

MINUTES
HAMILTON COUNTY BOARD OF COMMISSIONERS
FEBRUARY 13, 2017
Commissioners Courtroom
Hamilton County Government and Judicial Center
One Hamilton County Square
Noblesville, Indiana

The Commissioners met in Executive Session in Conference Room 1A at 1:00 p.m. President Altman called the public session to order at 1:52 p.m. declaring a quorum present of Commissioner Christine Altman and Commissioner Mark Heirbrandt. Commissioner Steven C. Dillinger was absent. Altman led the Pledge of Allegiance.

MINUTES

Approval of Minutes

Heirbrandt moved to approve the minutes with one correction (page four last paragraph add - Mr. Morris arrived late to the meeting). Altman seconded. Motion carried unanimously.

EXECUTIVE SESSION MEMORANDA

Approval of Executive Session Memoranda

Heirbrandt moved to approve the Executive Session Memoranda of February 13, 2017. Altman seconded. Motion carried unanimously.

PLAT APPROVAL

Anthony Road Estates

Mr. Dave Lucas recommended approval of the plat for Anthony Road Estates. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

HIGHWAY BUSINESS

276th Street Reimbursable Utility Agreements – Duke Energy

Mr. Joel Thurman presented two (2) Reimbursable Utility Agreements with Duke Energy for 276th Street Improvement (DES No. 1383334). These were executed at the last meeting with the standard LPA (Local Public Agency) agreement. Duke Energy requested a one page agreement in addition to the standard LPA Agreement which is between Duke and Hamilton County. The county attorney is ok with approval. Howard said the agreement with Duke has higher unit costs than the agreement with INDOT (Indiana Department of Transportation) has authorized and will reimburse up to a certain amount with the balance to be reimbursed as local share. He knows of no law that allows INDOT to compel a private utility on their rates and charges only that they be reasonable. Heirbrandt moved to approve. Altman seconded. Altman asked if these have to be reviewed by the State? Thurman replied this is an agreement between the Hamilton County and Duke. Altman understands but it is an LPA Contract which is basically a side agreement. Howard recommended approval be made subject to INDOT's approval.

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Heirbrandt withdrew his motion. Heirbrandt moved that upon the approval of INDOT review to approve the agreement. Altman seconded. Motion carried unanimously.

Bridge Inventory and Inspection Agreements

Thurman requested approval of the INDOT-County Bridge Inspection Contract, EDS No. A249-17-L170018 for the 2017-2020 Phase 1 and 2. Phase 1 will begin in August 2017. The total not to exceed cost for both years is \$580,888. A new item this year is due to the new INDOT Policy on road rating and scour assessments which increases the costs. Federal aid pays 80% of this agreement. Heirbrandt moved to approve. Altman seconded. Motion carried unanimously.

Road Closure Request – 136th Street

Thurman requested permission to close 136th Street from Southeastern Parkway to Cyntheanne Road and Prairie Baptist Road from 136th Street to Southeastern Parkway beginning on or after Monday, April 3, 2017 through June 1, 2017. This is for the safety improvements at the intersection of 136th Street and Prairie Baptist Road. The closure has been discussed with the City of Fishers and Hamilton Southeastern Schools. All homeowners will have access to their properties. Heirbrandt moved to approve. Altman seconded. Motion carried unanimously.

Hague and Carrigan Road Roundabout Final Acceptance

Thurman requested approval of the INDOT Report of Contract Final Inspection and Recommendation for Acceptance for Hague Road and Carrigan Road Roundabout completed November 10, 2016. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Winter Seasonal Work Hour Exception – Highway Department

Mr. Brad Davis requested approval to allow 2016-17 winter employees of the highway department to exceed 29 work hours per week and/or 129 hours/month. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Highway Meeting

Davis reminded the Commissioners of the highway meeting scheduled for Friday, February 24, 2017.

