



# BOARD OF COMMISSIONERS LAPORTE COUNTY

Circuit Courthouse  
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Marlow Harmon, President

Barbara Huston

William Hager

## LAPORTE COUNTY BOARD OF COMMISSIONERS

Tuesday, May 23, 2006

The LaPorte County Board of Commissioners met in regular session Tuesday, May 23, 2006 at 10:00 a.m. in the LaPorte County Annex & Security Complex.

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

Commission Vice President Barbara Huston led the Pledge of Allegiance.

### APPROVAL OF AGENDA

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

### WEEKLY REPORTS

The Commissioner's review and sign weekly reports during the meeting.

### CLAIMS

#### PAYROLL

Mrs. Huston, made a motion to approve Payroll Ending June 2, 2006, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

#### MISCELLANEOUS CLAIMS

Mr. Hager, made a motion to approve Miscellaneous Claims in the amount of \$252,037.92, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

### CORRESPONDENCE

#### Attorney Shaw R. Friedman/Consideration of Potential Settlement IURC Cause #42824

Attorney Friedman, The Commission of LaPorte County have been involved in a year long dispute with Northern Indiana Public Service Company regarding Nipsco's purchase of certain types of power, intermediate dispatchable power from their affiliate company Whiting Clean Energy. I am pleased to report that we have been able to negotiate a tentative settlement for your consideration at today's meeting. As you recall, Nipsco requested approval of a three (3) year deal that would have permitted them to purchase power produced by Whiting in order to address liability issues and during the course of the last year Nipsco explored other solutions and liability problems and it was determined that the three year agreement would not be necessary. Again, this proposed settlement LaPorte County, Nipsco and the facility as formally acknowledged the termination of the agreement of the purchasing power of Whiting effective January 1, 2006. There are other types of means of which Nipsco has explored other solutions to the liability of Whiting Power. There was some five-million dollar in demand of charges of Whiting paid by Nipsco, Nipsco also incurred incremental fuel cost connected with Whiting pursuant to the settlement that we have in front of you. We have negotiated a credit to customers in approximately two-million dollars of the cost of the Whiting

Power that was used in the five months of 2005 up to one quarter of that two-million credit will be allocated to cover attorney's fee's paid by LaPorte County in this cause of action, all of our expenses, the expert witness testimony all that would be recouped thru the credit. Any of the requests for reimbursement, will have to be reviewed by the office of the Utility Consumer Council and then have to be approved Indiana Utility Regulatory Commission. The settlement agreement in front of you also addresses concerns which we have related and brought forth to the Utility Commission regarding the Mitchell Coal Fire and Generating Station, in Gary, you will recall that was mothballed in January of 2003, under this particular settlement from the award of fee's and expenses provided in the settlement agreement LaPorte County will commission and fund an independent study regarding weather Mitchell Generating Station can and should be restarted. Nipsco itself will also be commissioning a separate study on Mitchell which LaPorte County also intends to participate. This agreement would avoid retractive litigation over the Mitchell issue until studies can be completed assuming that occurs no later then December 31, 2006, as part of the agreement we have negotiated with Nipsco the company has agreed to maintain Mitchell Generating Station in a restartable condition until December 31, 2007. This not only resolves not only the Whiting Power case but a couple of the related cases to fuel adjustment proceedings and moves us forward on a full study of Mitchell while recouping the cost and expenses and the taxpayers investment in this particular litigation. We are going to be able to recoup for LaPorte County along with getting a refund for customers this will assist in terms of getting some of that Whiting Power refunded and then the issue of Mitchell going forward getting looked at. This is an issue that the county has not resolved, as to weather or not it would be more cost affordable for Mitchell to be reopened, restarted as opposed to Nipsco purchasing, purchase power. We have a settlement agreement that my co-council and I, Bob Wright have negotiated with Nipsco, I have summarized the key portions of it for you.

Mr. Hager, made a motion to allow attorneys to move forward on the settlement agreement and to accept the settlement agreement and to sign the resolution, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Mr. Harmon, I think it is very important to show that one county can make a difference on how you handle conglomerate if you stay with it. We got dumped by the City of Michigan City and the City of LaPorte, LaPorte County stayed stead fast and pushed forward on this and it has totally benefited the people of LaPorte County.

Attorney Friedman, we will have under the negotiated agreement their will be a press release issue and we have agreed that no additional comments will be made under the agreement.

#### REQUESTS

None

#### OLD BUSINESS

##### Attorney Ryan Beall/ Ordinance to Vacate Portion of Hemlock Lane Final Reading

Mr. Harmon, we have an Ordinance before us on first reading by title only unless there is an objection, hearing no objections.

##### AN ORDINANCE TO VACATE A PORTION OF HEMLOCK LANE HUDSON TOWNSHIP, LAPORTE COUNTY, INDIANA.

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

Mr. Harmon, I ask the board to allow this Ordinance to be heard on second and final reading unless there is an objection, hearing no objections.

**AN ORDINANCE TO VACATE A PORTION OF HEMLOCK LANE HUDSON TOWNSHIP,  
LAPORTE COUNTY, INDIANA.**

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

Mr. Harmon, this will be known as Ordinance #2006-06

**Attorney David McCain/ Concord Vineyard Unit #6 Final Approval**

Attorney McCain, we have Unit # 6 Concord Vineyard this is the final unit and we have a final plat we also have a letter from Mr. McVay and a bond, I have a cashiers check payable to the Commissioners in the amount of \$19,375.00.

