



BOARD OF COMMISSIONERS

LAPORTE COUNTY

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Marlow Harmon, President

Barbara Huston

William Hager

LAPORTE COUNTY BOARD OF COMMISSIONERS

TUESDAY, AUGUST 1, 2006

The LaPorte County Board of Commissioners met in a regular session on Tuesday, August 1, 2006 at 6:00 p.m. in the LaPorte County Complex Meeting Room #3.

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

Commission President Marlow Harmon called the meeting to order at 6:00 p.m...

Commissioner Huston led the Pledge of Allegiance

APPROVAL OF AGENDA

Mr. Harmon, under "Old Business" section "D" remove Old U.S. 30 from the agenda.

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

APPROVAL OF MINUTES

Mrs. Huston made a motion to approve the minutes of July 18, 2006 as presented, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

WEEKLY REPORTS

The Commissioners review and sign weekly reports during the meeting.

CLAIMS

Mr. Hager, made a motion to approve Payroll Ending August 11, 2006, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Mrs. Huston, made a motion to approve Miscellaneous Claims in the amount of \$435,051.86, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

CORRESPONDENCE

None

REQUESTS

Patricia Pease, EMS Administrator/ Additional Appropriation in the Amount of \$4,780.35 from the General Fund

Mrs. Pease, I submitted a letter to the commissioners in reference to three ambulances purchased in 2003 from Wheel Coach. The paint is chipping and corrosion and there is a paint warranty which covers rust, the vendor has prorated the cost by miles we have on the vehicles and the \$4,780.35 is our cost.

Mr. Hager, made a motion to approve as presented and that it be taken out of Win Tax, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

OLD BUSINESS

Ziolkowski Construction

Jason Watts, we are requesting a change order #13 & 14, for \$42,904.00 and for \$9,431.00. Mr. Harmon, Mr. Watts this is in addition to the \$467,000.00?

Mr. Watts, that's for a different problem.

Mr. Harmon, the \$9,431.00 and the \$42,904.00.

Mrs. Huston, what is the \$42,904.00 for?

Mr. Watts, that is for the difference in chemical cleaning and the tuck pointing on the tower and when they scaled the drawings and there is more square footage and it is only off on the tower. And the \$42,904.00 our subcontractors when they built the scaffolding they had to build more scaffolding due to the scale being incorrect, the scaffolding was off almost nine (9) feet. These are two different issues that we are dealing with.

Mr. Harmon, Mr. Wall would you come up. Mr. Wall this \$42,904.00 is this the one you don't feel was justified either?

Mr. Wall, no the drawing clearly state that we based the drawings on field observation full documents and we did not have original construction documents. The drawings say that the existing dimensions take existing has precedence over the drawings and that was the contractor's responsibility to verify those.

Mr. Watts, there's no way anyone could determine that the tower wasn't correct or scale prior and we notified them once we found the problem and we knew there was a problem there and we just did not know where it was at until we could actually measure the whole tower. There is no way to measure or have the building surveyed prior to determine the actual range.

Mrs. Huston, your company did not actually erect the scaffolding.

Mr. Watts, no our subcontractors did.

Mr. Harmon, Mr. Watts under the recommendation of our attorney that it stipulates in the contract that all change orders would have to come thru the architect, Herceg & Associates I believe that is a reason for denial on this on our attorney's recommendation.

Mr. Watts, I have a question, if all change orders have to come from the architect, if that architect denies everything, is it possible for a change order to even come to you guys? Am I understanding that correctly?

Attorney Szilagyi, the change order can come here but it is suppose to come thru the architect, that's the way I read the contract.

Mr. Hager, made a motion to deny, under advice from attorney, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Mr. Harmon, the \$467,900.00 that also has to come thru the architect on the advice of our attorney.

Mr. Hager, made a motion to deny the \$467,900.00, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Robert Palm/ Final Plat Approval Stacy Minor Subdivision

Mr. Harmon, this is a five lot subdivision, 0521 East Highway 20, LaPorte County Kankakee Township zoned R-1 and is 14.39 acres.

Robert Palm, I am here for Robert and Gladys Stacy, this is a five lot minor subdivision and we are asking for final plat approval from the board. There are no new roadways involved; all of the lots have legal access from U.S. Highway 20.

Mr. Harmon, in the covenants lot 5 is 5.03 acres is there any chance at anytime that it will be subdivide again.

Mr. Palm, we have in the covenants that there are no further subdivisions allowed.

