

STEBEN COUNTY BOARD OF COMMISSIONERS MEETING
February 1, 2016

The Steuben County Commissioners met at 1:00 p.m. on Monday, February 1, 2016, in the Commissioners' Room of the Steuben County Community Center. Present this day were Commissioners Ronald L. Smith, James Crowl and Lynne Liechty. Also present were Donald Stuckey, County Attorney, Ruth Beer, Steuben County Councilwoman, Ken Shelton, Steuben County Councilman and Kim Koomler, Steuben County Auditor.

James Crowl made a motion to approve the claims submitted for payment this day totaling \$355,743.55. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Lynne Liechty made a motion to approve the Commissioners' Meeting minutes from the meeting held January 19, 2016. James Crowl seconded that motion and the motion carried with three (3) ayes.

The Commissioners signed the minutes from the January 4, 2016, Commissioners' Meeting, which were approved at the previous meeting.

The Amended 2016 Capital Improvement Plan was submitted to the Commissioners for approval. The amendment was made under the Airport Improvement section where it states that \$50,000.00 was allocated for an Airport Manager. Lynne Liechty made a motion to approve the Amended 2016 Capital Improvement Plan. James Crowl seconded that motion and the motion carried with three (3) ayes.

The BoAC has requested to use the decommissioned Sheriff Transport Van as an Airport Crew Vehicle. RJ Robinson, Chief Deputy, stated that the van is in great working order and will have close to 115,000 miles on it when it is ready to be decommissioned. James Crowl made a motion to allow the BoAC to use the decommissioned van as a crew vehicle; however, the title will stay in the name of the Commissioners', but maintenance and signage will be the responsibility of the BoAC. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Brent Shull, Town of Hamilton, informed the Commissioners that Linda Bireley's position on the Hamilton Plan Commission is up for reappointment. Lynne Liechty made a motion to reappoint Linda Bireley to the Hamilton Plan Commission. James Crowl seconded that motion and the motion carried with three (3) ayes.

Breann Fink, Steuben County Literacy Coalition, submitted a request to use the Steuben County Community Center Auditorium for a Drama Camp the weeks of July 25 and August 1. Lynne Liechty made a motion to approve that request and to waive the rental fees for the Drama Camp; however, if custodian fees are incurred, the Literacy Coalition will be responsible for those fees. James Crowl seconded that motion and the motion carried with three (3) ayes.

Kristine Christlieb, Region IIIA, submitted the WDP Grant Agreement, Request for Release of Funds and Certification and Certification of Accessibility for signature. Lynne Liechty made a motion to approve the documents for signature. James Crowl seconded that motion and the motion carried with three (3) ayes.

Michelle Herbert, Clerk, submitted the Steuben County Polling Places for the 2016 Primary Election. James Crowl made a motion to approve the locations. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Kristy Clawson, EMA, submitted information regarding the District 3 Senior Officials Workshop for All-Hazards Preparedness on March 15, 2016, at 9:00 a.m. in Columbia City. Lynne Liechty stated that she will be attending the workshop.

Frank Charlton, Plan Commission, submitted Wagner Meadow Plats for signature.

Mr. Charlton also came to the Commissioners regarding an alleyway vacation. He stated that on January 6, 2016, the Plan Commission held a meeting for a Vacation of Public Way 16-01, Peters and Wilson. Mr. Charlton stated that it is located between lots 58 and 59 of Seller Shady Shores 2nd Addition Lake Pleasant. It comes to the

Commissioners with a positive recommendation of 5 -2 and 1 abstention. Frank Charlton said that there was some discussion that evening about where Mr. Peters could put his grinder tank and REMC utilities.

Wayne Peters stated that the 10 foot easement hasn't been used for anything other than he and his neighbor to mow grass, personally walking through the easement and for ice fishermen to access the lake. Mr. Peters stated that they can get to the lake through his drive on the west side of his house, he doesn't block that off and it's the only parking space he has. Mr. Peters said that if the grinder pump was put in the easement he and his neighbor could hook up to it very easily instead of going across the road.

Mr. Peters stated that he first went for a variance and it was approved. Then the Waste District said that it couldn't be done due to Mr. Peters not owning the ground. Mr. Peters said he is now requesting to have the alleyway vacated so the grinder pump can be placed in the 10 foot easement. He said that he received paperwork from the Waste District wanting to put the grinder pump in the back yard; however, he has a fence and shrubs around his yard and they would have to be torn out. Also, placing the grinder pump in his yard would restrict his usage and he's thinking about adding on to his home due to his large family.

Mr. Stackhouse, REMC, said that he's not sure if REMC objects to the vacation of the easement, but he advised that REMC does have two (2) power poles on each side of the 10 foot easement. Mr. Stackhouse said when he called the Waste District, they were a little indifferent and they weren't sure where the grinder pump was going to be placed. He said that he just wants the Commissioners aware that REMC does have two (2) utility poles sitting on each side of the 10 foot easement with anchors and guidewires that hold up the facilities. Depending on where the tank is placed, it may or may not have an impact on REMC's facilities.

Frank Charlton stated that Mr. Peters contacted the Waste District and the Waste District told him if he got permission from the Commissioners he could put the tank in the right of way. Mr. Peters came to the Commissioners and they gave him permission to put the grinder tank in the easement. He then took the minutes of that meeting back to the Waste District and that's when they told him that he had to have the easement vacated not just get permission. Mr. Peters then came to the Plan Commission and is now in front of the Commissioners.

Mr. Wilson stated that the two (2) tanks sat across from each other and his tank has been completely removed due to him rebuilding his home. He needs to know where the new tank will be placed so he can start rebuilding his home. If the Waste District puts the tank in Mr. Peters' back yard, his fencing and shrubs have to be torn out, you have to stay so many feet away from the tank once it is installed and that will limit Mr. Peters. Mr. Wilson said that if he ties into the tank when it is on Mr. Peters' property, he has to tear out the chain linked fence.

Mr. Wilson stated that having the grinder pump on the easement should not cause any problems with REMC accessing their facilities.

