

3. The Board must serve the Notice on railroad companies by leaving a copy of the Notice with the agent in charge of any ticket or freight office operating the railroad on the railroad line adjacent to the road to be abandoned.

### III. AFFIDAVIT OF SERVICE

Before the hearing on the Petition is conducted, the person who served the Notice must make and annex to the Notice an Affidavit stating the time and specifying the manner of service of the Notice (e.g., first-class mail, posting, or advertising). In addition, if service was made on a railroad, the Affidavit shall specifically identify the agent on home service was made. Further, if service was published, a copy of the affidavit of publication shall be attached to the Petition. Each of these documents must be present at the hearing on the Petition. MCL 224.18(6).

### IV. PUBLIC HEARING ON THE PETITION

The Board must conduct a public hearing on the Petition, or, in the Board's discretion, an employee of the Road Commission designated as a "hearing examiner", may conduct a public hearing on the Petition and report all findings of fact to the Board. MCL 224.18(6). The Board must ascertain the necessity or advisability of absolutely abandoning and discontinuing the road identified in the Petition. MCL 224.18(7).

### V. VIEW OF THE PREMISES

The Board of County Road Commissioners or the Superintendent or the Engineer employed by the Board must view the premises described in the Petition and Notice. MCL 224.18(7).

### VI. WHERE THE BOARD DETERMINES TO GRANT THE PETITION TO ABANDON A ROAD

A. In all cases where a Petition is granted, the Board issues a Resolution of Abandonment stating that the abandonment is the best interests of the public. The Resolution must contain an accurate description of the land comprising the road or portion of the road being abandoned. The Board must record a true copy of the Resolution with the county register of deeds for the county where the property is situated. MCL 224.18(3).

B. Where the Board of County Road Commissioners grants a Petition under circumstances where all adjacent owners and occupants have signed the Petition and no public hearing is required (i.e., the road does not border, cross, run adjacent to, or end in a lake or stream)

1. The property reverts by operation of law to the adjacent property owners and the road ceases to exist as a public highway.

C. Where the Board of County Road Commissioners grants a Petition for a road that does not border on, cross, run adjacent to, or end at a lake or stream, and in cases where a public hearing is required

1. The township has first priority to retain all or a portion of the abandoned property.

(1) If the township exercises its priority right, the Board quit claim deeds the property to the township. The township can retain the property or allow it to revert to the adjoining landowners. MCL 224.18(9).

2. If the township does not exercise its first priority to retain all or a portion of the abandoned property, the property reverts by operation of law to the adjacent property owners and the road ceases to exist as a public highway.

D. Where the Board of County Road Commissioners grants a Petition for a

road that borders on, crosses, runs adjacent to, or ends at a lake or stream, but the abandonment does not result in the loss of public access to the water

1. The township has first priority to retain all or a portion of the abandoned property.
2. If the township exercises its priority right, the Board quit claim deeds the property to the township. The township can retain the property or allow it to revert to the adjoining landowners. MCL 224.18(9).

E. Where the Board of County Road Commissioners grants a Petition for a road that borders on, crosses, runs adjacent to, or ends at a lake or stream, and where the abandonment results in the loss of public access to the water

1. Both the Township and the Department of Natural Resources must determine whether the property should be retained as an access point and notify the Road Commission within 30 days of receiving the Notice, and before the Public Hearing on the Petition. The Township has first priority to the road and the Department of Natural Resources has second priority. MCL 224.18(5). The Board must convey its interest in the road by Quit Claim Deed or relinquish jurisdiction over the property (if the interest is not transferrable) to the Township first and then to the Department of Natural Resources second. MCL 224.18(8).

#### VII. RESERVATION OF UTILITY EASEMENTS.

The Board may reserve utility easements within the right-of-way of the absolutely abandoned and discontinued road and may also subsequently extinguish any easements it previously reserved when the property is no longer used for public utility purposes. MCL 224.18 (11).

#### VIII. FILING PROCEEDINGS WITH THE MICHIGAN DEPARTMENT OF TRANSPORTATION

Within 30 days of its determination on a Petition to abandon, the Board must file a full record and return of its road abandonment proceedings with the Michigan Department of Transportation.

#### IX. THE TOWNSHIP'S OR STATE'S CONTINUING OBLIGATIONS

If a Township or the State of Michigan retains abandoned road property for water access, it assumes a continuing obligation to maintain that property to prevent litter, noise, and congestion. Further, individuals have a private right of action to compel a Township or the State of Michigan to fulfill this obligation. MCL 224.18(12)-(19).