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COMMUNITY DEVELOPMENT BLOCK GRANT

Release of Funds for Carmel Infrastructure Improvements

Mr. Chris Allen requested approval of the Release of Funds for the City of Carmel infrastructure improvements in the Newark Subdivision. This project was completed December 2016 and this should be the final payout. Heirbrandt moved to approve. Altman seconded. Motion carried unanimously.

Section 106 Reviews

Allen requested approval of the Section 106 Reviews for Noblesville's Southside Park Improvements and Fishers Neighborhood Sidewalk Improvements for 2017. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Release of Promissory Note

Allen requested approval of the Release of a Promissory Note from the Neighborhood Stabilization Program for Timothy D. Nettleton. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

DIRECTOR OF ADMINISTRATION

Judicial Center Project Update

Mr. Dan Stevens requested setting a date for an update on the Judicial Center Project. Work session was scheduled for March 13, 2017 immediately following the meeting.

Credit Card Usage for 2016

Stevens presented the report of the usage on the county credit card for 2016. Most charges were for travel.

Noblesville Main Street 2017 Events

Stevens presented the list of 2017 events for Noblesville Main Street which will use the courthouse square. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

- May 5 - First Friday Kickoff
- May 26 – Music & All That Jazz Opens
- June 2 – First Friday
- June 3 – Special Event
- June 16 – Music & All That Jazz
- July 7 – First Friday
- July 8 – Special Event

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- July 21 – Music & All That Jazz
- July 28 – Back to School Bash
- August 4 – First Friday Music & All That Jazz
- August 18 – Music & All That Jazz
- September 1 – First Friday Music & All That Jazz
- November 3 – First Friday
- November 23 – Turkey Trot
- November 24 – Tree Lighting
- November 25 – Small Business Saturday with Ice Sculptures
- December 1 – First Friday

Latch On Event

Stevens reported there has been a request to use the Judicial Center Plaza for another Latch On Event as done last August which is close to the timeline when the Riverwalk Project is to be completed. Stevens is attending the project update meetings and he will ask them if they think the lawn will be ready for this event. If it will be he will be bringing this request back to the Commissioners for approval.

2017 Blood Drive Dates

Stevens requested approval of the 2017 Blood Drive Dates of March 22, June 21, September 12 and December 18. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

BUILDINGS & GROUNDS

Constellation Natural Gas Transaction Confirmation

Mr. Steve Wood requested approval of the Constellation Natural Gas Transaction Confirmation for the period of February 1, 2017 – January 31, 2019 (inclusive). Cost is \$.43 per gallon for natural gas.

Heirbrandt noted they are looking at combining meters at the Jail, there could be significant savings.

Heirbrandt moved to approve. Altman seconded. Motion carried unanimously.

Juvenile Center Project

Wood updated the Board on the Juvenile Center Project; the project is on schedule with the Buildings & Grounds side having wrap up cleaning and setting the chiller in place. On the Jail side they are almost complete with painting, floors, rewiring, communication lines and a few details.

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CELL TOWER IN UTILITY RIGHT OF WAY

Installation of Cell Tower in Utility Right of Way

Ms. Jacque Hill believes her situation of the installation of a cell tower on her property has been resolved. She has heard that Mobility has been banned from working in Indiana, they were going to put a tower in the middle of her driveway. The right of way is too narrow on the north side of the street but the company (Mobility) came out and marked it and the underground and did a test drill 25 feet deep and found no bedrock and at 5:00 p.m. that same afternoon they were going to pour a pad in the mouth of her driveway. Mr. Kiphart told her there was nothing she could do about it because there was no ordinance in place and she should complain to her legislator. It turns out that everyone including Mr. Chadwell of the highway department has apologized about this. The people drilling said that they were drilling in the middle of people's driveways and right in front of businesses and Mr. Kiphart is right that an ordinance needs to be passed to prevent this from happening. Hill provided the Board all of the Hamilton County rules that say that you can't build within 120 feet of someone else's property. These people were violating all of that, there wasn't a thing that they followed. She was told to bad you can't do anything. Hill is asking an ordinance be passed for all of Hamilton County so she does not feel like she is living in the Wild West on 211th Street. Altman asked the county attorney to address this.

