

# BOARD OF COMMISSIONERS

## LAPORTE COUNTY

### Office Annex

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William Hager,  
President

Michael Bohacek,  
Vice President

Barbara Huston,  
Member

### LAPORTE COUNTY COMMISSIONERS

TUESDAY, MARCH 4, 2008

To LaPorte County Board of Commissioners met in regular session on Tuesday, March 4, 2008 at 6:00 p.m. in the LaPorte county complex Meeting Room #3.

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

### PLEDGE OF ALLEGIANCE

Mrs. Huston led the Pledge of Allegiance.

### APPROVAL OF AGENDA

Mr. Hager we have under "Correspondence" "D" we have Nipsco, Shaw Friedman and "New Business" "E" Ziolkowski Settlement". Mrs. Huston made a motion to approve as amended, second by Mr. Bohacek. Motion carried with a voice vote 3-0.

### APPROVAL OF MINUTES

Mr. Bohacek made a motion to approve the minutes of February 19, 2008 as presented, second by Mrs. Huston. Motion carried with a voice vote 3-0.

### WEEKLY REPORTS

Commissioners review and sign the weekly reports during the meeting.

### CLAIMS

#### Payroll

Mrs. Huston made a motion to approve Payroll Ending March 7, 2008, second by Mr. Bohacek. Motion carried with a voice vote 3-0.

#### Miscellaneous Claims

Mr. Bohacek made a motion to approve Miscellaneous Claims in the amount of \$100,645.40, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

### CORRESPONDENCE

#### Jane Bernard, Director LaPorte County Animal Shelter/ Awards

Mr. Hager we want to recognize Jane Bernard for her outstanding work for the Indiana Veterinarian Medical Association we applaud you for your outstanding work.

#### Tim Morgan, Superintendent LaPorte County Parks/ Awards

Mr. Hager, Tim Morgan has been named Outstanding Professional for the State of Indiana Parks and we are very fortunate to have such talented people in this county.

Robert Young, Superintendent LaPorte County Highway/ President Indiana Association of County Highway Engineers & Superintendent

Mr. Hager, Bob Young has been named President of the Indiana Association of County Highway Engineers & Superintendents and I would like to thank him for taking that job on.

Mike Quinn Chairman of the Board of the State of Indiana

Mr. Hager, Mike Quinn has been elected Chairman of the Board of Weights and Measurers for the State of Indiana.

REQUESTS

Wanatah Scarecrow Festival/ Request \$500.00 Tourism Funds

Mr. Bohacek made a motion to approve \$500.00 from Tourism Funds, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Wanatah Area Chamber/ Request \$500.00 Tourism Funds

Mrs. Huston how is this different then the Wanatah Scarecrow Festival?

Mr. Bohacek it is the Town wide Garage Sale Days.

Mr. Huston motion to approve \$500.00 from Tourism Funds, second by Mr. Bohacek. Motion carried with a voice vote 3-0.

LaPorte County Agriculture Association/ Request \$1,000.00 Tourism Funds

Mr. Bohacek made a motion to approve \$500.00 which is the customary amount, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Hanna Historical Society/ Request \$500.00 Tourism Funds

Mr. Bohacek made a motion to approve \$500.00, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Victory City Festival Kingsford Heights/ Request \$500.00 Tourism Funds

Mr. Bohacek made a motion to approve \$500.00, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Paul Young, Director Emergency Management/ Emergency CCD Funds for Siren in the amount of \$17,955.65

Mr. Young, we have put a lot of money in trying to keep it repaired and I think it is time to take it down and use it for parts and put up a new one up, it is an emergency because we are coming into tornado season.

Mr. Bohacek how long do they last?

Mr. Young sometimes they last ten or twenty years and sometimes they last five months.

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

Robert Young, LaPorte County Highway Superintendent/ Amend Frost Law Ordinance

Mr. Young, we have had trouble with the Frost Law Ordinance does not have enough teeth in it and we also have trouble on how to enforce it, we are asking that the last two pages be amended. You are looking at the original ordinance from 97 and it was amended once in 2002 and now we are asking for new amendments. This is basically stating some fines to be leveled if people violate the Frost Law according to the weights we post on the signs, it also states in here that we can charge them a fee to issue them a permit, the first time offender is a \$500.00 fine and the second time is a \$1,000.00 fine and if they attempt to run without a permit it is a \$5,000.00 fine and that is basically "State Code" we followed and just changed the code numbers to our County Ordinance number.

