



BOARD OF COMMISSIONERS LAPORTE COUNTY

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*Ken Layton
President*

*Barbara Huston
Vice President*

*Willie Milsap
Member*

LAPORTE COUNTY COMMISSIONERS

Tuesday, June 21, 2011

The LaPorte County Board of Commissioners met in a regular meeting on Tuesday, June 21, 2011, to be held at 10 a.m. in the LaPorte County Complex Meeting Room #3.

CALL MEETING TO ORDER

Mr. Layton, President, called the meeting to order at 10:00 a.m.

PLEDGE OF ALLEGIANCE

Mr. John Regetz led the Pledge of Allegiance.

ROLL CALL

All present

APPROVAL OF AGENDA

Mrs. Huston made a motion to add under New Business, E. Appoint Bridge Foreman and F., Memorandum of Understanding Between the LaPorte County Board of Commissioners & the Sanitary District of Michigan City, seconded by Mr. Milsap, motion carried by voice vote 3-0.

APPROVAL OF MINUTES

Mrs. Huston made a motion to approve the minutes of June 7, 2011, as presented, seconded by Mr. Milsap, motion carried by voice vote 3-0.

WEEKLY REPORTS

Commissioners review and sign the weekly reports during the meeting.

CLAIMS

Payroll Ending June 24, 2011, Mrs. Huston made a motion to approve as presented, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Misc. Claims — \$326,121.77, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

Regular Claims — \$ 874,912.59, Mrs. Huston made a motion to approve as stipulated, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

PUBLIC COMMENTS

Julie Rosler, Union Mills, IN. I would like to thank Mr. Milsap for introducing an ethics ordinance, it is long overdue and I am looking forward to LaPorte County having an ethics ordinance in place.

Mr. Earl Cunningham, 6311 W. Shiva Drive, LaPorte, IN. Since you are doing a first reading on the ethics ordinance, will you accept comments at that time or do I have to make comments now? Are you going to accept any public comment when you get to D?

Mr. Milsap, not at this time. Public comment is right now.

Mr. Cunningham, then I would like to ask Mr. Milsap this question. One month ago the sheriff stood before you and you asked him a specific question in this form. In light of the information you have at this time, would his answer be in violation of your proposed ethics ordinance as you understand it today?

Mr. Milsap, if we have the ethics ordinance in place and we find his statements are not true, he is an elected official we would have to deal with that and it would go to the ethics commission board.

Mr. Cunningham, you now have a copy of that state board of accounts report and you have the proposed ethics ordinance. Had it already been in effect, would you have considered that a violation of the ethics ordinance?

Mr. Milsap, that would be a decision of the ethics board.

Mr. Cunningham, would you have said this should be sent to the ethics board?

Mr. Milsap, that is correct.

Mr. Jim Sosinski, LaPorte County Sheriff Chief Deputy, on that same note, if a public official wrongfully accepted unemployment, would that go to the ethics board?

Mr. Milsap, if it had been confirmed, it would go to the board.

Mr. Cunningham, just for clarification, Chief Deputy Sosinski's wife brought that issue up at a council meeting and I immediately addressed the issue that if I had collected any unemployment that I was not entitled to, I would pay it back. I have had meetings with the Workforce Development office and reached an agreement with them. They found no deceit on my part, no concealment of information but they had overpaid me and they set up a payment plan with no interest and no penalties. Just so we aren't confusing two different issues here.

DEPARTMENT HEAD COMMENTS

Mr. Rich Mrozinski, LaPorte County Council President, the ethics committee has had two meetings. I was the only person in the audience at the first meeting. There were only three board members there, I am not sure you had a quorum. I brought up that all the stuff brought up for county employees is already covered in the personnel handbook. At the second meeting, I think there were two of us in the crowd. It was decided you were only going to make this for elected officials, department heads and board appointees. I stated at that time that if you are going to create a new ordinance with new rules for people to follow, people should have a chance to talk about that and hear what is going on. I think you should have a meeting in a public forum where they can do that.

CORRESPONDENCE

None

REQUESTS

None

OLD BUSINESS

None

NEW BUSINESS

Kankakee Valley REMC/Invoice Payment For Relocating Power Lines

Mr. Brian Hurley, attorney for Kankakee Valley REMC. This is a bill we had as a result of moving some poles in order to have work done on Bridge 34 in LaPorte County. The bridge was upgraded and repaired a couple of years ago. As a result of the preparations for that, plans were sent to Kankakee

Valley REMC and they showed the location of our poles which were on private easements. We moved those poles in order to facilitate room for the changes that were going to be made and for the construction that was going to be done on the bridge. We have since filed an invoice with the Highway Department. We have had discussions and letters exchanged; I have been in direct contact with Mr. Jeff Wright. Mr. Wright advised me to go to the commissioners to get this approved. The total amount is \$19,722.68.

