



# MACON COUNTY HIGHWAY DEPARTMENT

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## MINUTES

June 25, 2014

The Macon County Transportation Committee meeting was held on Wednesday, June 25, 2014 at 5:30 p.m. located at the Macon County Office Building, 141 S. Main St., Decatur, IL.

### **Transportation Committee Members Present:**

Kevin Bird

Jerry Potts

Matt Brown

Susanna Zimmerman

Gary Minich

### **Transportation Committee Members Absent:**

Kevin Meachum

Keith Ashby

### **Highway Department Support Staff Present:**

Bruce Bird, County Engineer

Mark Funk, Road Supervisor

Mike Baggett, Asst. States Attorney

Amanda Askew, Office Assistant

### **Others Present:**

Ryan Voyles, Herald & Review

### **Call to Order:**

The meeting was called to order by Vice Chairman Kevin Bird at 5:30 p.m.

### **Roll Call:**

Susanna Zimmerman

Jerry Potts

Kevin Bird

Matt Brown

Gary Minich

### **Approval of the Minutes:**

Gary Minich made a motion to approve the minutes from May 28, 2014, seconded by Susanna Zimmerman. Motion Carried 5-0

### **Approval of the Bills:**

Gary Minich made a motion to accept the bills as presented, seconded by Matt Brown. Motion Carried 5-0

### **No Public Comments**

### **No Old Business**

### **New Business:**

***Resolution appropriating Motor Fuel Tax Funds for Section 14-00263-00-SM, the 2014 Joint Microsurfacing Project.***

Motion made by Jerry Potts, seconded by Matt Brown. Motion carried 5-0

***Resolution appropriating Motor Fuel Tax Funds or Section 14-00265-00-GR, the 2014 Guardrail Project.***

Motion made by Jerry Potts, seconded by Susanna Zimmerman. Motion carried 5-0

***Resolution appropriating Motor Fuel Tax Funds for Section 14-00266-00-PV, the CH 25 Argenta Road Resurfacing Project.***

Motion made by Jerry Potts, seconded by Matt Brown. Motion carried 5-0

***Resolution appropriating County Highway Funds for land acquisition services for the CH 30 and CH 41 Connector Project.***

Motion made by Jerry Potts, seconded by Matt Brown. Motion Carried 5-0

***Resolution approving and Intergovernmental Agreement with Macon County Townships covering Township Bridge Inspection Services.***

Motion made by Matt Brown, seconded by Jerry Potts. Motion carried 5-0

**County Engineer's Report:**

Bruce Bird stated we are still not quite done with mowing. The recent rains have actually slowed us down in that regard. We have still been working on crossroad culverts and repairs.

The three contracts, two of the three came in underneath the engineers estimate. The first one came in quite a bit under. If you want to take a look at all three as an overall amount looked at for approval between all thee we are way under the amount.

The project on North Wyckles road is just getting started, that is the section from Park Rd. up to Rt. 121. On the June letting we had two bridges and the cold in place recycling that will be going east out of Maroa. Out of those three lettings, the cold in place recycling was slightly under the engineers estimate and out of the two bridges one was slightly above and the other one was slightly below. One bridge is on Kenney Blacktop and the other is on Boody Rd. Thos will probably start around August 1. It has been a bit of a lull at the beginning of the construction season but I think we are going to finish with a flurry this year.

I did my annual trip out to Washington D.C. as part of the Transportation Coalition. In past years, most of the time what we have got in talking with them is that we know that there are needs out there but we can't do this or we can't do that. It was a little bit different this time. It seems like there is actually some movement. I do not think anything is going to happen before the mid-term elections but it sure sounds like they are going to try and do something; especially with the Highway Trust Fund. It is supposed to run out of money before the end of the year. If it runs out of money, they just will not let projects, period until it builds itself back up.

I will have a resolution next month to do with who does what as far as maintenance at intersections between our roads and IDOT roads. IDOT has a perception of what they want us to maintain stuff on their right-of-way which I do not think from a liability standpoint is a smart thing to do. Most of the other County Engineers around the state agree with me. Their Chief Counsels office says that, no that is the way it is going be because that is what is says in our policy. I am not too concerned about what their policy says.