Mr. Bohacek, a Class "C" infraction, what is the penalty?

Mr. Szilagyi, the last statute I remember was \$2,500.00.

Mr. Bohacek I am looking for the penalty for the weight restriction because it appears that it won't trigger until you hit five-thousand pounds over limit.

Mr. Young, I don't see why you couldn't vote it in tonight and then reconsider the amendments later.

Mr. Szilagyi you already have the frost law, one you have a Class "C" the County has no authority to have a Class C infraction, you have no power at all to issue an infraction that is a state statute.

Mr. Hager let him put the Frost Law in and we will turn it over to Mr. Szilagyi to redo the Ordinance and we will pass it at the next meeting.

Mrs. Huston made a motion to pass the Frost Law Ordinance and put it into effect, with the recommendation that this along with Mr. Young's recommendation be turned over to our attorney for further scrutiny, second by Mr. Bohacek. Motion carried with a voice vote 3-0.

Mr. Young, I would also like to add that Clay Turner, Director of the Solid Waste District has agreed to corporate with the recycle trucks.

#### Attorney Shaw Friedman Nipsco

Mr. Friedman I am pleased to report that refund credits are showing up on the bills of Nipsco customers throughout Northern Indiana on the case that was led by LaPorte County, the Purchase Power Case. I have given you a copy of the residential bill and a local manufacturing firm that shows the purchase power refund credit on it, everyone should check their own bills and should find a credit on the February, March and April bills. You can all be proud, County Government is making a difference, this is a perfect example of the County Commission being resolute in trying to stand up for utility customers. This Commission has been firm on this issue and as you all know our cost for participating in these cases are reimbursed to the county fully, we will have enough money coming in from this case to help cover the county taking a lead role in the upcoming rate case.

Mr. Hager, thank you very much and we really appreciate what you have done.

#### OLD BUSINESS

##### Attorney Robert Szilagyi, Ordinance to Prohibit Smoking

Mr. Szilagyi, I have drafted the ordinance as you requested and it provides for no smoking on the walkway between the Courthouse and Complex or 25 feet of any public entrance of any Courthouse or County Office Building, it is one-hundred fifty dollars payable to the Ordinance Violations Bureau.

Mr. Hager, we also have a letter of support from the County Council and also from Paul Trost of the Health Department.

Mr. Hager reads the Ordinance on first reading by title only as follows:

#### ORDINANCE TO PROHIBIT SMOKING

Mrs. Huston made a motion to approve on first reading by Title only, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

Mrs. Huston made a motion to suspend the rules and read on second and final by Title only, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

Mr. Hager reads the Ordinance on second and final reading by Title Only as follows, motion carried 3-0.

#### ORDINANCE TO PROHIBIT SMOKING

Mr. Hager this will be known as Ordinance 2008-02

Mr. Bohacek effective April 1<sup>st</sup> with the passage of the no smoking policy we are also adding the drug Chantix has been added as an approved drug to help those to stop smoking.

Attorney Robert Szilagyi, Ordinance Military Leave Insurance

Mr. Szilagyi I have given you a copy of two policies and I think the one you want is the second one which provides there will not be coverage by the County while the individual is active for more than 60 days because they are covered by Tri-Care and the only thing you would have a policy that would cover you for the first 30 days then the military would kick in after that. Then you would kick in as long as they provide notice 30 days prior to their termination of duty, so that way they can come back and be covered. Mrs. Shuter has talked to the insurance carrier and they will cover the individual even if they have a problem while on Tri-Care, our County Service Officer has been all over the County talking to various health care providers and worked out a list so everyone is covered. This is going to save the County a lot of money but also protect the individual and also provides that the county will pay the difference between their active duty pay and their county pay if their active duty pay is less than their county pay and if the active duty more than their county pay then they won't get anything. They need to contact the Human Resource Director of the activation orders and the military pay.

Mr. Bohacek made a motion to approve Ordinance #2 with the following change under item #1 I would like to make it 30 days.

Mr. Szilagyi our policy would be that there are cover the first 30 days, an individual and his family are not covered by Tri-Care until after he serves 30 days, so the County Policy would be that individual's premiums are paid for that first 30 days, so they are still covered by County insurance after the 30 days they become part of Tri-Care. Now if I say 60 days, some people go on duty for 30 days and then they come back.