James Crowl made a motion to go with the Plan Commission's recommendation to vacate the easement and accommodate Mr. Peters and Mr. Wilson. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

**Second and Third Readings
Steuben County, Indiana
Ordinance No. 3134**

Thereupon, County Commissioner, Lynne Liechty moved that all rules of procedure of the County Commissioners which might prevent, unless suspended, the second and third readings of Steuben County Ordinance No. 3134, for final passage and adoption of said Ordinances at this meeting without reading the said Ordinances in full but reading the title only. This motion was seconded by James Crowl and was on the call of the roll adopted by the following vote:

Ayes
3

Nays
0

Under the suspension of the regular rules, County Commissioner, James Crowl, then moved that the Ordinances be read for the second and third readings by title only and thereby be ready for passage and final adoption in this meeting. This motion for the second and third readings for final passage and adoption of said Ordinances was seconded by Lynne Liechty and on the call of the roll was adopted by the following vote:

Ayes
3

Nays
0

The County Auditor then read aloud the title of said Ordinances for the second and third readings. Thereupon, County Commissioner, Lynne Liechty, moved for final passage and adoption of the Ordinances in full applicable regulations to establish such Ordinances. This motion for final passage and adoption was seconded by James Crowl and on the call of the roll adopted by the following vote:

Ayes
3

Nays
0

The President of the Steuben County Commissioners, Ronald L. Smith, declared publicly Ordinance No. 3134, to have been duly passed and adopted. Thereupon, said Ordinances were signed by all members of the County Commissioners present and attested by the County Auditor. Ordinance No. 3134 is on file in the Auditor's office. Ordinance No. 3134 reads as follows:

ORDINANCE NUMBER 3134

**AN ORDINANCE OF THE STEUBEN COUNTY
BOARD OF COMMISSIONERS**

REGARDING THE VACATION OF A PLATTED RIGHT-OF-WAY, Second Addition to Sellers Shady Shores on Lake Pleasant

WHEREAS, the Petitioners has filed a Petition for Vacation of a Platted Way pursuant to Indiana Code 36-7-3-12/13;

WHEREAS, the Petitioners own or have legal interest in certain real estate which is contiguous to the platted way or place proposed for vacation;

WHEREAS, notice by publication to the population at large by legal ads placed in the Herald Republican on December 21, 2015 and notice by certified mail to abutting property owners no later than December 23, 2015, has been properly made consistent with Indiana Law;

WHEREAS, the Petitioners have paid the expense of providing legal notice;

WHEREAS, the vacation of the public way **WOULD NOT** hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous;

WHEREAS, the vacation **WOULD NOT** make access to the lands by means of public way difficult or inconvenient;

WHEREAS, the vacation **WOULD NOT** hinder the public's access to a church, school or other public building or place; and,

WHEREAS, the vacation **WOULD NOT** hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous,

IT IS HEREBY ORDAINED BY THE STEUBEN COUNTY BOARD OF COMMISSIONERS THAT THE FOLLOWING DESCRIBED PUBLIC WAY IN STEUBEN COUNTY, INDIANA, **IS HEREBY VACATED:**

The west half of a 10' platted right-of-way, between lots 58 & 59, as shown on the plat of the Second Addition to Sellers Shady Shores, on Lake Pleasant, as per plat thereof recorded in Plat Book 3, Page 52, public records of Steuben County, Indiana, Described as follows:

Beginning at a No. 5 rebar with plastic cap stamped "Anderson" marking the southeast corner of lot 59 in said Second Addition to Sellers Shady Shores; thence North 85 degrees 42 minutes 16 second East (assumed basis of bearing) 5.02 feet on and along the North line of Lane 250C Lake Pleasant to a No. 5 rebar with plastic cap stamped LS9700007 on the center line of said 10' right-of-way; thence North 00 degree 44 minutes 46 seconds East 85.63 feet on and along said centerline to Lake Pleasant; thence South 82 degrees 29 minutes 55 seconds West 5.05 feet to the West line of said 10 foot right-of-way; thence South 00 degrees 44 minutes 47 seconds West 85.35 feet to the Point of Beginning.

AND

The East half of a 10' platted right-of-way, between lots 58 & 59, as shown on the plat of the Second Addition to Sellers Shady Shores, on Lake Pleasant, as per plat thereof recorded in Plat Book 3, Page 52, public records of Steuben County, Indian, described as follows:

Commence at a No. 5 rebar with plastic cap stamped "Anderson" marking the southeast corner of Lot 59 in said Second Addition to Sellers Shady Shores; thence North 85 degrees 42 minutes 16 second East (assumed basis of bearing) 5.02 feet on and along the North line of Lane 250C Lake Pleasant to a No. 5 rebar with plastic cap stamped LS9700007 on the center line of said 10' right-of-way marking the point of beginning of this description; thence North 00 degrees 44 minutes 46 seconds East 85.63 feet on and along said centerline to Lake Pleasant; thence North 82 degrees 29 minutes 55 seconds East 5.05 feet to the East line of said 10 foot right-of-way; thence South 00 degrees 44 minutes 46 seconds West 85.92 feet to a No. 5 rebar with plastic cap stamped Burlage; thence South 85 degrees 42 minutes 16 seconds West 5.02 feet to the point of beginning, containing 428.87 square feet.

THENCE, all of said vacated portion of the platted way, described in the attached description, shall pass in fee title to the owners of the adjacent property to the east and west.

Map# 76-04-13-000-006.000-007 & 76-04-13-000-007.000-007

STEBEN COUNTY BOARD OF COMMISSIONERS

First Reading: 2/1/16
Second Reading: 2/1/16
Third Reading: 2/1/16

Lynne A. Liechty, Northern District
James A. Crowl, Central District
Ronald L. Smith, President/Southern District

ATTEST: Kim Koomler, Steuben County Auditor

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Vina Conti

Frank Charlton submitted an updated fee schedule for the Plan Commission and for the Building Department. Mr. Charlton didn't feel that all of the fees needed to be doubled, so he and Vina Conti sat down and came up with an updated fee schedule. Mr. Charlton said that he did research in other counties and he found that Noble County has fees that are similar to the new fees, LaGrange and DeKalb have fees that are close to what the fees are now. James Crowl made a motion to approve the new fee schedule. Lynne Liechty seconded that motion and the motion carried with three (3) ayes. The Plan Commission and Donald Stuckey will work together to draft an ordinance with the new fee schedule for approval at the next meeting so it can be publicly advertised.

James Crowl stated that there is no ordinances concerning wind and/or solar power and one needs to be drafted concerning that as well.