Attorney Szilagyi, the Ordinance also specifies once it is created as a subdivision you can't subdivide a subdivision.

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

Resolution / Fail and Severs Road

Mr. Harmon, we have a Resolution before us in reference to Lewis Bakery requesting permission to drive on Fail Road and Severs Road to the Industrial Park, until after the reconstruction of Boston Street is completed. I have a Resolution before us by title only unless there is an objection, hearing no objection.

THE RESOLUTION TO ALLOW LIMITED TRUCK TRAFFIC BY LEWIS BAKERY ON FAIL AND SEVERS ROAD.

Mrs. Huston, we had a resolution before us before with the truck traffic being allowed to ingress and egress Thomas Road Industrial Park off of Fail and Severs, would that actually cover this or is this or is this just a limited which we have to specify.

Mr. Harmon, the way the actual Ordinance reads at this time they can legally use Fail Road and Severs Road to ingress into the Industrial Park, the Resolution is to bring it out that this is only a temporary issues for Lewis Bakery and so that people would understand why there would be 25 to 30 trucks a day.

Mrs. Huston, I think it should be stated for the record that temporally means an entire year until they fix Boston Street.

Mr. Hager, I have a problem there because when they put in the pharmacy down there they were to do that intersection and did not do that intersection when they had told us they were going to do it. Now again, the City of LaPorte is giving us a hard time on parking and everything else and now they want us once again to help them out and I have a big problem with that.

Mrs. Huston, however Mr. Hager the original Resolution does say and we passed it that they can use Severs and Fail to actually go into Thomas Industrial Park. This gives them limited or temporary access and only ingress.

Attorney Szilagyi, trucks coming from Boyd Boulevard to the Rose Distribution Center so they are going to go there and come back but those that are shipping out of the distribution center there are going to have to use other means to do that.

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

Robert Szilagyi, LaPorte County Attorney/ Old US 30

Removed from Agenda

NEW BUSINESS

Ken Hecceg & Associates/ Courthouse Restoration Change order in the amount of \$290,575.64 requested from Riverboat

Mr. Wall, this is the amount for the fine quantities which they have allowances, as we talked about before the contractor is responsible for certain portion, this is where the county comes in and covers for additional repairs pilaster. This two-hundred and ninety also includes \$42,000 for windows, cleaning and flashing on the entrance addition. We recommend that this change order be approved and passed on to the council.

Mr. Wall, this is the formal change order.

Mr. Hager, made a motion to grant the request of \$290,575.64 to be taken from Riverboat account, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Lease Agreement/ LaPorte County Fair Grounds

Mr. Harmon, we have a lease memorandum agreement between the Board of Commissioners and the Agriculture Association, Lessors and the LaPorte County Sheriff's Department, Lessee. . Mr. Szilagyi, have you researched this agreement?

Attorney Szilagyi, I reviewed it with Mr. Herrbach. This is a seventy-four (74) year lease. The Sheriff's Department will pay for the insurance on the thirty-six by one-hundred ft building.

Mr. Hager, why would it be seventy-four years.
Attorney Szilagyi, he is only responsible for that one section of the building.

Mr. Hager, why would you need one-hundred foot long by thirty six feet?

Sheriff Arnold, we have had that room subdivide, one room is a security area, meeting room and the rear area is used for training the total space is thirty-six hundred feet.

Mr. Hager, they said when they build this building they said it was 4-H and all other organizations like Boy Scouts could use the building.

Sheriff Arnold, they could if I gave them permission to use it.

Mr. Hager, that is the thing would you give them permission, would that be allowed.

Sheriff Arnold, absolutely that would be allowed.

Mrs. Huston, Sheriff Arnold under state law isn't it or don't your deputies have to have to have so many hours a year now that you have to provide for them?

Sheriff Arnold, yes they do sixteen (16) hours.

Mrs. Huston, and in this building you can actually do that is that correct?

Sheriff Arnold, absolutely this will now give us a venue where we can have all the departments come in and provide the training for them as well.

Mrs. Huston, made a motion to approve the lease agreement between the Agricultural Association, the Sheriff's Department and the Board of Commissioners, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

Wayne Truex, Structural Department Manager, DLZ/ Proposed Change Order in the amount of \$14,500.00

Mr. Truex, change order for the walk-way for the west ramp that was not included in the major ventilation, in the course of removing the panels, the panels were shattering. They found that the pitch on the ramp surface was pitching water back in the space between the tunnel and the walkway area. We originally we planned to leave that walkway surface in place so we didn't have any game table in place for that, so I asked for a price request from Larson & Danielson that work is not preformed yet so I am trying to get your approval for payment.

