



BOARD OF COMMISSIONERS

LAPORTE COUNTY

Circuit Courthouse

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Marlow Harmon, President

William Hager

Barbara Huston

LAPORTE COUNTY BOARD OF COMMISSIONERS

TUESDAY, JULY 19, 2005

The LaPorte County Board of Commissioners met in a regular session on Tuesday, July 19, 2005 at 10:00 a.m. in the LaPorte County Complex Meeting Room.

Present at the meeting were Commission President Marlow Harmon, Commission Vice President William Hager, and Commission Member Barbara Huston. Also present LaPorte County Auditor Teresa Shuter, LaPorte County Attorney Robert Szilagyi and Executive Secretary Linda Arnett.

Commissioner Hager led the Pledge of Allegiance.

APPROVAL OF AGENDA

Mr. Hager made a motion to approve the agenda as presented, second by Mrs. Huston. Motion carried 3-0 with a roll-call vote.

APPROVAL OF MINUTES

Mrs. Huston made a motion to approve the minutes of July 5, 2005, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

WEEKLY REPORTS

The Commissioners review and sign the reports during the meeting.

CLAIMS

MISCELLANEOUS CLAIMS

Mr. Hager, made the motion to approve Miscellaneous Claims in the amount of \$1,050,244.24, second by Mrs. Huston. Motion carried with a roll-call vote 3-0

REGULAR CLAIMS

Mrs. Huston made a motion to approve Regular Claims in the amount of \$1,132,263.58, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

CORRESPONDENCE

None

REQUESTS

Steve England/ Garrison Landfill

Mr. England 2358 North 150 East LaPorte, I want to purchase this property and use it to pasture my horses. There is six and a half acres and I want to use it for

pasture, it has not been touched for thirty years, I think the county has come in a couple of times in those years. I would like to clean it up and fence it off for my horses.

Mr. Harmon, I am going to let the attorney explain what the process is to you.

Mr. England, I am just trying to find out where I can go.

Attorney Szilagyi, you provided a copy of the assessed evaluation since it is under the \$5,000.00 all you have to do is look up all of the other land owners send them notice so they can bid on it and the minimum purchase price is going to be at least the cost that's involved. You will have the opportunity along with everybody else to bid on it and if there are no other bids it's yours.

Mr. England, are you talking \$5,000 or under or are you talking for the cost of the paper work and everything else?

Attorney Szilagyi, it is the cost of the paperwork and what ever else is involved. If it's less than \$5,000.00 by statute you don't have to have a public hearing that is part of the cost involved.

Mr. England, is it going to cost me something to get this started?

Attorney Szilagyi, we are going to get it started then the cost that is involved would be involved as far as legal expenses that you would have to pay back to the county as the purchase price.

Mr. England, so what you are saying is if I want to further this it is going to cost me money no matter what happens.

Attorney Szilagyi, yes.

Mr. Hager, any property that has been sold since I have been here, the lowest is \$500.00 and those have got the legal work done then and that is what cost is the legal work.

Mrs. Huston, you have to advise the other property owners that adjoin this property, that it is for sale and do they want to buy it. If no one wants to, you come back and say on body wants to acquire this property but myself and then from there we will make a discussion.

Mr. Hager, send registered letters.

Mrs. Huston, and that way you will have the signatures and the card will come back to you that you have advised everyone that adjoins this property that you are planning to purchase it and it is for sale. The only thing that bothers me is that we not be held responsible for any thing that may have been dumped there prior to us taking it over.

Attorney Szilagyi, I think you better get an attorney because you have got a lot of questions.

OLD BUSINESS

Michigan City Preservationists/ Acquire Property

Mr. Harmon, this is in reference to the property that we gave to the Preservationist and some how the numbers got sent to the Housing Authority.

Attorney Szilagyi, I sent a letter to the Housing Authority with the deed and for them to deed it back they didn't think they wanted to deed it to the Preservationist but they are willing to deed it back to the county. I did send them a deed to do that but I have not heard back from them.

Mr. Harmon, I think we need to get this cleared up.

Mr. Hager, made a motion to table, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Judge, Paul Baldoni/ Architectural Study Proposal, Gerometta & Kinel Architects, Inc. Additional Appropriation \$9,500.00

Mr. Harmon, this is to allow Mr. Gerometta to do a complete study of the space for Judge Baldoni's new courtroom and offices.

Mr. Hager, made a motion to approve, second by Mrs. Huston. Motion carried 3-0

Mr. Harmon, this will be taken out of Win-Tax.