Mr. Charlton submitted a request to reappoint Rod Peterson to the Plan Commission Board. James Crowl made a motion to reappoint Rod Peterson to the Plan Commission Board. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Frank Charlton submitted Amendment No. A-15-01 to the Zoning Ordinance of Steuben County, Indiana a Part of the Master Plan for approval. James Crowl made a motion to approve Amendment No. A-15-01 to the Zoning Ordinance. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

**Second and Third Readings
Steuben County, Indiana
Amendment A-15-01 to the Zoning Ordinance of Steuben County**

Thereupon, County Commissioner, Lynne Liechty moved that all rules of procedure of the County Commissioners which might prevent, unless suspended, the second and third readings of Amendment A-15-01 to the Zoning Ordinance of Steuben County, for final passage and adoption of said Ordinances at this meeting without reading the said Ordinances in full but reading the title only. This motion was seconded by James Crowl and was on the call of the roll adopted by the following vote:

Ayes
3

Nays
0

Under the suspension of the regular rules, County Commissioner, James Crowl, then moved that the Ordinances be read for the second and third readings by title only and thereby be ready for passage and final adoption in this meeting. This motion for the second and third readings for final passage and adoption of said Ordinances was seconded by Lynne Liechty and on the call of the roll was adopted by the following vote:

Ayes
3

Nays
0

The County Auditor then read aloud the title of said Ordinances for the second and third readings. Thereupon, County Commissioner, Lynne Liechty, moved for final passage and adoption of the Ordinances in full applicable regulations to establish such Ordinances. This motion for final passage and adoption was seconded by James Crowl and on the call of the roll adopted by the following vote:

Ayes
3

Nays
0

The President of the Steuben County Commissioners, Ronald L. Smith, declared publicly Amendment A-15-01 to the Zoning Ordinance of Steuben County, to have been duly passed and adopted. Thereupon, said Ordinances were signed by all members of the County Commissioners present and attested by the County Auditor. Amendment A-15-01 to the Zoning Ordinance of Steuben County is on file in the Auditor's office. Amendment A-15-01 to the Zoning Ordinance of Steuben County reads as follows:

STEBEN COUNTY, INDIANA

COMES NOW, the Board of Commissions of the County of Steuben, Indiana, and pursuant to the authority vested by I.C. 36-7-4-100, et seq., as amended by the General Assembly of the State of Indiana, and all acts amendatory thereto, enact the following:

AMENDMENT NO. A-15-01
To the
ZONING ORDINANCE of Steuben County, Indiana
A Part of the Master Plan for said County

WHEREAS, after due deliberation by the Steuben County Plan Commission, the Steuben County Plan Director filed a petition for Zoning Ordinance Amendment No. A-15-01

WHEREAS, the notice of public hearing on said amendment was published as required by I.C. 36-7-4-604; and,

WHEREAS, on the 6th day of January, 2016, the Plan Commission held a public hearing on said Amendment, and after due deliberation, did certify and unanimous FAVORABLE RECOMMENDATION of A-15-01, by a seven (7) to zero (0) vote, one (1) abstention to AMEND the Zoning Ordinance of Steuben County to read:

AMEND the Zoning Ordinance of Steuben County to read
 (Where Underlined text to be deleted and **Bold Red Italicized** text to be added):

*Chapter 3 – Section 3.04 Building Dimensional Requirements:
 Agriculture Residential Use Setbacks,*

Setbacks:

Road-front: 40' **25'**
 Side-yard: 5' **5'**
 Rear-yard: 40' **20'**

Height:

Without basement: 40' **27'**
 With basement: 40' **35'**

Corner and Double Frontage Lots: Corner lots shall provide the minimum front yard setback from both road frontages **of setback of the district from the primary entrance; and the minimum setback from other road-frontage shall be ten (10) feet.** Where a double frontage lot backs-up to a roadway, the minimum required front or roadside setback shall be required from both road rights-of-way. Corner and double frontage residential lots shall only have driveway access from one road, which shall be the lesser traveled road as determined by the Plan Director.

Zoning Districts and Approval Process for Wireless Communication Facilities: Wireless Communication Facilities may be located within the County as follows:

Table 9.15 Wireless Communication Facilities		
Type/Location of Wireless Communication Facility	Districts Permitted	Approval Procedure
Attached Wireless Communication Facilities on Existing Structures in accordance with Section 10.01		
Attached to an existing building or structure that will not be materially altered or changed in appearance	All districts, except on lots occupied by a single family residential use	Approval by the Plan Director
Attached to an existing utility structure that will not be modified or materially alter the pole or impair sight lines or compromise safety	All districts	Approval by the Plan Director
Collocation upon an existing wireless communication facility	All districts	Approval by the Plan Director
New Wireless Communication Tower		
Lattice tower and monopole up to 150 feet in height	A district and on religious, civic, educational, and public sites in EC, R1, R2, and R3 districts	Special exception approval by the Board of Zoning Appeals
Lattice tower and monopole maximum 200 feet in height	AB, LB, GB, I-1 and I-2 districts	Special exception approval by the Board of Zoning Appeals
<u>Lattice tower where it can be demonstrated that a monopole is not feasible</u> Delete row	I-1 and I-2 districts	Special exception approval by the Board of Zoning Appeals

Section 10.05 Projections into Required Yards: Certain architectural features may project into the required yard setbacks where the required setbacks are greater than five (5) feet as follows:

Projection	Front Yard	Waterfront Yard	Rear Yard	Interior Side Yard	Corner Side Yard
Awnings and canopies	3 ft.	3 ft.	5 ft.	18 in.	3 ft.
Cornices and similar architectural features	3 ft.	3 ft.	3 ft.	18 in.	3 ft.
Barrier-free ramps and other facilities	5 ft.	--	5 ft.	3 ft.	5 ft.
Bay windows	3 ft.	--	5 ft.	18 in.	3 ft.
Eaves, overhanging	3 ft.	3 ft.	3 ft.	18 in.	3 ft.
Gutters	3 ft.	3 ft.	3 ft.	18 in.	3 ft.
No roofs , unenclosed porches, decks, and terraces	10 ft.	<u>10 feet --</u>	10 ft.	3 ft.	10 ft.
Window air conditioning units	--	2 ft	2 ft.	2 ft.	--
Window wells	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.