Howard asked Kiphart if he has been approached by utilities? Kiphart stated our zoning ordinance dealing with telecommunications facilities does not include rights of way. When we developed our first zoning ordinance in 1988-1989 the county commissioners then said they wanted to retain full authority over the road right of way. On the zoning maps our districts do not go into the right of way, they start at the right of way and go into private property. The last time he read anything about cell facilities going into right of way was just antennas going on existing poles and he thinks the legislation allows the city or town or the public works department to approve or not approve those antennas but generally they are to be approved. He has not heard anything about poles being allowed in road right of ways unless they were specifically approved by the county commissioners. He has some information that other counties do include right of ways as part of their telecommunications ordinance so legally he thinks we could do that and we would have to develop some standards. He would work with the highway department and commissioners on how to do that. Altman thinks it would be advisable for at this issue to be covered primarily because Kiphart will be nimble in terms of investigation, etc. along with highway. We have had some discussions because with the edge of pavement rule that is currently in place we don't have a lot of right of way except on some thoroughfares. Perhaps the ordinance can require anyone who wants to put up a pole or a new facility, to come to the plan commission if it is part of the ordinance with proof of either right of way instrument granting them permission or ownership. If that is in place it would help the situation that Ms. Hill experienced with someone trying to plant something in the middle of your driveway. Hill said where it was in violation of all the county ordinances, it was within 100

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yards of another cell tower, it had not been approved by anyone and it was within 20 feet of her neighbor's property and the property to the east. It was totally unsupervised. Altman stated it may be a situation that if there are contractors doing that without permits in hand that you call the Sheriff's Department and ask them to be removed because that would be trespassing.

Howard asked if Ms. Hill is within the county's zoning jurisdiction? Kiphart replied yes. Howard said if you read the statute that they passed about a year and a half ago we know the cell tower people have excellent lobbyists and essentially they are entitled to go into right of way but we (county) don't have any. Most of the county right of way where we have expressed dedicated right of way is within the municipalities, this is all a zoning jurisdiction deal. If we are going to regulate it we need to pass an ordinance following normal procedures with a public hearing, plan commission with recommendation to the Commissioners. Most of this stuff has to be permitted. The county does not own anything beyond the edge of the pavement, utilities are there and they may have a right to be there and they may have a right if we issue a permit to put it on the poles. Commissioner Altman's point is if they are going to put anything in the ground they have to prove they have a dedicated easement. In our ordinance we are going to tell them we are making no representation of titles. If they get sued by property owners for operating on their property without consent then they are stuck with it. The two rod road does not exist, the fact that anybody comes in and wants a permit we need an ordinance and regulate it as much as we can, disclaim title – we don't own title, if you are putting on Duke's poles and you get sued you are on your own and you will indemnify the county for our expenses. If anything is being put into the ground they will need a dedicated easement from the property owner.

Altman stated this is not the first time she has heard this issue, we need to get a handle on this but it may be a situation they are just going in and doing things without permission and if it is your property you always have the right to call law enforcement if someone is trespassing.

Unidentified citizen comment – this was a 120 foot pole, there is nothing that she could find that regulated the size of the pole in that right of way. If they set that pole in right of way, they were told they could do that because they are a utility. Altman said utilities have the right to co-locate in a right of way provided they don't interfere with the county's use however they are pushing the envelope, what is a utility, are they a private company or are they a utility. Altman has asked the county attorney to look at those issues for that very reason. This was set up primarily for utilities that are basically monopolies so we didn't over charge when we had already purchased right of way. The line is getting blurred with private companies coming in as utilities and it may be something we will have to work out universally with the State and local municipalities. The citizen replied it is her understanding they (Mobility) had four spots to this one pole. Howard asked if that was the contractor? Citizen replied it is the company and they are based out of California and working through the Chicago office. They approached the

