

MINUTES  
EMMET COUNTY ROAD COMMISSION  
HARBOR SPRINGS, MICHIGAN

The Emmet County Board of Road Commissioners met in regular session at the office in Harbor Springs on April 5, 2019. The meeting was called to order by Chairman Zulski at 8:00 a.m.

Commissioners Present:

Frank Zulski - Chairman                      Robert Notestine - Vice Chairman                      Larry Williams - Member

Staff Present:

Brian Gutowski - Engineer-Manager                      Shawn Beckman - Project Manager  
Lisa Kleeman - Finance Director/Clerk of the Board                      James Godzik, Permit/CADD Technician

Guests Present:

Jim Kargol - Emmet County Commissioner                      Toni Drier - Emmet County Commissioner  
Gordon & Edith Kruskie - Readmond Township                      Alice Conrad - Springvale Township  
Bill Dohm - Little Traverse Township                      Carl Roccoly - Maple River Township  
Attorney Joel B. Moore                      John Baker - West Traverse Township  
Tom Whipp - Springvale Township                      Patricia McCune - Springvale Township

MINUTES: It was moved by Robert Notestine, seconded by Frank Zulski, to approve the regular meeting minutes of March 22, 2019.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

ACCOUNTS PAYABLE: The List of Accounts Payable, Voucher No. 1913, checks numbering 45438 through 45486, in the amount of \$201,981.13, was presented for approval. It was moved by Frank Zulski, seconded by Robert Notestine, to approve accounts payable for payment of the same.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

PAYROLL: Voucher No. 1914 for Payroll No. 7, checks numbering 54394 through 54452, for regular payroll in the amount of \$93,872.96, was presented for approval. It was moved by Robert Notestine, seconded by Larry Williams, to approve payroll for payment of the same.

Ayes: Williams, Notestine, Zuluski

Nays: None

Motion carried

UNFINISHED BUSINESS: None

PUBLIC COMMENT: None

APPOINTMENTS:

- a. 8:15 A.M.: Public Hearing - Proposed improvements to Greenwood Road, from Berger Road to 800' west of Branch Road for 1.18 miles in Springvale Township. It was moved by Robert Notestine, seconded by Larry Williams, to begin the public hearing.

Ayes: Zuluski, Williams, Notestine

Nays: None

Motion carried

The public hearing was posted in the Petoskey News Review. There were three calls for comment. Receiving no additional comments, it was moved by Larry Williams, seconded by Robert Notestine, to end the public hearing.

Ayes: Zuluski, Williams, Notestine

Nays: None

Motion carried

NEW BUSINESS:

- a. Carl Roccoly of Snyder Road asked to be added to the agenda regarding the Devil's Elbow Road Paving Project. He commented on construction plans for Devil's Elbow Road as well as the location of the road pertaining to his property. Engineer-Manager Gutowski answered with project plans and specifications as well as right-of-way information.
- b. It was moved by Larry Williams, seconded by Frank Zuluski, for the Chairman and Clerk of the Board to sign a Quit Claim Deed for the abandonment of O'Connor Road right-of-way to James Clark Anderson and Margaret H. Anderson.

Ayes: Williams, Notestine, Zuluski

Nays: None

Motion carried

- c. It was moved by Robert Notestine, seconded by Larry Williams, to sign the contract with Friendship Township for the sealcoat of Five Mile Creek Road and West Townline Road cut-off.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- d. It was moved by Frank Zulski, seconded by Larry Williams, to sign the contract with Rieth-Riley for asphalt wedging on Robinson Road, Gill Road, Pickerel Lake Road and Blanchard Road.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- e. It was moved by Robert Notestine, seconded by Larry Williams, to sign the contract with Bliss Township for asphalt wedging on West Bliss Road.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- f. It was moved by Larry Williams, seconded by Robert Notestine, to sign the contract with Michigan Pavement Marking for the season's pavement marking.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- g. It was moved by Larry Williams, seconded by Robert Notestine, to sign a resolution from MCRCSIP to "Defend, Indemnify and Hold Harmless the County Highway Engineer for Professional Liability".

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- h. It was moved by Frank Zulski, seconded by Larry Williams, to sign the amended Policy 2018-048 Communication Service Provider, renamed 2019-048 Permit Policy for Safely Allowing Limited Wireless Facilities, Wireless Support Structures, and Utility Poles Access Within the County Road Right-of-Ways.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- i. It was moved by Frank Zulski, seconded by Larry Williams, to sign the "Resolution to Adopt Uniform Definition for the Small Wireless Communications Facilities Deployment Act".

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- j. It was moved by Larry Williams, seconded by Robert Notestine, to sign the "Resolution to Adopt Uniform Permit Fees and Co-Location Rates for the Small Wireless Communications Facilities Deployment Act".