Chapter 11 – Accessory Buildings, Structures & Uses
Locations for Detached Accessory Buildings

- (1) Detached accessory buildings, storage sheds and gazebos shall only be located in the yards listed in the Table **11.02**.

Locations Permitted	Minimum Setback from Lot Line
Front Yard	Not permitted (4)
Side Yard	5 feet from side lot line
Rear yard	5 feet from rear lot line
Waterfront Yard	Meeting average shoreline setback (4) 20 ft. from shoreline
Corner lot side-street yard	Front yard setback of corner & double frontage lots

- (4) Detached accessory buildings shall be setback a minimum of ten (10) feet from the adjacent residential buildings. Shed of 120 square feet or less shall be setback a minimum of three (3) feet from adjacent buildings on the same parcel; **and a fire-rated wall is provided between structures.**

Chapter 11: Accessory Buildings, Structures & Uses
(b) Number of Buildings:

- (3) **A gazebo of 100 square feet and a shed of 120 square feet or less shall be permitted in addition to the accessory buildings listed in 1 & 2 above.**

Height Limitations:

(c) **Uses:**

- 3) Only pull down stairs allowed into attic space.**

- (f) **Attached Garages.** Garages that are structurally attached to a principal building by connection of walls or a roof shall be subject to, and must conform to, all regulations of this Ordinance applicable to the principal building, including setbacks and lot coverage, and not the regulations of this section. Attached garages shall not exceed the height of the living portion of the dwelling **and shall have a common wall and roof shared with the principal dwelling.**

Chapter 12 – Site Development Requirements
Stormwater:

(8) In the Lake Residence District, all buildings shall be equipped with gutters and downspouts to collect rooftop drainage. Drain tile systems or other storm drains shall be utilized to direct stormwater runoff to lakes. Appropriate measures shall be incorporated to prevent erosion and sedimentation into the lake.

(9) When a structure on properties adjacent to lake are razed and new structures to be built, a twelve (12) inch tile shall be installed from roadside to the lake property owners expense. (Per Steuben County Surveyor specifications)
Delete

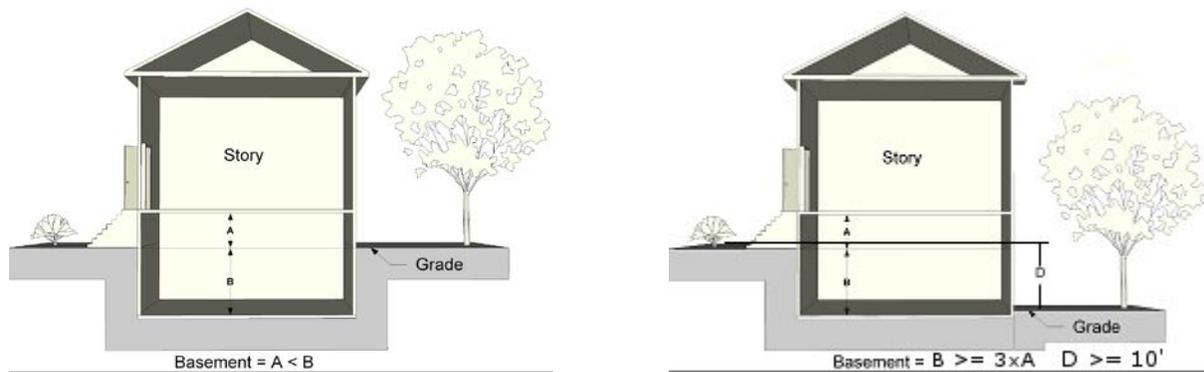
(9) In all zoning district, on properties adjacent to a lake and less than one (1) acre in area, all buildings shall be equipped with gutters and downspouts to collect rooftop drainage. Drain-tile systems or other storm drains with drywells or rain barrels shall be utilized to direct stormwater runoff to lakes. Appropriate measures shall be incorporated to prevent erosion and sedimentation into the lake.

a) *Schedule of Parking Requirements. The minimum number of off-street parking spaces by type of use shall be determined in accordance with Table 13.01.*

Use	Minimum Number of Parking Spaces
Residential	
Single family attached/detached and two-family dwellings	1 parking space for each bedroom Back lots and/or detached garage maybe use to calculate parking space, if the dwelling is located directly across from the back lot and both parcels shall be tied together.

Chapter 24 – Definitions

BASEMENT. The portion of a building which is partially or wholly below the average grade, **(50% below grade)** but so located that the vertical distance from the mean grade to the floor is greater than the vertical distance from the mean grade to the ceiling or so located that the corner located closest the roadway has a vertical distance from the natural grade to the floor that is at least three (3) times greater than the vertical distance from the natural grade to the ceiling on lots that slope downward ten (10) or more feet from the curb level to the lowest adjacent grade. A basement shall be counted as a story.



BREEZEWAY: A structure that connects the accessory structure to the primary structure, by means of continuous footer, roof & walls. The main entrance shall be through the breezeway.

Notes:

We, the Board of Commissioners of Steuben County, Indiana, after due deliberation, by majority vote, DO CONCUR with the said recommendation of the Steuben county Plan Commission, and therefore;

BE IT HEREBY ORDAINED, THE ZONING ORDINANCE OF STEUBEN COUNTY BE AMENDED AS PER SAID AMENDMENT NO. A-15-01

PASSED this 1st day of February, 2016, by the board of Commissioners of the County of Steuben, Indiana, to be in full force and effect from this date forward

STEUBEN COUNTY BOARD OF COMMISSIONERS

**Ronald L. Smith, *President*, South District
Lynne A. Liechty, North District
James A. Crowl, Middle District**

Attest: Kim Koomler, Auditor

Donald Stuckey, County Attorney, submitted Resolution No. 01-2016-01, a Resolution of the Steuben County Commissioners regarding Wildwood Addition, Lot 9 and Lot 8 of Block 1. Donald Stuckey said that the property in question is a property that has been to tax sale several times and Mr. Spyker wants to clean up the lots. In order to transfer the property to Mr. Spyker there is a process they have to go through. Passing the resolution is the first step and then a public hearing will be had at the March meeting. Mr. Stuckey said that he has an application prepared and it needs to be sent to Mr. Spyker to fill out and return.