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highway commissioner and she was told he cannot stop them. Heirbrandt asked if this was through INDOT? The citizen replied it is Robb Chadwell (Hamilton County Inspector). Hill added he came out and physically inspected the right of way and said they had every right to put that pole where they were putting it which was the middle of her driveway even though the right of way on that side is four feet narrower and it is four feet bigger on the other side but he would not listen. The citizen stated she kept telling Chadwell she did not believe it was 16 ½ feet off centerline of that road which is what Mobility was being told. There lies another problem is that they are going to the highway department and asking them for permission. Altman stated they will be working on that too. We want to make sure everyone is informed on what the State has mandated verses what we can and cannot regulate, we are caught in the middle but we want to make sure everyone is doing the right thing consistently. Hill added it was 100 yards from the other pole and the county ordinance states you can't have one within one and a half miles from another pole. Kiphart will be the contact person on this issue. Howard added if anybody starts putting poles in right of way they are not on county property, they are on private property. Altman added unless it is a major thoroughfare such as 146th Street.

HOOSIER HERITAGE PORT AUTHORITY

Nickel Plate Rail Line [2:23:36]

Altman put the Hoosier Heritage Port Authority (HHPA) on the agenda, there are discussions and items being reported on and we really don't have any specifics at this point other than we have had communities approach us, Noblesville and Fishers, to discuss possible use of that rail line for trail purposes to connect communities. At this point state law is rather problematic because if you discontinue the use of that rail line and pull the rails you have the potential of losing that right of way which we have been discussing. Fishers has retained Barnes & Thornburg to look at that to see whether it is possible to bank the rail under the Rails to Trails Program where the right of way is banked until such time as a community or region is interested in investing in transit. She is a big transit supporter and she has tried pushing a rock up a hill on the Green Line to get people involved and interested in investing in that line for transit purposes. Right now she does not see the political will to do that, it may change but it behooves us with the cost we are seeing on improving that line for even the Fair Train to use it exceeding \$3 million. We have to come up with some planned solution that meets everyone's needs and that is the process we are in. She fully expects to have forums to receive public input on this issue to figure out what the community wants. To her it is a community asset and community issue and for right now if the community as a majority wants a trail to connect people and we can preserve that right of way and not lose it and do it under a proper method that may be the best thing. If the community comes back and says no we really need to preserve this and do a transit line she would be thrilled but does not know if that is going to happen. She wanted to provide an update on some of the things that are out and about. We are doing it very carefully looking at ways to preserve that line. HHPA is our

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operator in terms of preserving the line, it is owned by Fishers, Noblesville and Hamilton County. We are just looking at possibilities.

Heirbrandt stated his only comment is that we have been in some discussions but we are exploring every option at this point as well as some of the legal implications that could occur with this. It is our hope that we have more news available in the very near future.

Altman said if we do a federal program converting rails to trails to bank, it does not have to be the entire line. To her the county is totally different looking north of SR 32 than it is looking south of SR 32 on that line. She knows that tourism and other operators are looking at putting together proposals to run trains through Tipton with a public private partnership and she does not want these discussions to discourage that because she knows some of those communities would be greatly benefitted both from a tourism standpoint and an economic development standpoint. Right now we are leaving everything open but we need to examine our options for our communities.

Mr. Michael Colby resident of Fishers stated he heard a couple of options, Rail to Trail and one being mass transit. Colby would like to take a step back and are we looking at keeping it the way it is in terms of a Fair Train and what it would take to make that happen. You mentioned use of the track north of SR 32. Where are we with trying to bring the Fair Train back? Colby has been involved in government in a couple of different capacities and has been asked by a number of people what has happened to the Fair Train, are we going to get it back? Is this one of the options? Altman replied at this point everything is open as far as the Commissioners are concerned as a one-third owner. She knows HHPA is in the process of putting together a Request for Proposals (RFP) opening the question if there is an operator that would want to do the Fair Train and what the scope would be. It is prudent for us to look at if that is not possible or we want to segregate parts of the line what are the possibilities to make that happen so everyone (owners) have a voice in it. Colby asked if there is a report that outlines the problems with the rail? Heirbrandt replied there is significant safety issues and that is why this has not moved forward. Our number one goal is to protect the citizens or anyone riding on that train. We can't let that happen given the conditions. There has been a full-fledged report that has been put forward.