Mr. Jeff Wright, LaPorte County Highway Engineer. I do not have much more to add other than the project was designed by American Structure Point and was built by LaPorte Construction. The poles were shown on the survey, however, the easements were not shown. This is one of the reasons this invoice did not get paid. Another reason is that the invoice didn't come in until three months after the project was complete. The invoice you are looking at is double what the estimate was originally. Was the work done? Yes, absolutely, I think if a company does work, they need to be paid. Since the job was done in October, the project line item didn't roll over to the new year and the money went back to the bridge fund. At this point, I don't have a line item to pay that invoice. We need to go through the motions to get it paid.

Mrs. Huston, this job was completed in October 2010 and the invoice date is April 12, 2010. Is this a typo or did they submit it in April 2010?

Mr. Wright, the highway never received the invoice because the job was administered through the State of Indiana.

Mr. Scott Sears of Kankakee Valley REMC. Back in 2008 we were contacted by Mr. David Day of American Structure Point. We sent him documentation relative to our easements and that our work would be reimbursable due to the easements. We estimated the work at that time to be \$11,274.30. When we completed the work, we sent our paperwork back through our contact. We never had contact with the county. All of our correspondence was with Mr. David Day of America Structure Point. American Structure Point received the bill.

Mrs. Huston, did you address this with American Structure Point?

Mr. Sears, yes I did. They said we needed to take this up with the county because the project was complete and they washed their hands of it.

Mr. Wright, the invoice should be paid. The work had to be done. Work needs to be paid for. A lot of this was before I even got here. I don't have all the facts of what occurred.

Mr. Layton, Mr. Sears can you clarify the difference in the quote and the invoice?

Mr. Sears, when the quote was presented, based upon the prints that were there, we made a field visit and made our best estimate. The project is right on the Kankakee River and when we got out there the soil conditions were quite wet and it got to be a bigger project than what we estimated. It was a labor issue, not much more there in material than we estimated.

Mrs. Huston, how much did you submit to Mr. Day at American Structure Point the \$11,000 or the \$19,000?

Mr. Sears, the \$11,000 was submitted as an estimate in 2008; the \$19,000 was then submitted when we completed the project. They didn't even answer back to us.

Mr. Layton, Jeff, I know there was an appropriation for the bridge project. Was there any funds left over that reverted back to the bridge fund?

Mr. Wright, yes, enough to cover this invoice. I don't have a mechanism to pay them.

Mr. Layton, through neglect, we have an invoice from REMC that was not paid and reverted back into the bridge fund. In my opinion, it is a simple matter of reappropriating the funds so that REMC is taken care of. We need to pass this along to the county council for the reappropriation of the amount of funds needed in the amount of \$19,722.68.

Mrs. Huston, I agree with Mr. Layton. I believe the work was done to the satisfaction of the county engineer. I make a motion to turn this over to be paid out of the bridge fund, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

Resolution of the Board of Commissioners of LaPorte County, Indiana, Relating to the Financing of an Economic Development Project

Mr. Phil Faccenda of Barnes and Thornburg. Before you is a resolution that is in essence what was adopted by the Board of Commissioners on the 25th of March, which is the Kingsbury Industrial Park Rail Spur project. The essence of that transaction is the same and the finances are the same in terms of a \$6,000,000 loan from the county. What has changed in negotiations, the developer has requested they are establishing a property owners association. They will act as the borrower on the note and the actual developer of the site. In turn, the Halfwassen Group will serve as the guarantor instead of the director borrower as well as a related Halfwassen entity will also serve as a guarantor. The structure was beneficial to the developer and they requested that we revise the structure. Because the documentation in March reflected a different structure, we needed to come back. The county council entertained this in May and adopted the revised structure and what's before the commission today is the resolution that would do so for the County Commissioners stand point.

Mr. Milsap, where are we with the rail spur project?

Mr. Faccenda, it is anticipated that the project start in July 2011.

Mrs. Huston made a motion to adopt the resolution by title only, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

Resolution #2011-03, RESOLUTION OF THE BOARD OF COMMISSIONERS OF LAPORTE COUNTY, INDIANA RELATING TO THE FINANCING OF AN ECONOMIC DEVELOPMENT PROJECT.

Attorney Braje/Purchasing Agent Ordinance

Mr. Braje, at the direction of the commissioners, I put together an ordinance relative to the issue of purchasing agent designations. Our recommendation is that an ordinance be adopted to provide to the commission repealing Title III, Chapter 34, Section 34.31 of our current ordinance. All remaining provision of Ordinance 1998-10 shall remain in full force.

Mrs. Huston made a motion to present an ordinance by title only, ORDINANCE REPEALING PURCHASING AGENT DESIGNATIONS seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mrs. Huston made a motion to present ordinance on first reading, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

Mrs. Huston made a motion to waive the rules and present the ordinance on second reading, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mrs. Huston made a motion to present on second reading, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Ordinance #2011-08

Commissioner Milsap/Ethics Ordinance, First Reading

Mr. Milsap, the committee met last month and the consensus was to move forward with the ordinance. The latest version now exempts county employees who are covered under the county's personnel policy and applies strictly to county elected officials, appointees to county boards and to department heads. The revolving door provision has been struck, the nepotism and moonlighting sections have been changed to permit certain actions upon approval from the Ethics Board, the composition of the board has been expanded and there are now strict prohibitions against premature leaks or dissemination of information prior to a finding of probable cause by the Board. In the final draft there is one typo under Section 3, Definitions, J. Ethics Board it refers to Section 9 and that should read Section 7.