Resolution/ Voting System Reimbursement

Mr. Harmon, you know it receive reimbursement from the State of Indiana for the voting machines that we are going to purchase and get approval at the next council meeting. The funds for it we have to have the resolutions in place and it has to be a joint resolution with the commissioners and the council in agreement. You now have the resolutions before you to apply for the reimbursement and the reimbursement will come to about six-hundred and forty thousand dollars of the one point one million dollars that we are asking for so I am asking that these resolutions be approved unless there is an objection. It will be a resolution by title only unless there is an objection, hearing no objection.

Mrs. Huston, made a motion to approve, second by Mr. Hager.

Mr. Harmon, we have a resolution before us by title only Accessibility of Polling Places and the Administration of HAVA Funds.

Mrs. Huston, made a motion to adopt the resolution on first reading, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

Mr. Harmon, this will be known as Resolution #2005-05

NEW BUSINESS

Resolution Eminent Domain

Mr. Harmon explains eminent domain. I have asked the attorney to draw up a resolution that LaPorte County will not allow that to happen in LaPorte County. Eminent Domain may have to be used at one time or another but that should only be for "Public Safety Issue" not for private development or anything of that nature.

Mr. Hager, I am for this one hundred percent and I will make the motion that we pass this on first reading by title only.

Mr. Harmon, we have a resolution before us by title only.

NOW THEREFORE BE IT RESOLVED THAST THE LAPORTE COUNTY COMMISSION STANDS FORCEFULLY BEHIND THE RIGHT OF PROPERTY OWNERS TO QUIET ENJOYMENT OF THEIR PROPERTIES WITHOUT THE FEAR OR THREAT OF EMINENT DOMAIN PROCEEDINGS BEING INITIATED FOR PRIVATE DEVELOPMENT. WHILE RESERVING THE RIGHT OF EMINENT DOMAIN IN THOSE RARE INSTANCES WHERE SUCH MAY BE NECESSARY FOR A CLEAR PUBLIC PURPOSE SUCH AS A SCHOOL OR A ROAD OR A HOSPITAL, WE WILL VIGOROUSLY OPPOSE ANY EFFORTS TO UTILIZE ANY BRANCH, ENTITY OR SUBDIVISION OF COUNTY GOVERNMENT TO ACCOMPLISH EMINENT DOMAIN FOR PRIVATE COMMERCIAL DEVELOPMENT, WE STAND READY TO CONTINURE TO WORK ON JOB CREATION AND ECONOMIC DEVELOPMENT BUT ONLY BETWEEN A WILLING BUYER AND A WILLING SELLER OF PRIVATE PROPERTY. FURTHERMORE, WE SUPPORT ANY EFFORTS BY THE INDIANA LEGISLATURE TO PROTECT PRIVATE PROPERTY RIGHTS AND TO CURTAIL THE THREAT OR EXPANSION OF EMINENT DOMAIN PROCEEDINGS FOR PRIVATE COMMERCIAL DEVELOPMENT.

We have a motion by Mr. Hager to approve, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Mr. Harmon, this will be known as Resolution #2005-06

Commissioners Recommendations /County Form #144

Mr. Harmon, you have received copies of County Form #144 this is for the 2006 years and this request a three percent raise for all county employees.

Mrs. Huston, made a motion to approve County Forms #144 as submitted, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

Ordinance to Amend LaPorte County Building Ordinance 2005-11

Mr. Hamilton, LaPorte County Building Commissioner, you have a copy of amendments and the new section we want to put in. We want to amend the time

frame on building permits now they are for two years and we need to amend it to one year. The health department has a one year permit for septic systems and I want to go along with that, they would have an option of getting an extension of up to three months at my discretion or the board's discretion. The other one is to privacy fence in LaPorte County we have addressed the height of the fences at six foot six inches but we never addressed where that could be placed. We discussed that you could place that fence within 15 feet of the right of way.

Mrs. Huston, fifteen feet of the road?

Mr. Hamilton, the right of way is normally eight to ten feet off of the road so you are talking approximately twenty five feet from the road.

Mrs. Huston, so the right of way is eight to ten feet then another fifteen feet back from that which would be about twenty-five feet from the road, so that would be where you could start your fence. What do we have now?

Mr. Hamilton, we have nothing on where you could put the privacy fence.

Mr. Hager, I think they should go from the back of the house out.

Mr. Huston isn't there a requirement on how far the house sets back.

Mr. Hamilton, there are different right of ways.

Mrs. Huston, your Planning Commission has approved this?

Attorney Szilagyi, this does not go to the Planning Commission.

Mr. Hamilton, the third is for violations, fines and penalties which we have not had before.

Mr. Hager, would you be opposed by 30 feet from the road, that would make it more uniform.

Mrs. Huston, what would you be recommending?