Mr. Bohacek who makes that insurance premium up for the employee, does the employee pay 17% of the cost of the plan, does the county going to be paying that or is the employee going to be paying that?

Mr. Szilagyi, I would assume at this point and time it would be the County, it's your call.

Mr. Bohacek, Mr. Wantuch how many employees have we had that have been deployed for less than 60 days?

Mr. Wantuch, I would not know, nobody hands me a list of who is activated or what went on and I have not seen their orders.

Mr. Hager, Mrs. Leon do you want to address this?

Mrs. Leon, the only thing I know right now that there are three that are on leave now.

Mrs. Huston, there are three that have not been treated the same, is that what you are saying?

Mrs. Leon, yes.

Mr. Szilagyi, you are going to have to make a decision when it comes to paying premiums for the first 30 days and the last 30 days because if you have an employee that is making more in the military, then there is no county pay to deduct the premium from. The county will have to pick it up on its own, if they are going to pick it up then they are going to have to pick it up from some body who's still getting part pay from the county because the military pay is less.

Mr. Bohacek, then they can make the county whole when they return.

Mr. Szilagyi, that's up to you how you want to do that, I will have come up with another ordinance or you can just set up a policy.

Mr. Bohacek, I think for consistence the employee they are on the county insurance are purpose is to make them whole, which means that we make them whole with their pay and their benefits and that means if they were still county employees they would be paying their percentage of the health insurance. We are treating them pay wise

like they are still a county employee, for the same or better so there fore I think that they should pay that portion of the health insurance that they would as if they were currently employed.

Mr. Bohacek, I am going to make a motion to pass this ordinance as presented, then also Mr. Szilagyi could you meet with Mrs. Leon and make the changes as she sees fit and also the change on the employee payment portion and we can make an amendment on this later or can just do it by policy, second by Mrs. Huston on Military #2. Motion carried with a roll-call vote 3-0.

Mr. Bohacek, made a motion to waive the rules and read the ordinance on second and final reading, second by Mrs. Huston. Motion carried with a voice vote 3-0.

#### ORDINANCE REGARDING BENEFITS FOR EMPLOYEES ON ACTIVE MILITARY DUTY

Ordinance #2008-04

##### Rick McVay, LaPorte County Highway Engineer/Open RFP'S Bridge Inspection

Mr. McVay this is for the next round of bridge inspection

Rumschlag Technical Services/ Butler, Fairman and Seufert/ Janssen & Spaans Engineering, Inc./ Clark Dietz Engineers/ Beam, Longest & Neff/ USI Consulting, Inc./ United Consulting/ Bernard-Lochmueller & Associates, Inc./ Frost Engineering and Consulting/ DLZ Indiana, LLC/ RQAW Consulting Engineers & Architects.

Mrs. Huston made a motion to turn the RFP's over to Mr. McVay for his review and recommendation, second by Mr. Bohacek. Motion carried with a voice vote 3-0.

##### Patricia Pease, EMS Administrator/ Ambulance Bid Openings

Mr. Bohacek made a motion to close all bids for Ambulances, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Mr. Szilagyi, the first one is Alexis in the amount of \$129,521.13 for one ambulance, next is Med-Tech in the amount of \$113,441.00 and that is all of the bids we have received.

Mrs. Huston made a motion to turn the bids over to Mrs. Pease for her review and bring her recommendation at our next meeting, second by Mr. Bohacek. Motion carried with a voice vote 3-0.

##### Rick McVay, LaPorte County Highway Engineer/ Johnson Road Recommendation for Engineering Firm

Mr. McVay I did get the approval from INDOT to proceed with the award, I did give you the top five firms and how we scored them and all the firms are capable of doing the work but Schneider Corporation came out on top and they know what we want done and my recommendation is that we go with Schneider Corporation.

Mr. Bohacek, I would like to urge Schneider, if we go along with Mr. McVay's recommendation that when hiring subcontractors to work on this project work to employ local subcontractors for surveying and any other engineering services that they are going to need.

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

#### NEW BUSINESS

##### Attorney Robert Szilagyi, Resolution Encouraging the Issuance of Provisional Tax Bills

Mr. Szilagyi, this is a resolution that you asked me to look at and I talked to Mr. Layton about it as well as the Commissioners it would be an issuance of provisional tax bills. This will allow the payment of tax bills on a monthly basis, the Treasurers Office has been doing it but a lot of people don't know it. You may want to talk to the Treasurer about adopting some procedure so everybody knows about it.