Lynne Liechty asked about the County taking ownership and then gifting it to Mr. Spyker. Donald Stuckey said that the County gets a certificate when no one bids at the sale. The County can then sell that certificate, but that certificate is just a lien the County has on the property. Mr. Stuckey said that the County can transfer the certificate to a non-profit organization but if it is to a private party, this process has to be followed. Lynne Liechty made a motion to adopt Resolution No. 01-2016-01. James Crowl seconded that motion and the motion carried with three (3) ayes. Resolution 01-2016-01 reads as follows:

RESOLUTION NUMBER: 01-2016-01
RESOLUTION OF THE STEUBEN COUNTY COMMISSIONERS

WHEREAS, Indiana Code §6-1.1-24-6.9 provides that the Board Of Commissioners of a County may pass a resolution if it desires to transfer property to a person that is able to satisfactorily repair and maintain the property;

WHEREAS, the Board Of Commissioners of Steuben County believes that it is in the public interest to see that the following described real estate is repaired and maintained;

WHEREAS, the Steuben County Commissioners have designated the following described real estate in Steuben County, Indiana, as a property they wish to transfer to someone who will properly repair and maintain said real estate,

Wildwood Addition Lot 9 of Block 1 and Wildwood Addition Lot 8 of Block 1, Steuben County, Indiana.

IT IS HEREBY RESOLVED by the Steuben County Board Of Commissioners that they will have a public hearing on the 7th day of March, 2016, at 1:15 P.M. to consider the transfer of the following described real estate to a person able to satisfactorily repair and maintain the property.

DATED: February 1, 2016.

Steuben County Commissioners

Ronald L. Smith, President
James A. Crowl, Vice President

Lynne Liechty

ATTEST:

Kim Koomler, Steuben County Auditor

Bill Harter, Coroner, submitted a letter requesting to have a vehicle assigned to the Coroner's Office. James Crowl stated that he is not in favor of assigning a vehicle to the Coroner's Office. Ronald Smith stated that no consideration is going to be given to the request and no action was taken.

Chuck Walker, Board of Aviation, came to the Commissioners with a recap of the 2015 Report. Mr. Walker said that the major expenditures and revenues are also listed on the report. Mr. Walker stated that they increased the annual hangar rent by \$3,600.00 and decreased the liability insurance from \$5 million to \$1 million. The early termination of Falcon Aviation was negotiated and there was no cost associated with that and approximately thirty (30) trees were removed. Mr. Walker reported that the BoAC is now responsible for hangar operations and fuel sales. He also reported that the farmers voluntarily increased their payment by \$5,000.00, on the farm lease, as a result of a review of things that were going on. Support equipment was also purchased from Falcon Aviation at their departure. Chuck Walker said that Sam Adams was selected as Airport Manager under the BoAC and his position started January 1, 2016.

Craig Benson, Attorney at Law, and his client, Jim Sheckles, came to the Commissioners regarding a riparian rights dispute. Mr. Benson stated that there is a situation involving a back row lake property, that Mr. Sheckles now owns, two (2) front row properties on the Plat of Panama and a piece of lakefront property. Mr. Benson stated that in 2006, litigation was initiated by the owner of the two (2) front row properties concerning the right of the owner of the back row property to put a pier on the lakefront property on Lake Gage. He said that litigation was eventually unsuccessful and both parties decided to dismiss the legal action in 2010.

In 2012 the attorney for the owner of the two (2) front row property appeared before the Commissioners wanting title to the lakefront property on Lake Gage. It was decided that a vacation couldn't be done because the ground was never in the plat. Mr. Benson stated that there were representations made at that meeting that gave the Commissioners the belief that there weren't any issues concerning the usage of the 90' lakefront property on Lake Gage; however, that statement was a lie. Mr. Benson further stated that the vacation procedure that is typically used including notification, etc., was not followed in this matter.

In July, 2012, the representative came back before the Commissioners and stated that everything had been done including a legal notice, petition to vacate an alley filed, etc. Mr. Benson said that he had the Commissioners' Secretary review the minutes and nothing was found. Mr. Benson stated that it is not possible to vacate a piece of property if it is not in the subdivision. He said that the road in question is Orland Road and it was there prior to the plan in 1926.

Mr. Benson said that Mr. Sheckles started renting the back row property in 2010. There were no hassles and he could put the pier out like it had been done in the past. He said starting last summer, there were some issues with the owners of the two (2) front row properties contesting the right of Mr. Sheckles to have his pier in the water. In October, 2015, Mr. Sheckles pier was mysteriously taken from the lake and placed very nicely on the back of his lot. A day or two after that happened, there was a transfer/sale of the front two (2) lots. In that deed, there was a warranty deed for the two (2) lots and was also subject to the use of the roadway.

Craig Benson stated that he has attempted to work something out with the present owners of the front (2) lots; however, they are extremely resistant and he is left with no choice other than to file a lawsuit asking for a declaratory judgment as to whether the quit claim deed that was signed by the Commissioners and their attorney in 2012, is a void deed. Mr. Benson stated that he's asking to discuss this matter with Mr. Stuckey to see what the position is of the County Commissioners and if they would resist declaratory action in which he seeks to void the quit claim deed. He stated he was not looking for the Commissioners to decide today, but the Commissioners' decision in 2012 has resulted in his client, who always had a pier on Lake Gage, being froze out.

Donald Stuckey stated that when they gave the quit claim deed, he remembers having a conversation with the attorney saying that the Commissioners are just giving away what they have and they don't have anything. The

Commissioners gave the quit claim deed, but they had no interest in the property. Mr. Benson said that the quit claim deed was transformed into a warranty deed for title purposes.

Donald Stuckey stated that the Commissioners advised at the time, the better way to do this process was through a quiet title action and they indicated that they were going to do that. Mr. Benson said that the parties had tried a quiet title action from 2006 to 2010 which resulted in them not being able to get that done. Donald Stuckey said that the Commissioners did not know that and Craig Benson said that it was misrepresented to the Commissioners in 2012.

