



BOARD OF COMMISSIONERS LAPORTE COUNTY

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*Barbara Huston
President*

*Mike Bohacek
Vice President*

*Ken Layton
Member*

LAPORTE COUNTY COMMISSIONERS

Tuesday, November 3, 2009

The LaPorte County Board of Commissioners met in a regular meeting on Tuesday, November 3, 2009, at 6:00 p.m. in the LaPorte County Complex Meeting Room #3.

CALL MEETING TO ORDER

Mrs. Huston, President, called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Mr. Mike Schultz led the pledge of allegiance.

ROLL CALL

All present

APPROVAL OF AGENDA

Mr. Layton, I would like to add Item G under New Business, Support Council's Position on Hiring Freeze for 2010.

The Chair made a motion to approve the agenda as amended, seconded by Mr. Layton, motion carried by voice vote 3-0.

APPROVAL OF MINUTES

Mr. Layton made a motion to approve the minutes of October 20, 2009 as presented, seconded by Mr. Bohacek, motion carried by voice vote 3-0.

WEEKLY REPORTS

The Commissioners review and sign the weekly reports during the meeting.

CLAIMS

Payroll Ending November 13, 2009, Mr. Bohacek made a motion to approve, seconded by Mr. Layton, motion carried by roll call vote 3-0.

Miscellaneous Claims---\$244,228.48, Mr. Layton made a motion to approve as submitted, seconded by Mr. Bohacek, motion carried by roll call vote 3-0.

PUBLIC COMMENTS

Mr. Earl Cunningham, 6311 W. Shiva Dr., LaPorte, IN. I am the liaison to the judges and magistrates and I met with them this morning. I want to thank Commissioner Layton for being there as well. I think the most important item was that immediate repairs have to be done and Mr. Layton was able to work things out very, very, quickly. We talked at our council meeting about the United Way and I would like to share with you a poster that they have out that features the mayors of Michigan City and LaPorte. Next year United Way would love nothing more than to have the two mayors and three

commissioners on one poster to create the unified effort of the two major cities and the council and commissioners to get back involved. The year 2005 was the last year that LaPorte County employees donated to the United Way. We have taken some steps to do that. I think it is critical that we as leaders, the three commissioners and seven council members, all get involved. If 500 employees would give \$2.00 per pay check it would be approximately \$26,000.00 to United Way. We would encourage you to be involved. It is a very critical time because of the economy in this area. For some people it is week to week and for some people it is day to day. The groups that are involved with funding from United Way are on a shoestring just like we are. I would thank you very much for any effort to encourage our department heads.

Mr. Bohacek, I have a comment about being able to donate to United Way. If you want all of your dollars to go to one specific agency, you can ear mark all of your monies that you donate to go to that one agency. For some reason, if you do not like all of the agencies that United Way supports you can pick one, or two, or three and ear mark them for your donations which is kind of unique.

DEPARTMENT HEAD COMMENTS

Mr. Matthew Bernacchi, 385 W. Timberidge Road, LaPorte, IN. On tonight's agenda you have a resolution for Kingsbury Industrial Park. I am also a county councilman and a member of the county plan commission. Back in September the county council appropriated \$6,000,000.00 to match the state of Indiana's \$3,000,000.00 and the CSX rail lines \$3,000,000.00 for a total of a \$12,000,000.00 investment in the Kingsbury Industrial Park. The LaPorte County Council strongly encourages the Commission's approval on tonight's resolution. Also, last Tuesday, we gave the blessings to the KIP project. It is properly zoned, there is sewage and water both out there. It looks to be a great idea and everything seems to be rolling in the right way. Hopefully, this will bring tax dollars, new jobs and a brighter future for LaPorte County.

Mr. Jeff Wright, LaPorte County Highway Engineer, I have a contract for the construction inspection for Shultz Road. I just need signatures, everything is in place. We are still waiting on notice to proceed. The project has been milled, it is just waiting to get paved. We have checked it periodically and filled in pot holes. The residents are getting a little punchy. We are just asking for patience until the paperwork makes its way through the process. In the interim, we don't want the contract to hold up the paperwork.