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

Mrs. Shuter this will be known as Resolution 2008-04

Attorney Robert Szilagyi/ Notice of Public Hearing on Sale of County Excess Real Estate

Mr. Szilagyi, we need to publish notice for some property that we have and we need to send notice to adjoining property owners we like to have the bids in before your meeting on the 1<sup>st</sup> of April.

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

Rick McVay, LaPorte County Highway Engineer/ Sub-Division Ordinance Amendments (revised)

Mr. McVay what is in front of you is amendments I am suggesting you consider for the Subdivision Ordinance. LaPorte County is seeing development coming in and I think we are going to see more in the future, I think we need to get a handle on a few things that the current ordinance is lacking. This is going to be followed up with another amendment looking into what they call a conservation design.

Mr. Hager, we have to pass this on to the Plan Commission.

Mr. Bohacek made a motion to pass this on to the Plan Commission, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Mr. Bohacek, Rick these other changes your talking about making, when can you make a recommendation on that?

Mr. McVay I would like to spend some time on it next week.

Mr. Szilagyi if they come in and meet all the requirements they have to grant it but there has been a recent case looking to the type of land that is out there and at the other developments that are out there and how close it is to an incorporated area, that gives the Plan Commission more of a standard to say no even if it is R1, R2 or R3 we are not going to allow a subdivision to go there.

Mr. Bohacek can you coordinate that with Rick and we had spoke of the process of dry pipe subdivisions for sewer and water, this is going to be a living document for a while can you start making some additional changes on that.

Commissioners Appointment to Property Tax Assessment Board of Appeals

Mr. Bohacek made a motion to appoint Joie Winski, second by Mrs. Huston. Motion carried with a voice vote 3-0.

Attorney Robert Szilagyi/ Ziolkowski Settlement

Mr. Szilagyi, this was sent to the County Council last week and they approved the \$375,000.00, Ziolkowski has filed suit, it is a contract dispute. They were suing for 1.1 million dollars, if the court found that it was unforeseen circumstances then we could have been liable for 1.1 million, we worked out in mediation settlement and Mr. Cooley and Mrs. Huston were there and talked to Mr. Favors and settled all claims for \$375,000.00. The mediator said it would be between 6 and 7 hundred thousand dollars for a jury to come back because they did good work and won awards for the building and the jury may have some sympathy on that.

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

PUBLIC COMMENTS

Mr. Yagelski, LaPorte County Council President on behalf of the County Council I would like to speak, Commission I appreciate all of the joint ventures that we have been working together cooperative the Smoking Ban is appreciate and the Military Leave. I have been working with the Highway Department and I am also the representative of the Highway Department and with the issues brought up here with the freeze law, what other areas due is demand that smaller rounds back and forth and that can be taken care of. I do appreciate Clay Turner's cooperation with this, if we do have this ordinance its one of those things, legal notice is always good but this needs to go out to the papers and let people know. The other thing I wanted to bring up is the LUST Site and we need to have a joint effort and see if there is something we can work out because it is a long term project.

Mr. Hager, I think we should turn this over to Mr. Szilagyi and Mr. Friedman to look into that and when Mrs. Huston and I went down state and they were to start kicking in and so far they have done anything and they keep wanting more and more money and they are bleeding us.

Bernie Vulcan you had someone commenting on outdoor wood burners and he was very negative towards them, I would like to present an opposing view. We have burned wood all of our lives since 75 and this past year we put in an outside wood boiler we do not have any more smoke with this outdoor wood boiler then we did when we were burning wood in the house. I think the key is to get the stack up high enough; we have our stack about 15 feet above the ground.

Mr. Hager, we do have an ordinance in where they do have to have the stack up there and I still say they should not be in subdivisions.

#### COMMISSIONER'S COMMENTS

Mr. Hager, Mr. Wantuch's mother passed away yesterday and I want to give condolences.

Mr. Bohacek, it has come to our attention that we have some county vendors that have some keys to certain County Offices and I am going to ask Courthouse Security to contact the elected officials and other departments and if that is the case and if so get those keys secured again.


#### ADJOURN

Mr. Hager adjourned the meeting at 7:00 p.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
William Hager, President

  
\_\_\_\_\_  
Michael Bohacek, Vice President

  
\_\_\_\_\_  
Barbara Huston, Member

ATTEST: \_\_\_\_\_  
Teresa Shuter, Auditor