Also, we have been working with the Sherriff and South Macon Fire Department trying to come up with a solution to the problem that we have down there at CH 32 and Route 51; where people seem to continuously want to run through that intersection. Traffic Signals are not the answer they would create more accidents than they would solve. There has to be something out there. There are also some safety

funds available through IDOT that we may access but we are in the process of working through that right now.

I also have a poll question involving mailboxes. Whenever our guys plow snow, the plows do not hit the boxes the snow coming off the plows hits the boxes. Mailboxes are supposed to be designed so they are breakaway so if someone hits them they won't injure someone. The mailboxes will not necessarily hold up to heavy snow. Our policy has always been that we will replace mailboxes when we knock them down. Back in February, we had an individual call in saying their mailbox had been taken out and it was a unique decorative mailbox. Our previous policy has always been we will replace it. They said they had to order it; they ordered it and finally got the bill to us. It is substantial, substantial enough to the point that I asked Mike Baggett to take a look at it. There are two questions; I know that because it is considered tampering with a mailbox that we have to get it back up. My question is, can we just put any mailbox or is it a question of they allow something of theirs out there we have to replace it in kind. Mike Baggett responded yes and no. The short answer is the better policy is to put the homeowner of the mailbox in the same position that that person was in before the mailbox was destroyed or knocked down, which would mean replacing to the condition. If it is a nice fancy mailbox then it is a nice fancy mailbox they get back. The sideways answer on that is that as a Government entity we may have some protection under the **toward immunity act** for the activities of our plow drivers with respect to whether it is negligence versus reckless conduct. I have not researched that, so I do not want to firmly say that we are defiantly protected by the **toward immunity act**. I think as a general policy it is a better policy to adopt that we will replace it and we will replace it to the condition that it was originally. If we destroy a nice fancy mailbox then the homeowner should not be out because of the actions of our people. That is something can be taken care of and addressed through a civil, legal negotiation. Just like we do when we have situations where cars are damaged as a result of Highway work, it would be legal settlement that would ultimately release the County from liability and any future claims for the same action. Bruce had emailed me yesterday regarding this issue and had a few questions. One was whether I think it would be advisable for the Highway Department or the County Board to adopt a mailbox policy. I don't, I think it should be something that is taken on a case by case basis, like what have been doing in the past. It gives both the County the flexibility necessary to negotiate these things when they come up. Depending on exactly what we are dealing with. Any policy we draw up is, as soon as we adopt a policy we are going to have that one case that does not meet the parameters of the policy. I do think that we may have some defenses to any claims from a homeowner regarding destruction of their mailbox is despite whatever defenses we may have it is probably a preferable policy to, within reason make them whole. In this case I think you had indicated that we were looking at several hundred dollars but not quite 4 figures replacing the mailbox. That is something that the judgment fund could accommodate. Gary Minich stated I cannot believe that many people would have fancy mailboxes. Bruce replied it has not been an issue and most of the time in rural areas it's a \$20 Menards special that is sitting out there on the post. In this case it was not. Mike Baggett stated, someone who goes to that level of trouble and expense for a decorative mailbox maybe so inclined to sue. Whether we have a good defense that is going to keep us from having to pay it. It will cost more in the long run for me to defend it than it is to simply replace it. Mark funk stated the trouble of it is, what they told me they thought the mailbox was worth was half. This is twice as much. Mike Baggett said this is a situation that before any type of payment is made I think that there should be some investigation done. Since this is a legal negotiation I do not mind being a part of that. I would like to see some before pictures and some proposed pictures. Indication that we are actually replacing what was destroyed and not upgrading. Jerry Potts asked if we had any pictures. Bruce replied Google Street View is a wonderful thing. I can get one. Mike Baggett stated I would like to point out that this would be a negotiation for a settlement. We can be reasonable the homeowner would also need to be reasonable during that negotiation. If they have nothing to back