Mr. Bohacek, the notice to proceed is contention upon getting the construction inspection contract completed?

Mr. Wright, yes, all the paperwork has to be in place. Typically, it takes about four weeks to get a notice to proceed after the project has been let. The project was let October 21, 2009. Four weeks puts us at about mid November. We are hoping to have this project done December 1, 2009. It is not a long section, about a mile and a half. It will take a couple of days to get it paved.

Mr. Layton, that should coordinate with the bridge project on 400 North. That is supposed to be done by Thanksgiving.

Mr. Wright, the consultant is Lockner. They have two residents here in LaPorte County, John Smith and Eric Wilson. The head company is in Chicago and the branch office is in Highland.

Mr. Bohacek, do we have any LaPorte area firms based here that also looked at the qualifications?

Mr. Wright, Hendricks is local and they are qualified, they did not submit. Haas is local but they are currently working on bridge 34.

Mr. Bohacek, I look forward to seeing some information about Lockner to see what they have done in the past.

Mr. Layton made a motion to concur with the engineer and sign the contract, seconded by Mr. Bohacek, motion carried by voice vote 3-0.

Sheriff Michael Mollenhauer, I want to report on two things. There will be a town hall meeting tomorrow night in Westville at the America Legion on Flynn Road at 6:30 p.m. The second thing is, we had our first annual trick or treat and safety program for Halloween in the park by the depot. It was

from 4-6 on Halloween night. It went extremely well for our first one. We had about 400 children and we plan on making it an annual event. Mr. Scott Bell, jail commander, coordinated the event and it went very well and was successful.

CORRESPONDENCE

None

REQUESTS

Reschedule December 1, 2009, Commissioner's meeting

Mr. Layton, in lieu of the fact that the Indiana Association of County Commissioner's annual meeting is December 1, 2009 in Indianapolis, I would like to make a motion to move our meeting from the first to the eighth of December. Mr. Bohacek seconded the motion, motion carried by voice vote 3-0.

OLD BUSINESS

None

NEW BUSINESS

Compensation Agreement in Lieu of Statutory Fees Between Michael F. Mollenhauer and the County of LaPorte

Sheriff Mollenhauer, this is a repeat from last year. I was before the county council last week and approved regarding my salary for 2010. I believe you may have the contract in front of you, Attorney Braje was taking care of that matter. It mirrors what last years was, there has been no change in salary from last year for the sheriff.

Mr. Braje, the substance part of the agreement is fine. The substance part being the compensation in those issues. There are some statutory requirements that were not in the old contract that need to be put in the new contract. We have drafted everything except, we tried to connect with the sheriff today about an issue concerning how meals are served. That has to be in the agreement. We don't have any problem with the commissioners approving this subject to those revisions placed in the agreement.

Mr. Layton, is that agreeable with the sheriff?

Sheriff Mollenhauer, yes, I didn't get to talk to Mr. Braje today, I was at a training exercise in Starke County and then a meeting in LaPorte.

Mr. Bohacek, would you like to look over a copy and bring it back at our next meeting?

Sheriff Mollenhauer, I would just as soon get it taken care of now. You are referring to meals?

Mr. Braje, the statute requires a number of different things to be put in. There is an auditing provision that is contained in the agreement that wasn't in the past agreement. There is also a provision in the statute that describes the manner in which meals are served. Once we put that language in there, it doesn't change the agreement. It provides those necessary statutory provisions.

Mr. Bohacek made a motion to approve the agreement pending the attorney's changes, seconded by Mr. Layton, motion carried by voice vote 3-0.