Donald Stuckey stated that Mr. Benson was probably correct and he has no reason to doubt him and somebody tried to circumvent the correct way of doing things. They lost the quiet title action and then misrepresented facts to the Commissioners in an effort to get a transfer title. Craig Benson said that he has not seen the title insurance commitment which the new buyers of the lots received to see if there is a standard exception of riparian rights. Donald Stuckey stated that Mr. Benson has nothing to do with putting a pier out there, riparian rights are all controlled by the Department of Natural Resources. Mr. Stuckey stated that he would see no reason to object to a declaratory judgment because if what Mr. Benson said is true, there were misrepresentations made to the Commissioners.

James Crowl stated that a road right of way was retained through that. Craig Benson stated that the quit claim deed stated, "ground subject to highway." Mr. Benson said it is only 35' from the lots of Panama to the water. Commissioner Crowl said that the road right of way sits within that. Donald Stuckey stated that was discussed with the Highway Engineer at the time and the County probably only owns where the road currently exists. Commissioner Crowl said that if the County has a surveyor go out and reestablish the pins for the road right of way, a lot of homeowners would be very upset because they have rocks sitting in the right of way. Mr. Benson stated that the piece that was quit claimed in was 32.43 feet at one end and 36.4 feet wide at the other end. Mr. Stuckey stated that the County has taken the position that they have no interest in the property across the road except for the extent there is a road right of way and the County is not going to referee who does what with anything.

Mr. Benson said that he wanted to get a feeling whether or not the Commissioners would oppose a motion for declaratory judgment in which what was set forth was a void deed. James Crowl said that he has no problem with that. Mr. Benson said that all Mr. Sheckles wants is 25 feet of 100 feet and there is no one else that uses that ground.

Donald Stuckey said that in hindsight, he should have advised the Commissioners to not sign the quit claim deed, but he was being too trusting when he shouldn't have been. James Crowl said that this is the reason why things like this should go through the Plan Commission so everyone is notified, etc.

Ronald Smith requested that Mr. Benson rescind his assertion that the Commissioners operated out of either empathy or sympathy. James Crowl stated that he didn't remember sympathy being a part of it. Ronald Smith stated that the Commissioners tried to act out of propriety. Mr. Benson stated that he would withdraw the word sympathy if the Commissioners would maintain the situation.

Jennifer Sharkey, Highway Engineer, submitted a letter for permission to attend the American Society of Civil Engineers Legislative Fly-In in Washington D.C. to meet with Congressional Leaders. Lynne Liechty made a motion to approve the request. James Crowl seconded that motion and the motion carried with three (3) ayes.

Ms. Sharkey stated that they have started to implement the new permitting manual that was approved in August, 2015 and a quick reference guide was submitted to the Commissioners for their information.

Jennifer Sharkey submitted reimbursement vouchers for the Bike Trail, CR 200 N/SR 827, and for Bridge Inspections. James Crowl made a motion to approve the reimbursement vouchers. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Ms. Sharkey said that County Councilman, Jim Getz, had a question regarding the seeding activities along the Bike Trail so she asked Corey Staley, Project Inspector, from BF&S, to give an update on some of the activities so everyone is on the same page. Mr. Staley stated that INDOT has requirements stating that before October 15, any

seeding that is done, they have to come back in the spring and do an inspection. Anything after the October 15 date, a warranty bond is done. Mr. Staley said that a warranty bond usually costs a contractor one and a half times what the seeding item would be and they aren't very easy to obtain. He stated that this contract is set up a little different in which it had an intermediate completion date so all items had to be complete before November 15. With that date being after October 15, they set up a temporary item seed which is done throughout the winter to contain any erosion, get ground cover, etc. The contractor will come back in the spring to get the notice of termination, they reseed and do the permanent seed at that time. Mr. Staley stated that he pushed to try to make the October 15 deadline; however, he was not able to do that. He explained that temporary seed was used but they also used permanent seed that was set to expire so they were able to obtain a little more ground cover than they would have if they only used temporary seed.

Corey Staley said that in this contract scenario they would have had to pay in the spring anyway because they would have temporary seeded the entire thing. He says that he feels that they have a better quality ground cover than they would have and he thinks that it will cost less for them to come back and redo in the spring. The areas that eroded over the winter, will be regraded in the spring as well, and that will be the contractor's cost.

Ms. Sharkey stated that all permits for the Maple Street Project have been obtained and the Highway Department has started some of their work as well. Jennifer Sharkey sent the rough draft of the bid documents to Donald Stuckey for review and approval. Ms. Sharkey stated that she would like to have the bids accepted from the contractors on March 7 and opened and awarded during the March 21 meeting. She said that there is a sense of urgency due to INDOT having a resurfacing project on SR 120 scheduled for this summer so the widening and work on Maple Street needs to be done prior to that date.

Jennifer Sharkey submitted a Progress Report from American Structurepoint regarding the 200 N Project.

Ms. Sharkey stated that INDOT is available on Tuesday, February 9, 2016, at 2:00 p.m., to meet and discuss the Old 27 lights. Ronald Smith stated that he will attend that meeting.

Jennifer Sharkey said that there has been numerous discussions on the second phase of the Bike Trial. Ms. Sharkey stated that the overall view of the corridor is to connect Pokagon State Park to the State Park in Wells County. Ms. Sharkey prepared a RFP for the Commissioners to review. Federal assistance is not as favorable due to some of the issues that happened in the first phase. Jennifer Sharkey said that there are funds in the Bike Trail line item and Major Moves account for this work if that is a direction the Commissioners would like to pursue. Lynne Liechty made a motion to allow Ms. Sharkey to move forward with the RFP. James Crowl seconded that motion and the motion carried with three (3) ayes.

Jennifer Sharkey stated that the meeting in Granger with the Toll Road Representatives, INDOT, Region IIIA, EDC, Lynne Liechty and herself went well. Ms. Sharkey said that she believes that the Toll Road and INDOT requires a needs assessment but it is more of an economic development analysis. It has to be decided if it makes good business sense to install an interchange at SR 327. Lynne Liechty stated that the cost estimate was approximately \$30 Million. Ronald Smith stated that it is going to be left to the Steuben County EDC.

Ms. Sharkey said that they are looking at repaving Old 27 from the city limits to Pleasant Lake this summer and the railroad crossing is not on the schedule for this summer. Ronald Smith stated that there is a hole where the major repair was made to 800 S. Ms. Sharkey said that it is from the Surveyor marker and that marker is sitting in her office waiting to be replaced.