up their claim that this is a top dollar necessity, that can be addressed during negotiations. Bruce stated this goes back to when people put brick mailboxes on right-of-way; we have had a couple of those happen. I have told people they are not breakaway that does not meet US Postal Service regulation, in that case I do not think we would have any responsibility at all. Mike Baggett stated I would agree. Going back to policies, each one of these is going to be unique, depending on what kind of conduct is allegedly to have destroyed the mailbox in the first place to where the mailbox is located, what kind of right-of-way it exists on. I do not think we need to have a 50 page policy that tries to figure every possible outcome out. It sounds to me like in the past it has been somewhat easy to handle. Bruce stated honestly the ones that seem to be, were the big plastic mailboxes that we have not been able to find because they don't make them anymore. Honestly talking with the landowner we tried to pick something that was comparable and they were usually pretty happy. Matt Brown asked most of the time we have the old mailbox right. Did they still have it in this scenario? Mark Funk stated they are still using it, they said they could still use it until they got a new one. The new one came in as twice as much. Gary Minich stated we should be able to see if the new one is an upgrade on the old one. Bruce agreed. Mike Baggett stated I certainly would not want to sign off on paying a lot of money to replace a mailbox unless I had some evidence that what I am paying is what is necessary to take the person back to the position they started in. If they cannot bring me that then I can be a little more hard headed about getting that. Jerry Potts stated in case anybody needs to know the bill is \$627.00. Do you think we should have a limit of say \$500 on any repair? Mike Baggett stated that goes back to not adopting a policy. I wouldn't want to get into a situation where we tie our hands. Jerry Potts stated when there is reported damage shouldn't they go out and take a picture before. Mark Funk stated we have never had this issue other than back in 1981. Usually we just replace it. Most of the time our guys put up better posts than what they already had. Mike Baggett stated in the event that the Highway Department was ever sued it would be the homeowner, the plaintiff's, burden to prove exactly the extent of the damages. It is not asking a lot to have them bear the burden of proving what they have lost, what they are out of pocket as to us who would be trying to make them whole again. If it ever reached the point where they had to sue then that is going to be on them anyways. The Highway Department coming out and trying to fix most, if not all, very quickly if that is something that is available, great, this being an extraordinarily rare situation, it may not be feasible, it may not be sufficient for the use of our man power to send people out every time to take pictures. Mark Funk stated usually we are busy trying to get the snow off the roads. Mike Baggett stated certainly, I have no problem putting that on the homeowner who is saying you owe me a lot of money. Okay, prove it. Show me how you got to that number and I can be reasonable. That is the way I would look at it. Matt Brown asked what is the damage on it, do we know? It got knocked it over, I assume, what did it do to it? Mark Funk replied they said it dented it up to where they couldn't use it. Bruce stated, I guess the damage to them would be only if the post office refused to deliver mail because they couldn't. Theoretically if they are still delivering mail there is no damage. Mike Baggett replied well, they have property damage, yes, but no perspective damages.

Jerry Potts asked at the last meeting you said something about you would have some proposals for Truck Permit Fees. Bruce replied I am still working on that.

Kevin Bird asked do you have an estimated start date on the microsurfacing? Bruce replied they will probably want to start on it sometime in the middle of July, that is the joint one with the Townships and they are also doing County Highway 30 from Mt. Zion over to Elwin. The one that is the Cold in Place, east of Maroa won't start till the middle of August. Kevin Bird asked if the same contractor got both bids? Bruce replied no, Microsurfacing Inc. got the MFT one and Dunn Company got the one up north.

### **No Miscellaneous Business**

**No Closed Session**

**Adjourn:**

Jerry Potts made a motion to adjourn, seconded by Matt Brown. Motion Carried 5-0

Meeting adjourned at 5:51 p.m.

*The next Transportation Meeting will be Wednesday, July 23, 2014 at 5:30 p.m.*

Minutes submitted by:

Kathy Gerhold & Amanda Askew

Macon County Highway Department