Matt Reardon, Economic Development/Resolution of the Board of County Commissioners of LaPorte County, Indiana Approving Certain Matters in Connection with the Kingsbury Industrial Park Economic Development Area

Mr. Matt Reardon, let me introduce part of the Economic Development Team, Tim Gropp and John Regetz. On September 21, 2009, the county council approved the allocation of \$6,000,000.00 from the Major Moves Fund for Economic Development projects. Subsequent to that on September 22, 2009,

the county's Redevelopment Commission approved a preliminary resolution plan area and allocation area for the Kingsbury Industrial Park with a location at highways 6 and 35. On October 27, 2009, the Plan Commission approved and acknowledged that we were in accordance with the master plan and the purpose of the area is simply stated to create an allocation area for the purpose of funding public improvements and recapturing funds that would be paid from Major Moves fund back to the county. The project is again, the Kingsbury Industrial Park which is zoned for the purpose set forth of approximately 2,846 acre park with an estimated 1800 acres for development and the targeted project will take up about 800 acres. About 18 months ago, with the interaction of the County Commissioners, the County Council, the Redevelopment Commission, Plan Commission, the Indiana Economic Development Corporation, the Halfwassen Group, ICS Logistics and CSX Transportation, the discussions began. This investment should move forward as intended here, it is a \$15,000,000 investment into a 500,000 square foot refrigerated warehouse, creation of 135 full time jobs, creation of 500 transportation jobs, and certainly construction jobs associated with the development of that facility. The amount of budget for the project, the county's Major Moves fund were used to leverage another \$6,000,000 from both the state and the private sector for public purpose. What we are talking about here is improvements to 3.8 miles of Hupp Road and four miles of rail access off of the CSX rail line. The time line set forth here is, again, we are here before you for consideration for approval of the plan as approved by the Plan Commission to move forward on November 11, 2009, and a public hearing would be heard on November 24, 2009, regarding the creation of the allocation area.

Mr. Bohacek, this is going to involve the creation of a TIF district. Just so people understand how a TIF district works, we get a lot of questions about them, this is only going to require tax reimbursement for the new development facility, the ICS warehouse will be paying to the TIF, and new additional development within that district will be paying into the TIF. The existing businesses there will not be paying into the TIF.

Mr. Reardon, it will be expressed to as many parties involved that this TIF will be retired as early as possible to pay back the \$6,000,000 as early as possible.

Mr. Bohacek made a motion to approve, seconded by Mr. Layton, motion carried by voice vote 3-0.

Resolution #2009-07

Matt Reardon, Economic Development/Memorandum of Understanding

Mr. Reardon, I believe Attorney Braje has had a chance to review the Memorandum of Understanding and just briefly, this is a document entered into between Indiana Economic Development Corporation, LaPorte County Commissioners, LaPorte County Council, the Halfwassen Group, LLC, ICS Logistics and CSX Transportation, Inc. What we are doing is moving the process along here and the parties are acknowledging working together and spelling out the roles and responsibilities of all the parties. I ask that the commissioners consider approving this document subject to seeing the final draft and the watch word here is the deadline is November 30, 2009. This will also be placed on the council's agenda for the meeting of November 23, 2009.

Mr. Bohacek made a motion to approve based upon seeing the final document and allowing Commissioner Huston to sign on behalf of the Board of Commissioners when such final document is presented, seconded by Mr. Layton.

Mr. Braje, we have reviewed the agreement and we have been in contact. There are some current blanks open and with a project of this size, we always feel uncomfortable with this much money involved. If the commissioners approve it with that reservation, we have no legal reason not to consider it.

Mrs. Huston, we have a meeting on November 17, 2009, it is still in plenty of time for Mr. Reardon to get on the council's agenda. Is there any reason why we shouldn't wait as we had discussed earlier?

Mr. Braje, I guess it is just a question if there are other impediments in scheduling of this thing that will make it difficult if it is not done by the 17th.

Mr. Bohacek, my concern is that we have a developer, multiple partners here and this project has a significant positive effect on LaPorte County. I think we need to take a leadership role. Our attorney has given us good advice, the Economic Development consultant and his group has agreed to allow us a

secondary review of the document. I want to make a motion that if the document as presented by Mr. Reardon is acceptable to our attorney based on the concerns he has already made, that we pass this subject to that review. I think what we are talking about are some minor formalities and points of clarifications.