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- k. Finance Director Kleeman presented the 2018 Act 51 Report and explained the revenue, expense, and fund balance portion, as well as State MTF Funding. It was moved by Larry Williams, seconded by Robert Notestine, to accept the 2018 Act 51 Report and sign the attest.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- l. It was moved by Frank Zulski, seconded by Larry Williams, to authorize an Act 51 transfer of Primary Road funds to Local Road funds in the amount of \$812,969.47 for 2018.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- m. Oden Island Road Asphalt Overpay Project bids for Littlefield Township were reviewed. Engineer-Manager Gutowski after discussion with Damien Henning, Township Supervisor, decided to reject the bids. The Township has decided to ask the road commission to do the work.
- n. Bear Creek Township Ultra-thin Asphalt Project bids were reviewed. Postponed until next meeting or until Dennis Keiser, Township Supervisor, is available for discussion.
- o. Greenwood Road Reconstruction Project bids for Springvale Township were reviewed. Tom Whipp, Township Supervisor, will meet with his township board on Tuesday to discuss which bid would best meet their needs. Bid award is postponed until next meeting.
- p. Signing the contract with Springvale Township for the Greenwood Road Reconstruction Project is postponed until township decides which contractor will be awarded the bid.
- q. It was moved by Robert Notestine, seconded by Larry Williams, to sign the contract with Littlefield Township for the Oden Island Road Asphalt Overlay Project.

Ayes: Williams, Notestine, Zulski

Nays: None

Motion carried

- r. Signing the contract with Bear Creek Township for the Ultra-thin Asphalt Project is postponed until communication is received from Dennis Keiser.
- s. The County Road Association recommended Proposed Permit Fee Increase Study was reviewed. After much discussion, more cost information will be brought to next meeting.

CORRESPONDENCE: None

ENGINEER-MANAGER'S REPORT: Gutowski reported the following:

- April 9, Paser Training in Gaylord
- April 9, Indian Garden Road - Right-of-way and road abandonment meeting with Attorney Joel Wurster at 2:30 p.m.
- April 11, LTBBOI Meeting regarding Country Club Road over Tannery Creek and Boyer and Mitchell Road over Tannery Creek crossings for bridge and culvert projects during 2020
- April 12, MCRCSIP Meeting in Mt Pleasant

- April 16, Soil Erosion and Sedimentation Control Inspection Recertification in Gaylord
- Next Meeting, Thursday, April 18 due to Good Friday
- Culvert failure on Country Club Road just north of Boyer Road intersection. Road is currently closed for a culvert replacement but should be open by end of day.

SUPERVISOR'S REPORT: Beckman reported working on projects in order to begin the construction season for townships and North Conway Road Project. He will also be designing Atkins Road, a 2020 Category F Grant Project.

PERMIT/CAD REPORT: Godzik reported on logging and small cell tower activities. It has been a challenge in learning to adapt and change the approach to the permit process and getting compliance from people operating in the right-of-way.

EQUIPMENT SUPERINTENDENT'S REPORT: None

COMMISSIONERS' REPORT: Commissioner Notestine commented on the evaluation tool for the Engineer-Manager; he has a couple available and would like to be sure a decision is made soon so Gutowski has time to review the tool before it is implemented. Notestine stated he appreciates what Project Manager Beckman is doing in dealing with contractor's bids when they are not performing as they should be.

Commissioner Zulski added there are other issues with a specific contractor and he also appreciates that Beckman brings this information the Board. Zulski also gave up update with input from Gutowski on tree cutting with regards to endangered species. He also stated he is contacting Representatives, the Governor, and Petoskey News Review regarding loggers and reinstating driveway permits. Zulski further commented our Weighmasters are doing an excellent job.

Commissioner Williams expressed his desire that safety is stressed as a priority with the many projects we have this year.


ROAD FOREMAN'S REPORT: None

FINANCE DIRECTOR REPORT: Kleeman reported on communications with Kelly Johnson, Charlevoix-Emmet ISD, regarding Job Fair participation for recruiting truck drivers and mechanics at the road commission. Zulski asked Kleeman to contact Agnes Shaw, Emmet County Fair Manager, about having a truck set up at the fair for the purpose of educating people on blind spots as well as other educational outreach ideas.

PUBLIC COMMENT:

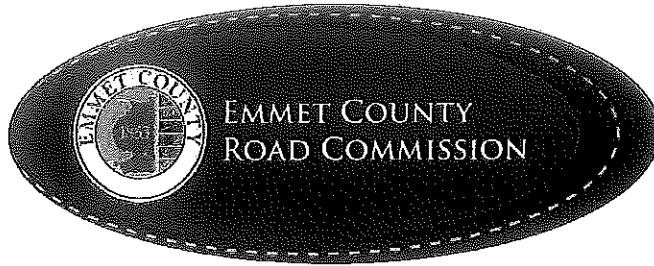
- a. John Baker, West Traverse Township, commented on drainage problems at Pond Hill Farm. Gutowski stated we have met with Rob Hall, MDOT, and special work orders have been issued to fix the problem during this year.
- b. Gordon Kruskie, Readmond Township, asked for a copy of the permit fee increase proposal. He also stated he would meet with Gutowski on a project for Island View Road during 2019.