Altman asked Mr. Mike Oberfell, President of HHPA to respond. Oberfell replied there is a full inspection report that outlines all of the work on the line. It was over \$5 million to raise it to Class 2 standards from the fairgrounds to Tipton. We think to get the Fair Train running we are talking over \$2 million just from Fishers to the fairgrounds.

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Altman asked if there were any other comments. She wanted to make sure with the information that was floating around that everyone felt comfortable that we were not jumping onto one ship or another. It is just looking at possibilities, realities and costs.

COURT ADMINISTRATION

Meal Authorization

Mr. Ollie Schierholz requested approval of meal expenses for JDAI (Juvenile Detention Alternative Initiative) Case Processing Workgroup. Funds are available and authorized through the grant. Heirbrandt moved to approve. Altman seconded. Motion carried unanimously.

COMMISSIONER COMMITTEE REPORTS

E911 Executive Board

Altman reported the E911 Executive Board met this morning. They will be working on the 2018 budget, we are at the five year anniversary of our initial consolidation and they have received requests from municipalities to look at other means of allocating costs.

We still have not sealed a location of the back-up dispatch center but are still working on it.

We are really close to rolling out the New World CAD RMS upgrade and putting everybody on that. Mike Snowden has done an excellent job. Altman added fire has had protocols countywide and we are doing the same for emergency police dispatch. We will go with a unified process in dispatch with respect to law enforcement in terms of what our dispatchers are asking. We are moving in a positive direction to have efficient and sound dispatch services.

AUDITOR

Alternative Services Concepts 2017-2018 Claims Contract

Ms. Robin Mills presented the 2017-2018 Alternative Services Concepts (ASC) Claims Contract for third party administration of workers compensation and liability/casualty claims. Heirbrandt moved to approve. Altman seconded. Motion carried unanimously.

Hamilton County Express INDOT Pay Voucher

Mills presented the 2016 4th Quarter Hamilton County Express (HCE) INDOT Pay Voucher for approval. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

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Elected Officials Bonds

Mills presented the 2017 Elected Officials Bonds for Hamilton County Sheriff and Hamilton County Coroner. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Capital Asset Notifications

Mills requested approval of Capital Asset Notification forms from the Sheriff's department for disposal of multiple vehicles that are being sold or traded in. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Clerk's Monthly Report

Mills presented the Monthly Report from the Clerk of the Circuit Court dated 12/31/2016. Heirbrandt moved to approve. Altman seconded. Altman stated they show reconciling items as attached and there was nothing attached to the report. Mills will contact the Clerk. Motion carried unanimously.

Treasurer's Monthly Report

Mills requested approval of the County Treasurer's Monthly Report dated January 31, 2017. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Acceptance of Bonds/Letters of Credit – Drainage Board

Mills requested the acceptance of Bonds/Letters of Credit for the drainage board. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Payroll Claims

Mills requested approval of payroll claims for the period of December 31, 2016-January 12, 2017 paid January 27, 2017 and January 14-27, 2017 paid February 10, 2017. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Vendor Claims

Mills requested approval of vendor claims to be paid February 14, 2017. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

SHERIFF

Resolution 02-13-17-1, Transfer of Property to Boone County, Indiana

Heirbrandt moved to approve Resolution 02-13-17-1, A Resolution Authorizing a Transfer of Property (old radio equipment) between Boone County, Indiana and Hamilton County, Indiana. Altman seconded. Motion carried unanimously.

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Altman called a recess in the meeting at 2:39 p.m.
Altman reconvened the meeting at 2:49 p.m.