Mr. Braje, they are minor in the sense that we don't anticipate any problems. We are not overly concerned about the legal aspects of the document. The execution of the document is a political decision and not a legal decision. The legal decisions are making sure the document is fully prepared and does not change the meaning of the document.

Motion carried by roll call vote 3-0.

Radtke and Associates, Inc./Springfield Sewer District

Mr. Gary Radtke, owner of Radtke & Associates, Tony Ekovich could not make it, he is President of the Springfield Regional Sewer District. I have three items to talk about. Item number 1, a new appoint is needed to the Springfield Regional Sewer District Board by the Board of Commissioners. That is because the establishment of the district requires that each treatment city that treats the sewage has representation. The board is requesting that Al Walus from the Michigan City Sanitary District be appointed, or his representative, to the board.

Mr. Bohacek made a motion to appoint Al Walus to the Springfield Regional Sewer District Board, seconded by Ken Layton, motion carried by voice vote 3-0.

Mr. Bohacek, as long as we are on this topic, I am going to be resigning from the Springfield Regional Sewer District Board. The Commission needs to make a new appointment at the next meeting.

Secondly, the Springfield Regional Sewer District is now serving the whole county and they are in the process of changing their name to LaPorte County Regional Sewer District. This is down in Indianapolis for review by IDENM and that should be coming momentarily.

Item three, the district is looking for some help in the legal portion of doing work for the district. I was wondering if there is any possibility of the county attorney helping. The district has no money and no way of getting money and it is difficult to hire attorneys when you can't pay them.

We have developed an agreement between the Michigan City Sanitary District and the Springfield Regional Sewer District. I was involved in it; it is a 13 page document which started about ten years ago. That agreement was modified quite often and has been signed by the Michigan City Sanitary District and Springfield Regional Sewer District. The Springfield Regional Sewer District now has the right to empty sewage into Michigan City Sanitary District. There has been a 22 page agreement between the Springfield Regional Sewer District and the Renaissance Academy. That we hope will be approved at the Friday meeting of the Springfield Regional Sewer District. It shows that the Academy basically will operate this system until it gets turned over to the Springfield Regional Sewer District. The design of the low pressure sewer system was designed with the capacity to serve all present homeowners and businesses all the way to Friendly Acres Mobile Home Park. The potential connections, we are now negotiating with Speedway and they have agreed to connect. There is no requirement to connect and Springfield Regional Sewer District basically stated there is going to be no forced connection when Springfield Regional Sewer District takes over. In the agreement it tells what it costs to connect and how the process works. Radtke and Associates, Inc. will be operating the sewer system and our staff will be available 24/7. The academy would love to turn over this sewer project to the Springfield Regional Sewer District as soon as possible. The operations for them are quite different than the districts operations. The operations of the district will be concerned with connections, rules and regulations and ordinances needed. There is a lot things the Springfield Regional Sewer District needs to address where the academy is not interested in addressing those items. The system is operable. I have worked on this project for 15 years and I am very proud of what has been accomplished.

Mr. Layton, you stated in your oratory that there would be no mandatory hook up. If it becomes part of the Conservancy District doesn't state law require that if it is within 300 feet it is mandatory?

Mr. Radtke, there are different interpretations of that. I have been working on quite a few sewer projects and it is not mandatory. There is actually interpretations about whether it's a failed system

and the county has an ordinance right now that states that if it is more expensive by 150% to connect to the district instead of putting in their own septic system they do not have to. It is not required.

Mr. Bohacek, it is also one of those issues where the sewer authority "may" require a hook up but not a "shall" require to hook up.

Mr. Layton, I know there is a statutory requirement out there under conservancy districts that if you were within 300 feet of an operating conservancy district you are required by statute to hook up to it.

Mr. Radke, again, you have your own ordinance that says you don't have to.

Mr. Layton, I don't know if a county ordinance would supersede a state statute.

Mr. Radtke, I am not an attorney and I am not going to go there.