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

**Attorney Ralph Howes/ Ordinance Zoning Map Change from Agricultural to R-1 Residential Final Reading**

Mr. Harmon, we have an Ordinance before us on second and final reading by title only, if there is no objections from the board, hearing no objections.

**AN ORDINANCE TO AMEND THE LAPORTE COUNTY ZONING ORDINANCE OF LAPORTE COUNTY, INDIANA, BY AMENDING THE ZONE MAP FOR GALENA TOWNSHIP, SO AS TO RECLASSIFY AND REZONE CERTAIN REAL ESTATE FROM AGRICULTURAL USE DISTRICT TO R-1 RESIDENTIAL USE DISTRICT.**

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

Mr. Hager, ever since I have been a Commissioner they have been trying to remove private subdivisions, now all of the sudden they are bringing more private subdivisions and I am not going to go for it, I am not voting for any of it, I am not for private subdivisions.

Motion carried with a roll-call vote 2-1, with Mr. Hager voting nay.

Mr. Harmon, this will be known as Ordinance #2006-07.

**James Keil, Keil and Associates/ Ordinance Zoning Map Change From R-2 Residential to Local Business Final Reading**

Mr. Keil was not present.

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

**NEW BUSINESS**

**Robert Young, County Highway Engineer/ Appropriation of \$5,000.00 from the Cumulative Bridge Fund 210-21040-000-213**

Mr. McVay, this is to cover the wet land mitigation cost for 2006.

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

**Amendment #6 / LaPorte County Employee Benefit Plan**

Mr. Harmon, we have an Amendment # 6 to the LaPorte County Employee Benefit Plan, questions to the board, their being no questions or comments.

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

Rick McVay, LaPorte County Highway Engineer/ Concord Vineyard Unit #5 Release of Bond

Rick McVay, this portion of the development is 70% complete and I am recommending that we release the bond.

Mrs. Huston made a motion to release the bond in the amount of \$14,131.25 for Concord Vineyard Unit #5, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

PUBLIC COMMENTS

Mr. Bart Lombard/ Access LaPorte County

Bart Lombard, I am the Director of Operations at Access LaPorte County. I am here to answer some questions and give an update. As you know, Access LaPorte County is the authorized to management the Government Channel, I have had questions from the County Auditor, their were some questions on the audio upgrade. We have been continuously addressing some of the upgrading issues and Access LaPorte came in after most of this equipment was purchased, so we are trying to work within the frame work of the equipment that was here upon our arrival. There was in the franchise agreement that the commission approve a language that was called a pass through for equipment purchase specifically for capital purchases and that was the agreement that Comcast would forward the monies on to Access LaPorte County. It was our hope at that time that we could use those monies for upgrade equipment and out top priority was the audio system some of this equipment is 20 years old. It was our understanding that we would receive the funds in February from Comcast but we have not received funds to date. I have been told that Comcast will not review this until July 1<sup>st</sup> even though there was an existing contract that was approve back in November and those funds should have been flowing. So, we have no money for any capital purchases and as you well know our contract that you have with the management side of it is strictly for the video taping. The money that we were to receive from both the franchise agreement that we had based our budget to operate on is lower; as well as well we have received no funds for capital purchases. It should be known that Mr. Harmon has done everything to expedite this matter. I am asking what direction to go from here; I have forwarded a proposal to Commissioner Harmon to ask you what it would take to move forward.

Mr. Harmon, what is the dollar amount that you would need.

Mr. Lombard, there are two estimates, I believe it was around 10 thousand dollars.

Mr. Harmon, what I will do is contact Mr. Gomolka to find out where we are at, if they are not going to honor the contract we still need to get the equipment updated. We may have to ask the council to appropriate the money then we could reimburse the council the dollars once we get that back.

Mr. Lombard, I wanted to take a moment for the record, I wanted to thank the entire commission because as a whole you have all been supportive of the Government Channel but on a special note to you President Harmon, you lead a three year fight to get this station up and running and along the way you did what you had to do to expedite this and I wanted to thank you.

Mr. Delco

Mr. Delco, I am bringing up the subject of drainage again on 300, here are some picture something needs to be done. The ditches need to be cleaned up and when it rains it is running over the fields.

Mr. Harmon, is that ditch covered by the drainage board.

Mr. Hager, no and Bob Young knows all about it and he will be out there as soon as he gets a chance and see what he can do. They may be able to cut the trees down but they cannot remove the stumps because if they pull the stumps they will pull our road.

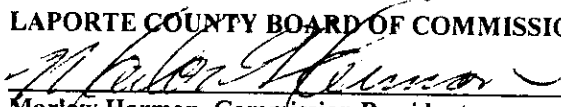
COMMISSIONER'S COMMENTS

None

ADJOURN

Commissioner Harmon adjourned the meeting at approximately 10:40 a.m...

LAPORTE COUNTY BOARD OF COMMISSIONERS

  
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Marlow Harmon, Commission President

  
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Barbara Huston, Commission Vice President

  
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William Hager, Commission Member

ATTEST:   
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Teresa Shuter, LaPorte County Auditor

(Approximately 25 people in attendance)

Barbara & Clayton  
Wilson King