911 PUBLIC SAFETY COMMUNICATIONS

Observer Confidentially and Liability Agreement

Mr. Mike Snowden presented an Observer Confidentiality and Liability Agreement regarding how we deal with observers in the dispatch center. This will specifically apply to eligible applicants whom are invited to observe during the hiring process. This agreement has been vetted by the human resources department and the county attorney and both agreed it was proper in form and content. Altman asked would it not be good practice for any non-dispatcher coming in to sign-off? Snowden replied yes, specifically this is for anyone who is not a public safety department employee who is there for one (1) hour or more. Altman recommended there be a sign-off sheet with the disclosure statement for those that tour the center and are in the room for less than one (1) hour. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Motorola Radio System Change Order

Mr. Mike Snowden requested approval of a Change Order No. 5 to the Motorola Radio System for the final clean-up of the matrix for the 10 year contract life. The amount is to our favor in the amount of \$82,632.26. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

BID OPENING

2017 Annual Highway Bids

Howard opened bids in Conference Room 1A and reported the 2017 Annual Highway Bids were opened in Conference Room 1A with bids being referred to the highway staff for review and recommendation at the next meeting. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Bids Received:

- Category 1 – Aggregates
 - Martin Marietta
 - IMI
- Category 2 – Bituminous Mixtures
 - Rieth Riley
 - Harding Materials
 - Milestone

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Category 3 – Liquid Asphalts
Asphalt Materials
Marathon Petroleum
Category 4 – Drainage Pipe
St. Regis
CivCon Inc.
Metal Culverts
Timber Bride Components
American Timber Bridge
Gasoline/Fuel & Lubricants
North Central CoOp
Category 8 – Pavement Traffic Markings
Airmarkings
Gridlock Traffic Systems
Indiana Traffic Services
Category 9 – Weed and Brush Control
PACC
Category 10 – Tree/Stump Removal
Vine & Branch
Category 11 – Traffic Signal Maintenance
Signal Construction, Inc.

ATTORNEY

Litigation Claim

Howard requested approval of a litigation claim to be paid from the Liability Trust in the amount of \$7,234.50 for services rendered November, December and January. Heirbrandt so moved. Altman seconded. Motion carried unanimously.

Heirbrandt moved to adjourn. Altman seconded. Motion carried unanimously.

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COMMISSIONER CORRESPONDENCE

1. Indiana Historical Society Notice of Reappointment of David Heighway as Hamilton County Historian
2. Jay Real Estate Services re: Pleasant/19th Streets
3. Indiana Department of Transportation:
 - a. Bridge Rehabilitation Project on I-465 at Reference Post 29 in Hamilton County, Indiana
4. Indiana Department of Environmental Management:
 - a. Initial Permit for IDI Fabrication - Approval

Present

Christine Altman, Commissioner
Mark Heirbrandt, Commissioner
Robin M. Mills, Auditor
Dan Stevens, Director of Administration
Kim Rauch, Administrative Assistant to Auditor
Michael Howard, Attorney
Brad Davis, Highway Director
Joel Thurman, Interim Highway Engineer
Brandi Tarner, Highway Public Service Representative
Dave Lucas, Highway Staff Engineer
Faraz Khan, Highway Staff Engineer
Ali Krupski, Highway Bridge Program Engineer
Bob Davis, Highway Superintendent
Dianna Lynch, Deputy Veteran Services Officer
Steve Wood, Buildings & Grounds Superintendent
Ollie Schierholz, Court Administrator
Mike Snowden, Public Safety Communications Director
Sara Hauserman, Public Safety Communications
Chuck Kiphart, Plan Commission
Jacque Hill, Utility Right of Way
Mike Obergfell, Hoosier Heritage Port Authority
Rhonda Klopfenstein, Hoosier Heritage Port Authority
Mike Colby, Nickel Plat Rail Line
Chris Allen, Community Development Block Grant
Becki Wise, USI
Mike Keeven, DLZ
Perry Knox, Durham Engineering

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Kevin Jasinski, RQAW
Pat Holdsrrib, Powers Engineering
Stephanie Campbell, PCS
Chuckie Nwokorie, PCS

APPROVED
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Christine Altman
Mark Heirbrandt

ATTEST
Robin M. Mills, Auditor

Date Approved: 2/27/2017