Support County Council for Voluntary Furlough Procedures

Mr. Layton, I support the endeavors of the Council. I haven't seen anything in writing. It was verbally presented at their meeting. I support the concept of it. Speaking with Councilman Bernacchi before the meeting started tonight, I don't know if there is a length of the furlough anticipated by the Council.

Mr. Bernacchi, Ken and I spoke before the meeting tonight. The question brought up was an extended leave, meaning 30 days, 60 days, 90 days. To me, I would think the voluntary furlough would be used for a day here and there, a week or two vacation. I don't think you would want to extend it past that because of insurance & etc.

Mr. Bohacek, it is a great idea in theory, offering some of our employees a little flexibility, but we need to look at some issues. Is it offered on a seniority basis, will it be a sign up situation, how will we handle insurance, how does it effect sick time and vacation time, how does it effect PERF. There are some issues that we need to address. In principle, it is an outstanding idea, but we need to nail some of these items down. Are we going to make them burn vacation time and sick time first.

Mr. Cunningham, to support Mr. Bernacchi on that, I think our HR Department has that all on disc, so it should be relatively easy. The last time I was in her office she had a comprehensive plan. It should be easily adjusted. Get in touch with Mrs. Leon so you are well prepared before your next meeting.

Mr. Bohacek, I think this will be best served as an addition to the Employee Personnel manual under a voluntarily furlough tab. That way it stays in effect.

Mr. Cunningham, I know it had to be approved by the department head and if they had expenses coming out, those had to be prepaid.

Mr. Layton, I think the Council should be aware that we are fully supportive of both of your issues.

Mr. Bohacek, we just want to be sure that before we start making changes to our employees daily lives that everything is clear cut.

Approval of 2010 Holiday Schedule for LaPorte County

Mr. Bohacek made a motion to approve, seconded by Mr. Layton, motion carried by voice vote 3-0.

Support Council's Position on 2010 Hiring Freeze

Mr. Layton, I make a motion that we concur and support the County Council's position on the hiring freeze for the year 2010, seconded by Mr. Bohacek with a question.

Mr. Bohacek, I have not seen the actual ordinance or resolution passed by the county council. We were here for the workshop and talked about it but I haven't seen it in writing yet.

Mr. Layton, weren't we presented with a copy of that at the workshop?

Mr. Bohacek, there were additions and I have not seen the final draft; just to make sure everything that was addressed is in the final draft.

Mr. Layton, per Mr. Bohacek, I will rescind it until the meeting of the 17th.

COMMISSIONER'S COMMENTS

Mr. Layton, I am sure both of you have received a letter from Mayor Oberlie stating that the Board of Public Works & Safety in Michigan City is going to be requesting new proposals for the operation of the Local Public Access channel in Michigan City, in other words Channel 99. He is writing to see if the county would have an interest in sharing costs for the operation of Channel 99. I would like to have a meeting with the Mayor and the Board of Public Works to see what their intent is with this and what their proposals are.

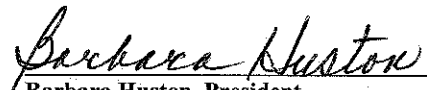
Mr. Bohacek, I would like to go to that meeting as well.

Mr. Layton, I would like to follow up on Mr. Cunningham's statements earlier. We met with all of the judges this morning and most of the discussion was about safety issues on the buildings here in LaPorte and Michigan City. Directly after that meeting, I met with Mr. Ott, our building engineer. The matters of interest of Judge Alevizos and Magistrate Pawloski, will be met within the next week. Secondly, I met with Mr. Yandt from the Community Corrections department, there will be residents from that facility that will be made available to take care of some of the cleaning and painting issues. I know that the window and roof issues in the Michigan City courthouse are being addressed as well. It was a very productive meeting and I thank the judges for inviting us.


ADJOURN

Mrs. Huston, President, adjourned the meeting at 6:50 p.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS


Barbara Huston, President


Michael Bohacek, Vice President


Ken Layton, Member

ATTEST: 
Craig Hinchman, LaPorte
County Auditor