Today, our legal counsel, Mr. Braje, has some concerns reference to the ordinance. I would like to call Mr. Friedman to the microphone to address those concerns.

Mr. Friedman, I want to reinforce for the board that much of the ordinance is taken from ordinances of other communities. We wanted to take the best of what is already out there. This draws heavily from the Michigan City ordinance and the Allen County ordinance. This is designed to give guidance to department heads, appointees & elected officials. The Northwest Indiana Quality of Life Council has recommended adoption of these ordinances. This ordinance encourages the best behavior and works in the best interest of the citizens. This should be a plus and benefit for the county and the people you serve.

Some concerns were addressed and discussed.

Mr. Milsap, if anyone has concerns, please put in writing and get to me so we can move forward. The board and committee respectfully request that we move forward with the ordinance.

Mr. Layton, I am pleased that the employees of the county were exempted from this. They are mandated by the county personnel policy. Holding the elected officials and appointed persons to a higher standard than the employees is a good thing. None of us are against the ethics ordinance or fear it but we want it put in place properly. I think all of the people affected by this should have the opportunity to have their questions & concerns answered. I don't want to pass something and then fix it later. I am not prepared to move forward on first reading and bring to a vote.

Mr. Milsap, I disagree with some of those comments. The committee has worked hard in addressing all issues. The concerns our legal counsel has were addressed today, there is no reason we can't move forward. I make a motion to present this ordinance on first reading. There was no second, motion dies.

Appointment of Bridge Foreman

Mrs. Huston, we have had an opening for the last couple of months of a bridge foreman out at the highway department. It is the recommendation of the Highway Department Superintendent that Mr. Joseph Skalka be hired to fill the bridge foreman position.

Mrs. Huston made a motion to approve Joseph Skalka as the bridge foreman, chair steps down to second the motion, motion carried by roll call vote 2-1.

Melissa Mischke, GIS Coordinator/Memo of Understanding Between LaPorte County Board of Commissioners and Michigan City Sanitary District

Melissa Mischke, GIS Coordinator, I am presenting a Memorandum of Understanding between the LaPorte County Board of Commissioners and the Sanitary District of Michigan City regarding the use of the LaPorte County Geographic Information Systems Beacon Website to host sewer infrastructure spatial data. I was contacted by the Sanitary District of Michigan City; we have been working on getting a lot of their information digital and in a format that is compatible with our existing GIS data here at the county. What they would like to do is be able to disseminate their information on the same web site that we use at the county for Beacon so that all information can be viewed by the Michigan City personnel at the same time. The site would be restricted by user names and passwords. We would not be disseminating critical infrastructure information to the internet. It would be made available to our Emergency Management people here and other emergency personnel that might need that information.

Mrs. Huston made a motion to approve and to allow the president to sign for the board, seconded by Mr. Milsap, motion carried by voice vote 3-0.

COMMISSIONER'S COMMENTS

Mr. Milsap, I would like to thank the people that were appointed to the committee that was designed to do the leg work for this proposed ordinance. I personally feel it is very disrespectful for a board to appoint people to a committee, to have them put in their volunteering time and effort to come to a conclusion on moving this county forward. We are one of the only counties in this area, all the other counties surrounding us have ethics ordinances, and I don't think we are any better than any other

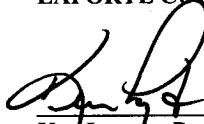
community. I think that for whatever reasons some people don't want this ordinance to move forward. In life, you can run but you can't hide.

Mr. Layton, I need for you to check your work calendar for Wednesday, July 13th. Having received Mr. Milsap's comments, I am not running anywhere and obviously with the size of my girth, I'm not hiding anywhere either. I would like to call for a special meeting of all the elected officials of LaPorte County, all the appointed board members of LaPorte County, and everyone else that would be affected by the proposed ethics ordinance for LaPorte County on July 13 at 6:00 p.m. here in these chambers for an open public discussion. The media is hereby invited and more than willing to interject if they so wish so that we can have this, hopefully, back in the hands of Mr. Milsap with any additions, corrections or deletions that were proposed by the members so that he can have the draft prepared for us for our meeting on Tuesday the 19th at 10:00 a.m. for first reading.

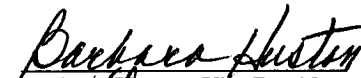
ADJOURN

Mr. Layton, President, adjourned the meeting at 11:06 a.m.

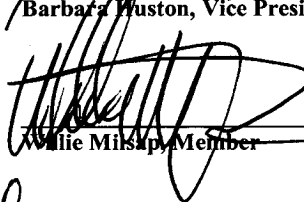
LAPORTE COUNTY BOARD OF COMMISSIONERS




Ken Layton, President



Barbara Huston, Vice President



Willie Milsap, Member

ATTEST: 

Craig Hinchman, LaPorte
County Auditor