Mr. Hamilton, I would like to say that it would be at the front line of the house. This was voted on by the committee which is fifteen feet but personally I would like to see it no further then the front line of the house.

Mr. Harmon reads the Ordinance on first reading by title only. "Ordinance to Amend LaPorte County Building Ordinance.

Mr. Hager, made a motion to adopt the Ordinance on first reading, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Mr. Hager, made a motion to adopt the amendments on second and final reading, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Mr. Hager, made a motion to amend the ordinance to state at the side of the home, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Ordinance # 2005-11

Attorney David Ambers/ Rezoning Application Ruth Ambers
Property from Agricultural to R1

Attorney Dave Ambers, I am here to request that you amend the LaPorte County Zoning Ordinance to change the property located at 500 West and State Road 2 from Agricultural to Residential. The petition that was presented at the Plan Commission was rejected. We believe the petition is consistent with the Master Plan; the general areas surrounding the real-estate are currently being used for a variety of purposes. If you grant the request you will be increasing the value of the surrounding properties. I have asked Mr. Paul Weaver an appraiser to be present to speak to you on that issue. Mr. Ambers gives exhibits to the commissioner's. We have restrictive covenants for the two acre lots they are some of the most restrictive in LaPorte County and those would be the same covenants used if you grant this request. Economic Development if there were 26 new homes at an average price of \$200,000.00 per home that is 5.6 million dollars in economic development just from the construction of these homes. There would be \$460,000.00 just in road construction on top of the 6 million dollars. This could be from a 7 to 13 million dollar economic development project.

Mrs. Huston, Mr. Ambers I understand that you went before the plan commission and they turned you down and for what reason did they turn you down.

Mr. Ambers, the plan commission gave us an unfavorable recommendation, they said it would over run the Kingsbury school system.

Mr. Harmon, at this time we will allow any remonstrators for or against for this project to speak.

Michael Drayton, Attorney 2024 Indiana Avenue. There are three property owners that surround Mr. Amber's property on three sides, Donna & Bruce Kessler's, Robert & June Schmitt and George Cook. There is a total of 403.6 acres that surround Mr. Ambers property, on the other side of State Road 2 so on the three sides those are the people that I represent and the Campbell's have a very small section of property that comes in and abuts with Mr. Ambers. This does come to you with a negative recommendation and the reason is placing a subdivision smack dab in the middle of prime farm land. The zoning laws are there for a reason and not there to do spot zoning. The master plan has not been looked at there are schools have not been looked at and the infrastructure has not been looked at once rezoned a major subdivision will appear and it will be spot zoning and I agree with him that the taxes will go up but it will drive the farmers out.

Mr. Harmon, the Campbell property are you representing them?

Mr. Drayton, no I am not.

Paul Weaver, 2101 Cougar Drive, LaPorte, I am a Real Estate Broker. I am here to look at this project from idea of growth in the area. This type of growth historically

increases the value of the land, while short term that may be a concern if they sell there land would they rather sell it for \$2,000 an acre or \$6,000 an acre. The term urban sprawl was used and referred to as unregulated growth and we have here a proposal here very regulated and controlled developer. As an appraiser, I see more housing problem and more negative conditions and poor construction and these types of properties that are strung out along the road where people don't maintain. This is a well planned growth and LaPorte can grow out, this is a location with access to LaPorte, Michigan City, the Toll Road, I-94 all of the arterial traffic flows in the area.

Gerry Orcutt, 4522 West State Road 2. I have lived there since 1976 and I have 12.5 acres I butt up against Mr. Kessler's field. It seems to me that everything said here has to do with the all mighty dollar, I do not like see subdivisions or housing developments, there is too much good farmland going to housing subdivisions and I hate seeing it.

Mr. Harmon, do you live just east of that property.

Mr. Orcutt yes.

Brian Eigenmann, we need a subdivision in that area and they want to be in these areas and they want to be in LaPorte Schools. I think if you were proposed a twelve million dollar factory right now you would be offering infrastructure and roads and everything else.

Mrs. Huston, how many homes are available for sale on the market?

Mr. Eigenmann, around 1,000

Bruce Kessler Jr., 3794 South 550 West, LaPorte. I live into property that he owns that is in Kingsbury and if people are trying to move out here I don't know why he can't sell that place.

Mr. Ambers, we would all like to preserve farmland but you can't make money farming if you could farmers would not be selling there farmland. The conflict and confrontation every subdivision is butted by farmland and the fear of contaminating the land is not just there.

Mrs. Huston, where will the entrance be?

Mr. Ambers, It will be south of Highway 2 and one just off of Highway 2 but on 500 west and good fences make good neighbors. There is a definite need for the master plan for a good quality subdivision in this area we need this subdivision of economic development in this county.