With no further business, Commissioner Zulski adjourned the meeting at 9:30 a.m.

  
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Lisa Kleeman, Finance Director-Clerk of the Board

04-18-19  
\_\_\_\_\_  
Date

Larry Williams  
Robert Notestine  
Frank Zulski Jr.  
Brian A. Gutowski, P.E.  
Engineer-Manager  
Lisa Kleeman  
Finance Director -  
Clerk of the Board



2265 E. Hathaway Road  
Harbor Springs  
Michigan, 49740  
Office: 231 347-8142  
Fax: 231 347-5787  
emmetcrc@emmetcrc.com

Resolution to Defend, Indemnify and Hold Harmless the County Highway  
Engineer for Professional Liability

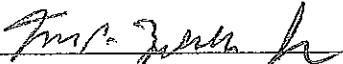
WHEREAS, Pursuant to MCL 224.1, et seq., the Board of County Road Commissioners of the County of Emmet employs a county highway engineer.

WHEREAS, pursuant to MCL 224.10(2) and MCL 224.19(3), the county highway engineer fulfills and performs statutory obligations at the pleasure of the Board, which may include: preparation and review of surveys; preparation and review of plans and specifications for roads, bridges, and culverts; supervision over construction and implementation of said plans and specifications; and other engineering duties as appropriate.


NOW, THEREFORE BE IT RESOLVED, that the Board shall defend, indemnify, and hold harmless, to the fullest extent permitted by law, the county highway engineer for and against any claim or liability arising from his or her acts or omissions as a professional engineer, and occurring within the course of his or her employment, and within the scope of his or her authority, while acting on behalf of the Board.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that this Resolution shall not require the Board to indemnify or hold harmless the county highway engineer for and against any act or omission constituting gross negligence or an intentional tort.

Approved on April 5, 2019 by:

  
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Frank Zulski, Jr., Chairman

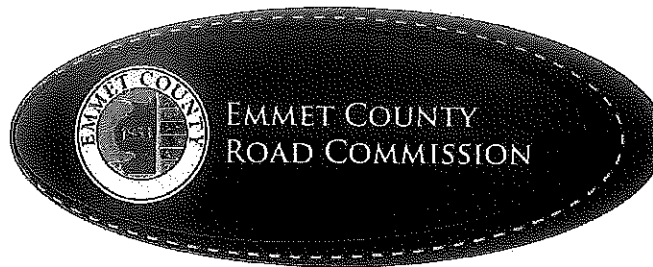
  
\_\_\_\_\_  
Robert Notestine, Vice Chairman

  
\_\_\_\_\_  
Larry Williams, Member

*Adopted on:*  
April 5, 2019



Larry Williams  
Robert Notestine  
Frank Zulski Jr.  
Brian A. Gutowski, P.E.  
Engineer-Manager  
Lisa Kleeman  
Finance Director -  
Clerk of the Board



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## RESOLUTION TO ADOPT UNIFORM DEFINITION FOR THE SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT ACT

WHEREAS, the Michigan Legislature (MCL 460.1301 ET SEQ) has authorized wireless service providers and wireless infrastructure providers to access the public right-of-way and enabled the ability to attach to poles and structures in the public right-of-way to enhance their networks and provide next generation services;

WHEREAS, the Michigan County Road Agencies are statutorily authorized to administer and regulate access to the public right-of-way utilizing the practice of permits (MCL 224.19b);

WHEREAS, the Michigan Legislature deferred the authority to the Michigan County Road Agencies to determine when a wireless facility or wireless support structure "materially impacts" traffic safety, clear vision, drainage, pedestrian facilities or other public utilities;

WHEREAS, the Michigan Legislature deferred the authority to the Michigan County Road Agencies to determine when maintenance practices by the wireless providers while performing "routine maintenance of a small cell wireless facility, utility pole or wireless support structure" (MCL 460.1015(5)) unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW;

NOW THEREFORE BE IT RESOLVED, the Emmet County Road Commission hereby adopts the following uniform definitions to clarify the MCL 460.1301 et seq;

1. The road commission shall in its sole discretion determine whether the placement of any pole, facility or other unprotected hazard impacts a clear vision zone or traffic control device based on: the posted speed, street alignment, and proximity to curves, driveways, traffic control devices and pedestrian traffic.
2. The road commission shall in its sole discretion determine whether the placement of any pole or facility impacts traffic safety based on: distance from the traveled portion of the road, the posted speed, street alignment, and proximity to curves, driveways, traffic control devices and pedestrian traffic.
3. The road commission shall, in its sole discretion, determine whether the placement of any pole or facility impacts the drainage system or the ability of the Road Commission to maintain the drainage system based on: the proximity to the drainage system,


Resolution to Adopt Uniform Definition 04/05/19

additional work and/or costs necessitated by placement of the pole or facility in relation to the drainage system, and the potential for damage to the drainage system from maintenance or repairs to any pole or facility.