Emmett Heller, Highway Superintendent, submitted the title work for the new F450 for signatures. James Crowl made a motion to sign the paperwork. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Mr. Heller reported that the Highway Department has been working on trimming trees.

He also reported that they will be working on 750 S this week. Mr. Heller said that there's a dip in the road and a culvert is going to be installed to try to raise the road a couple feet.

Mr. Heller updated the Commissioners on ongoing projects at the Highway Department.

Emmett Heller asked the Commissioners for permission to go to County Council and request funding for four (4) more trucks in 2016. Mr. Heller stated he would like to purchase the three (3) trucks using MVH reserve funds and CEDIT funds for the fourth truck. He said if this is not a working solution for the Commissioners, he is open to suggestions. Mr. Heller said that he needs a direction so he knows how to best use the funds in the department for the truck situation. He said that he will be coming back in June, before the budget, to talk about the plan for trucks in 2017. The Commissioners said that they have no problem with Mr. Heller asking Council because they know new trucks are needed.

Kim Johnson, Assessor, came to Commissioners to request the reappointment of Richard Ruselink, Tina King and William Rathburn to the Property Tax Board of Appeals (PTABOA). Lynne Liechty made a motion to reappoint Richard Ruselink, Tina King and William Rathburn to the Property Tax Board of Appeals. James Crowl seconded that motion and the motion carried with three (3) ayes.

The Commissioners discussed the proposal made by Knight Owl Productions concerning the Old County Home. The Commissioners felt that the Old County home is much more valuable than what the proposal offered and could be used for other endeavors in the future. Lynne Liechty made a motion to decline the offer made by Knight Owl Productions. James Crowl seconded that motion and the motion carried with three (3) ayes.

The Commissioners discussed the Arena Building at the County Park. Frank Charlton stated that he has a meeting scheduled with WKM to discuss the plans. Ronald Smith said that there is nothing set in stone other than the Arena Building will be a single roof structure, with alleys to aid in animal control and confinement and be ADA compliant. Lynne Liechty stated that she is pursuing financing through donations and she said that a company has already agreed to donate the drafting of the building plans.

Lynne Liechty stated that it was recommended by Kirk Grable to remove the design phase out of the Motorola Contract. Commissioner Liechty said that they are establishing a Design Build Committee that includes Dick Morrow, Jennifer Sharkey, herself, Jim Getz and Gary LeTourneau. She said that they are going to prepare and publish an RFP and Gary LeTourneau would receive all quotes, the quotes would then go to the Committee and then the recommendation of the Committee will be submitted to the Commissioners. Commissioner Liechty stated that the billing for the attorney has gotten quite extensive and the Commissioners feel that the attorney has completed the second opinion as required by Council, so now they would like to take his recommendation and proceed. Lynne Liechty stated that Donald Stuckey will have to help prepare the RFP.

Kirk Grable submitted Resolution No. 01-2016-02 authorizing the use of the design-build method of contracting for the public work portion of the public safety communications system project for approval. Lynne Liechty made a motion to adopt Resolution No. 01-2016-02. James Crowl seconded that motion and the motion carried with three (3) ayes. The Resolution No 01-2016-02 reads as follows:

STEBEN COUNTY, INDIANA

RESOLUTION NO. 01-2016-02

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF STEUBEN, INDIANA,
AUTHORIZING THE USE OF THE DESIGN-BUILD METHOD OF CONTRACTING FOR THE PUBLIC
WORK PORTION OF THE PUBLIC SAFETY COMMUNICATIONS SYSTEM PROJECT AND
APPROVING CERTAIN MATTERS IN CONNECTION THEREWITH**

WHEREAS, at its meeting held November 10, 2015, the Steuben County Council (the "Council") adopted a resolution (the "Preliminary Determination Resolution") preliminarily determining: (1) that a need exists for the construction and installation of a new public safety communications system and the acquisition of the equipment therefor, to be used in locations throughout Steuben County, Indiana (the "County"), together with all projects and activities related to any of the foregoing, in order to increase radio coverage, both in range and building penetration, and facilitate effective interoperability with the State of Indiana radio system, as further described in Exhibit A attached thereto (collectively, the "Public Safety Communications System Project"); and (2) to the extent permitted

by law to take all of the necessary steps to finance all or a portion of the costs of the Public Safety Communications System Project by issuing one or more series of general obligation bonds of the County in the aggregate principal amount not to exceed \$6,820,000 (the "Bonds"); and

WHEREAS, pursuant to the Preliminary Determination Resolution, a notice of the foregoing preliminary determination was published on November 17, 2015 (the "Preliminary Determination Notice"), in accordance with Indiana Code 6-1.1-20-3.1, as amended, and, in the Preliminary Determination Resolution, the Council authorized the publication of a notice of the application of the petition and remonstrance process to the proposed debt service payments on the Bonds related to the Public Safety Communications System Project in accordance with Indiana Code 6-1.1-20-3.2, as amended, in the event that a sufficient petition requesting the application of such process was filed as set forth in Indiana Code 6-1.1-20-3.1, as amended; and

WHEREAS, on December 18, 2015, the Clerk of the Circuit Court of the County certified that no petition requesting the application of a petition and remonstrance process with respect to the proposed issuance of the Bonds, as set forth in the Preliminary Determination Notice, had been filed with her office pursuant to the provisions of Indiana Code 6-1.1-20-3.1, as amended, and has filed such Certificate with the Council; and

WHEREAS, as a result, the time period during which the taxpayers of the County could file a petition for review of or a remonstrance against the proposed issuance of the Bonds (the "Objection Period") has ended, and the County is now authorized to proceed with the issuance of the Bonds; and

WHEREAS, as provided in the Preliminary Determination Resolution, it is contemplated that a portion of the cost of the Public Safety Communications System Project will be paid from moneys on deposit in the Major Moves Fund of the County (the "Major Moves Fund"); and

WHEREAS, at its meeting held December 7, 2015, the Board of Commissioners of the County (the "Board") adopted a resolution authorizing the execution and delivery of the Communications System Agreement (Lease) (the "Agreement"), between the County and Motorola Solutions, Inc. ("Motorola"), and the Equipment Lease-Purchase Agreement #23799 (the "Lease"), between Motorola, as lessor, and the County, as lessee, without soliciting bids or proposals pursuant to Indiana Code 5-22-10, as amended, after the Objection Period had ended, for the purpose of completing and financing the Public Safety Communications System Project, so that the County could take advantage of the substantial discount offered by Motorola for the cost of a substantial portion of the Public Safety Communications System Project (the "Substantial Discount"); and