Discuss Bagley radio tower/property – Moilanen advised the board that the 800 MHz radios would be put into service effective November 1, 2019 and the road commission would no longer have use for the radio tower. Moved by Bower, seconded by Kakuk to forward a copy of the deed to the property to the county board and offer to convey the property to them at no cost. If the county board declines to accept the radio tower property, then the road commission will decommission the tower. Carried unanimously.

Request permission to list used equipment on WI Surplus online auction – Moilanen stated that there were several pieces of obsolete equipment that should be disposed of. Moved by Kakuk, seconded by Kline to have Moilanen compile a list of the equipment and offer it for sale on the online auction site. Carried unanimously.

Permission to do RFP for design of bridge on No. 29 Road over Devils Creek – Moilanen advised that the bridge replacement was scheduled for 2021 and that the project needed to be designed and a Mussel Survey performed. Moved by Kline, seconded by Bower to request the RFP's. Carried unanimously.

Discuss/pass resolution to sign necessary forms and contracts for the Pavement Marking project -

Commissioner Bower offered the following resolution and moved for its adoption.

WHEREAS, it is the intent of the Menominee County Road Commission to paint line markings on the County Rural Major Collector and Rural Minor Collector Roads (Contract # 19-5420, Job #129722CON) using STP Funding.

AND WHEREAS, it is necessary to complete the forms and contracts for such funds, NOW THEREFORE BE IT RESOLVED, that the Chair or Vice-Chair are herewith authorized and empowered to enter into and sign any and all agreements necessary to receive STP Funds for the project listed above.

It was supported by Commissioner Kline and carried by the following vote: Ayes 3, Nays 0.

Any other business – Moilanen asked for permission to buy D Funds from Dickinson County Road Commission for \$0.75 for each \$1.00 of D Funds for Menominee County Road Commission use. The amount of D Funds available for purchase would be \$27,500 at a cost of \$20,625. Moved by Kakuk, seconded by Kline to go ahead with the purchase. Carried unanimously.

Moilanen stated that quotes had been received for repairs for the Stephenson cold storage building which include replacing doors, and repairing the roof of the building. The low quote was received from Scott Hanson Builders, Inc at \$4,920. Moved by Kline, seconded by Bower to go ahead with the repairs as quoted. Carried unanimously.

Kline asked if Moilanen or Cass had the opportunity to look at Solander Road. Moilanen responded that they had and that the road would need to have trees cut and a grade lift. Since there are no residents on the road it was not considered a priority and the board could either fix it or decertify it in the future.

Kakuk asked John Davis about the issue with his driveway. Mr. Davis stated that the driveway culvert was rusted through and needed to be replaced. Moilanen will have the foreman take a look at it. Mr. Davis asked how long the new culvert would be. Moilanen replied that typically the maximum width for a driveway entrance was 32’.

Larry Phelps stated that people use Boneyard Road to access state land for hunting and advised that the road commission should get a legal opinion before they transferred jurisdiction to the DNR to be sure that they could not close the road down once they have it.

Mr. Phelps also asked if Moilanen had researched what would be paid for scrap for the radio tower. Moilanen stated that he would likely hire someone to take it down and scrap it out.

Public Comment – Joe Linder asked what the cost was to chip seal one mile of road. Cass responded that it was approximately \$25,000/mile for a single chip seal.

Mr. Linder commented that the north end of the county was very dry and that the grass was no longer growing and may not need the second mowing. Bower added that the grass wasn’t growing but the weeds were and that the mowing was needed to take care of that.

Mr. Linder stated that Nadeau Township would like to buy the gravel the road commission has in the Tebo pit and have the road commission put it out on their township roads. Moilanen requested that the township send a letter to the road commission to request purchasing the gravel so that it can be added to the September 3 meeting agenda for discussion. Mr. Linder asked if the graveling could be done yet this year. Moilanen responded that it would probably not be done this fall due to the road commission’s busy schedule.

Charlene Peterson stated that Lake Township did need to be mowed again and noted that Whispering Pines had been missed on the first mowing, but that Santosa Lane, which is not a county road, had been mowed. Moilanen advised her to call the office right away if she becomes aware of any roads being missed with the mowing. Ms. Peterson also stated that she had been down Boneyard Road and that it was in good condition at this time and that she was happy that the transfer to the DNR had been tabled at this time.

There being no further business Kakuk declared the meeting adjourned at 10:00 a.m.

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Road Commission Finance Director / Clerk

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Chair