4. The road commission shall in its sole discretion determine whether the placement of any pole or facility impacts pedestrian access or movement; to assure that proposed facilities are in compliance with the Americans with Disabilities Act of 1990, Public Law 101-336, or federal, state, or local standards.
5. The road commission shall in its sole discretion determine whether the placement of any pole or facility impacts the maintenance or full unobstructed use of public utility infrastructure as it was originally designed.
6. Routine maintenance includes routine work that does not unreasonably affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW, such as but not limited to: the travel lanes, the road shoulders, drainage systems, non-motorized facilities, traffic control devices or involve any excavation in the road right-of-way. The Agency should require notification in advance of routine maintenance on the initial CRA 100 SC permit, to assure the road agency is notified in advance to determine if the work involves impacts to any of the items listed above.

BE IT FURTHER RESOLVED, this resolution is made a part of the minutes of the Emmet County Road Commission Board Meeting April 5, 2019.

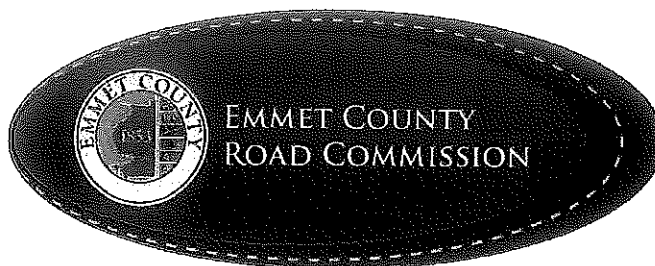
Approved on April 5, 2019 by:

  
\_\_\_\_\_  
Frank Zuluski, Jr., Chairman

  
\_\_\_\_\_  
Robert Notestine, Vice Chairman

  
\_\_\_\_\_  
Larry Williams, Member

Larry Williams  
Robert Notestine  
Frank Zulski Jr.  
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## RESOLUTION TO ADOPT UNIFORM PERMIT FEES AND CO-LOCATION RATES FOR THE SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT ACT

WHEREAS, the Michigan Legislature (MCL 460.1301 ET SEQ) has authorized wireless service providers and wireless infrastructure providers to access the public right-of-way and enabled the ability to attach to poles and structures in the public right-of-way to enhance their networks and provide next generation services;

WHEREAS, the Michigan County Road Agencies are statutorily authorized to assess permit fees and recurrent annual rates to wireless providers for access to the public right-of-way (MCL 460.1301 et seq);

NOW THEREFORE BE IT RESOLVED, the Emmet County Road Commission hereby adopts the following uniform definitions to clarify the MCL 460.1301 et seq;

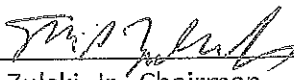
- 1. Permit fees for the wireless providers under the statute. MCL 460.1315(o).**
  - A. New small cell wireless facilities; the permit fee will be \$200 for each stand-alone small cell facility; and
  - B. New small cell wireless facilities and new pole; the permit fee will be \$300 for each pole or support structure
- 2. Co-location rates on utility poles under the statute. MCL 460.1313(3).**
  - A. The recurrent rate shall be \$20 per year per utility pole; and \$20 per year per wireless structure in the ROW on which a wireless facility is co-located; and
  - B. The recurrent rate shall be \$125 per year per pole; and \$125 per year per wireless support structure provided the utility pole or wireless support structure was erected by or on behalf of the wireless provider on or after March 12, 2019.
  - C. Co-location recurrent rates on utility poles or wireless support structures are in addition to and distinct from the wireless providers permit fees.
- 3. Co-located antennas on road agency poles MCL 460.1319**
  - A. The road agency recurrent rate shall be \$30 per facility per year for each authority pole that is being used to support the wireless provider facility; and
  - B. Co-location recurrent rates on road agency poles are in addition to and distinct from the wireless providers permit fees.

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Resolution to Adopt Uniform Permit Fees 04/05/19

BE IT FURTHER RESOLVED, this resolution is made a part of the minutes of the Emmet County Road Commission Board Meeting on April 5, 2019.

Approved on April 5, 2019 by:

  
\_\_\_\_\_  
Frank Zuluski, Jr., Chairman

  
\_\_\_\_\_  
Robert Notestine, Vice Chairman

  
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Larry Williams, Member