Mr. Harmon, in installing a new ramp and you are going to add the heating system also?

Mr. Truex, this would include the heating system within that space, it would be within the existing walls that are there.

Mrs. Huston, Mr. Truex is this ramp at the rear.

Mr. Truex, yes it is on the left side of the employee parking area.

Mr. Harmon, how will this solve the problem if you are just going to put new concrete.

Mr. Truex, the existing concrete is pitched slightly back towards the tunnel and there is a void there and as a part of this we are filling that void.

Mrs. Huston, made a motion to approve the change order in the amount of \$14,500.00, second by Mr. Hager.

Mrs. Huston, I do have a question are there any other unforeseen.

Mr. Truex, as part of the main ramp surface again the panels were shattering and so we revised the edge additions there and there is a little bit more then we asked for. The Commissioners asked for a price for a stairs down to the pit area that price I don't have back yet.

Mr. Harmon, we can't get approval of the money for another month.

Mr. Truex, right but if I know if you are going to be if this is a reasonable number for you we can go ahead and repair this.

Mr. Harmon, no other question to the board.

Motion carried with a roll-call vote 3-0.

PUBLIC COMMENTS

Judy Keller, Deputy Probate Clerk for Superior Courts 1 and 2. We have a situation for the last three (3) weeks it has ranged anywhere from 82 to 88 degrees in our office. My question is will you give us some consideration and have the air conditioners vented out of the window the conditioners are vented into the wall keeping the hot air in.

Mr. Harmon, the machines Mr. Behler purchased are they working?

Ms. Keller, no

Mr. Harmon, we will address this issue at 8:00 a.m. tomorrow morning.

Kankakee Hunt Club

Remonstrators against the Kankakee Hunt Club

Kathryn Jackson, Mrs. Doms, Robert Shei and Shawana Horne

Each of the above remonstrators spoke on there reasons that the are against the Hunt Club and their disagreement with the Board of Commissioners decision not to take any action against the Hunt Club.

Mr. Harmon, appreciate your comments and I agree with a lot of what you said there, the unfortunate thing we have to look at now according to what our attorney has researched. The state statute which limits the authority of the county regarding shooting ranges, I.C. code allows counties to adopt zoning ordinances regulating shooting ranges, however it does provide a separate non-conforming or grandfathering provision in that statute. The attorney and two commissioners traveled down there and went thru the place and the shooting stands are in place, which means that there is an existing shooting range down there. The way this looks at this point this Board of Commissioners will not act on this at all and we will allow that Hunt Club to be there because they are an existing shooting range there and they have not gone beyond the boundaries of there property.

Mr. Hager, the Hunt Club has records of where the steel mills had paid for there members to go out there to trap shoot.

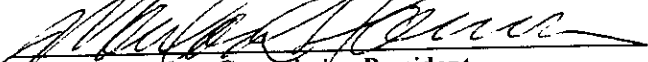
Attorney Szilagyi, somewhere in 1982 there was shooting there, the first ordinance that says that shooting ranges are prohibited is in 1998, and all three of these ordinances don't mention anything about a shooting range at all. The interpretation because it was not in that ordinance it was allowed, in fact in the tape of the BZA hearing in 1985 there was talk where the shooting range was not the issue, it's there it's going to happen were only talking about whether its going to be the tavern or Hunt Club. I can only assume that the shooting was going on at that time, now if it becomes a non conforming use it is and it's an illegal non-conforming use as of 1998 when the ordinance was adopted. The state statute says local government unit may regulate the location to operate safety or concerns of the shooting range; we don't have anything on that other than the location. The statute basically states that is what your ordinance was back in 1996 and it is going to be there and that's the end of story.

COMMISSIONER'S COMMENTS

None

Commissioner Harmon adjourned the meeting at 7:30 p.m...

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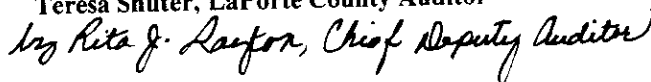

Marlow Harmon, Commission President

Barbara Huston, Commission Vice President


William Hager, Commission Member

ATTEST:


Teresa Shuter, LaPorte County Auditor


Rita J. Larson, Chief Deputy Auditor