Mr. Hager, you are talking subdivisions there is nothing but problems in Pinola subdivision we have had nothing but problems out there and it is costing the taxpayers money with that water problem out there. I want to see before another subdivision goes in I want to see the fire department, the police department the draining board involved in stuff like this, the with the roads I want the highway

department and I want the schools to be involved. The people that are moving out there they don't know why the farmers don't build there own roads.

Mrs. Huston, I do have a question of Mr. Young. Mr. Young this is being proposed to go on 500 West which would mean additional one-hundred and fifteen car traffic is that road prepared for that increase in traffic?

Mr. Young, that is a pretty good road, as far as the traffic I don't think you are going to hurt that road.

Mr. Harmon, we have decision before us now if we should approve the rezoning and go with the recommendation of the Plan Commission which was unfavorable or for the Board of Commissioners to reject the unfavorable recommendation and adopt the ordinance, and adopt the zoning change at this time.

Mr. Huston, I did not agree with everything that both of you said but some of the things is that farming is very expensive but I do not believe in turning all of our farmland into homes. We at one time had approximately 3,500 homes on the market for sale and Mr. Eigenmann just confirmed that we now have 1,000 homes for sale. Having been in the ambulance profession for over 25 years dealing with the police and fire and knowing Scipio Township I do know the fireman out there and they do a good job but I do know having another 58 homes would over the fire department at this time and the ambulance service. LaPorte County is the seventh largest county in the State of Indiana in area, we cover 611 square miles with six ambulances now that is a 48 crew and they cover over 11 thousand calls a year in this county alone and I do know that it is over taxing. I do believe the school district Riley School is a distance from this area and it would be quite a long way.

Mr. Harmon, I don't think that in LaPorte County we have not progressed as we should have progressed. I here complaints that we have not progressed into the twentieth century as surrounding areas like Porter County. Porter County is very aggressive in the things they do and are aggressive on the build and housing and they have subdivisions all over and we don't have that in LaPorte County we don't have it because we do stop some of these subdivisions from going in.

Mr. Hager, I make a motion that we go along with the Plan Commission and deny the zoning.

Mr. Ambers, I would ask that this be tabled so that I can obtain the information Mr. Hager asked for as far as police and fire.

Mrs. Huston, who is it you are talking about Mr. Ambers?

Mr. Ambers, I would like to gather some more information and maybe address you and Mr. Hager's concerns.

Mr. Hager, made a motion to concur with the Plan Commissions recommendation and deny this request, second by Mrs. Huston. Motion carried with a roll-call vote 2-1 with Mr. Harmon voting nay.

Resignation of Michigan City Library Board of Trustee's Janet Kostielney and Appointment of Replacement

Mr. Harmon, would like to recommend Mr. John Lucas, he had served previously.

Mr. Hager, made a motion to appoint Mr. John Lucas to the Michigan City Library Board, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Re/Max Realtor/ Rolling Prairie –Septic Lines -Michigan St. & Prairie St.

Mr. McVay, I filled you in on the request and the septic system needs and they were to write a letter to request the vacate that section. If you do not approve this they may have to vacate there home.

Mrs. Huston, we have talked about this and they were to write a letter and request that we vacate 12 feet.

Mr. McVay, right and I did explain that to them.

Mrs. Huston, have they done that?

Mr. McVay, no. She asked for a verbal so they could put this in immediately but I told her I could not do that.

Mr. Hager, they will get all of the information and carry thru with it but time is essential for this property to be sold and that is why they asked Mr. McVay to move forward on this.

Mrs. Huston, in speaking with you Mr. McVay you took that what I requested from them and all we are requesting from them is a letter to vacate and we could have had it done today without any problems.

Mr. McVay I did ask that there be someone here and I don't understand why they are not here. I did prefer that they vacated that portion of the right of way and that it be recorded.

Mr. Hager, made a motion with a stipulation that they get a letter back from them and that they cover the cost of that right away that they can move forward, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

PUBLIC COMMENTS

Bruce Kessler, I would like to thank the Commissioners for doing such a good job.


COMMISSIONER'S COMMENTS

None

ADJOURN

Commissioner Harmon adjourned the meeting at 11:57 a.m.

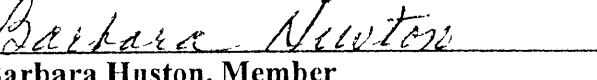
LAPORTE COUNTY BOARD OF COMMISSIONERS



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Barbara Huston, Member

Attest: 

Teresa Shuter, LaPorte County Auditor

(Approximately 20 people in attendance)