WHEREAS, after the Objection Period, on December 21, 2015, Motorola and the County executed the Agreement and the Lease, the provisions of which included the Substantial Discount; and

WHEREAS, pursuant to the Agreement, the cost of the Public Safety Communications System Project is estimated to be approximately \$9,492,457, with a portion of such cost in the amount of \$6,500,000 being financed on an interim basis pursuant to the Lease, and the remainder of such cost in the amount of \$2,992,457 contemplated to be paid from the Major Moves Fund, of which \$2,667,270 is contemplated to be paid on the date of issuance of the Bonds for the purpose of paying the remainder of the amount owed by the County pursuant to the Agreement, and the remainder of which in an amount not to exceed \$325,187 is contemplated to be paid for the purpose of paying the public work portion of the Public Safety Communications System Project and any costs incidental thereto (collectively, the "Public Work Portion of the Public Safety Communications System Project"); and

WHEREAS, the Board has considered the use of the design-build contract method under Indiana Code 5-30, as amended, for the design and construction of the Public Work Portion of the Public Safety Communications System Project, which would otherwise qualify as a "public work" project under Indiana Code 36-1-12, as amended; and

WHEREAS, pursuant to Indiana Code 36-1-12-1(e), as amended, the Board may enter into a design-build contract for a public work project under Indiana Code 5-30, as amended, as an alternative to the method of contracting provided under Indiana Code 36-1-12, as amended, as long as the Board adopts a resolution regarding such decision and otherwise complies with the requirements and processes set forth in Indiana Code 5-30, as amended; and

WHEREAS, the Board desires to: (1) pursue the design and construction of the Public Work Portion of the Public Safety Communications System Project in accordance with Indiana Code 5-30, as amended; (2) authorize the use of the design-build contracting method with respect to the Public Work Portion of the Public Safety Communications System Project; (3) appoint the members of the technical review committee required pursuant to Indiana Code 5-30-4-1, as amended; and (4) confirm the design criteria developer for the Public Work Portion of the Public Safety Communications System Project;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF STEUBEN, INDIANA, that:

Section 1. Authorization. The Board hereby authorizes the use of the design-build contracting method for the Public Work Portion of the Public Safety Communications System Project in accordance with Indiana Code 5-30, as amended. Furthermore, the Board hereby authorizes the Auditor of Steuben County (the "County Auditor") and the Technical Review Committee (as hereinafter defined) to publish a combined request for qualifications and proposals in accordance with Indiana Code 5-30-5-1(c), as amended.

Section 2. Technical Review Committee; Voting Members. Pursuant to the provisions of Indiana Code 5-30-4-1, as amended, the following individuals are hereby appointed to the Steuben County Design-Build Technical Review Committee (the "Technical Review Committee"), all of which will have the right to vote on all matters that are considered by the Technical Review Committee:

- (a) Vic Marrow, as an architect registered under Indiana Code 25-4, as amended;
- (b) Jennifer Sharkey, as a professional engineer registered under Indiana Code 25-31, as amended;
- (c) Lynne Liechty, as a representative of the County;
- (d) Jim Getz, as a representative of the County; and
- (e) Gary LeTourneau, as a representative of the County.

Section 3. Technical Review Committee; Chairperson. Gary LeTourneau shall serve as the Chairperson of the Technical Review Committee, and the Chairperson is hereby authorized to appoint or otherwise designate a Secretary of the Technical Review Committee to keep all of the minutes of the meetings of the Technical Review Committee.

Section 4. Design Criteria Developer. The Board hereby appoints Butler, Fairman & Seufert, Inc., to serve as the design criteria developer for the County with respect to the Public Work Portion of the Public Safety Communications System Project.

Section 5. Other Actions. The Board authorize the County Auditor or her designee (the "Designee") to take any and all actions the County Auditor or the Designee deem necessary or desirable to fulfill the purposes and intent of this Resolution, including, but not limited to, the publication of any and all notices required under Indiana Code 5-30, as amended, for the use of such design-build contracting method for the Public Work Portion of the Public Safety Communications System Project, and any actions heretofore made or taken are hereby ratified and approved.

Adopted this 1st day of February, 2016.

BOARD OF COMMISSIONERS OF THE
COUNTY OF STEUBEN, INDIANA

Ronald L. Smith, President
James A. Crowl, Vice President
Lynne Liechty

ATTEST:

Kim Koomler, Steuben County Auditor

Rowland Associates, Inc., submitted the completed MSD Tower Survey and an invoice in the amount of \$2,489.50. James Crowl made a motion to approve the invoice in the amount of \$2,489.50 from Cum. Cap. 1138-000-4000.15. Lynne Liechty seconded that motion and the motion carried with three (3) ayes.

Donald Stuckey stated that he has sent a letter to the owner of the Washington Street property that the Commissioners would like to acquire; however, he has not received a response.

Ronald Smith discussed informational quotes that were received for cameras, surveillance, audio and video at the new County Park Community Building. Donald Stuckey said that because of how much it is going to cost to purchase and install the systems, a RFQ will have to be prepared to send out for bids. The Commissioners directed Erin Wray, Commissioners' Secretary, to contact Tami Sumney about writing specifications for an RFQ.

The Commissioners received the following correspondence: Indiana Joint Information Center re: Status Update – Avian Flu 1/28/16; State of Indiana re: From the Desk of Lt. Governor Sue Ellspermann; Chris Curry - The Public Group re: Public Purchase Information; Indiana Joint Information Center re: New Recordkeeping Requirements for Indiana Poultry Purchases; Indiana Joint Information Center re: Status Update – Avian Flu 1/21/16; John Sampson NEIndiana re: Project Checklist for Road to One Million; State of Indiana re: Owen County as Indiana Site Certified Silver; Indiana Joint Information Center; re: Status Update - Avian Flu 1/20/16.

STEBEN COUNTY BOARD OF COMMISSIONERS

Ronald L. Smith, President, South District

James A. Crowl, Vice President, Middle District

Lynne Liechty, North District

Attest: _____
Kim Koomler, Steuben County Auditor

elw