

BOARD OF COMMISSIONERS LAPORTE COUNTY

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Ken Layton
President
Barbara Huston
Vice President
Willie Milsap
Member

LAPORTE COUNTY COMMISSIONERS

Tuesday, December 4, 2012

The LaPorte County Board of Commissioners met in a regular meeting on Tuesday, December 4, 2012, at 6:00 p.m. in the LaPorte County Complex Meeting Room #3.

CALL MEETING TO ORDER

Mr. Layton, President, called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Mrs. Rita Layton led the Pledge Of Allegiance.

ROLL CALL

All present

APPROVAL OF AGENDA

Mrs. Huston, under Old Business please remove #A, Attorney Brad Adamsky/Vacation Of A Public Way In Smith's First Subdivision, Hudson Lake, LaPorte County, Indiana. (Tabled) and under New Business please remove Item #B, Bob Young, Bid Recommendations. Under New Business, please add Item #E, Mike Bohacek/Golf Cart Ordinance and Item #F, Ethics Ordinance.

Mrs. Huston made a motion to approve the agenda as amended, seconded by Mr. Milsap, motion carried by voice vote 3-0.

APPROVAL OF MINUTES

November 20, 2012, A.M. Meeting, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.

November 20, 2012, P.M. Meeting, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.b

WEEKLY REPORTS

Commissioners review and sign the weekly reports during the meeting.

CLAIMS

Payroll Ending December 7, 2012, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Miscellaneous Claims----\$516,123.06, Mrs. Huston made a motion to approve in the amount stipulated, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

PUBLIC COMMENTS

None

DEPARTMENT HEAD COMMENTS.

Mr. Mark Yagelski, LaPorte County Councilman, I gave you information at the beginning of the year on the Franklin Street Bridge. Thank you Mrs. Huston for helping me on this one. Unfortunately we didn't get very far. The Franklin Street Bridge is at some point at a failure point. With it being a select bridge does not allow us to do any work on it. I've been to Indianapolis, I've talked with INDOT and they are strong in their feelings. I asked Mr. Bob Young if he could please put this on the agenda for next year's bridge conference so they could talk about select bridges. I have talked with the Mayor of Michigan City and he has great concerns. That is my last update and we will work on it next year with the new commissioners.

Mr. Yagelski, I would like to talk about the Interact System. We are at about 96% complete. A lot of our communities are set up at about 95%. I have talked with Police Chief Swistek of Michigan City and he is very concerned. He has done all the training already and secondly, he wants to keep his statistics going because that is how they send in for federal dollars. They want to start January 1, 2013. The errors we have are simple errors like Franklin Street/Franklin Square, Dune Highway/Highway 20. The system we have in place right now is not a perfect system. Interact told us we have one of the worst counties he has seen in a long time. I would like to ask the commissioners to at least support that we get Interact started January 1, 2013.

Mr. Yagelski, the next thing is the courthouse. One of the most disappointing things in my tenure is the courthouse exterior. I know Ken Herceg did some small patch repair and it is all suppose to be done at no cost to us. I would like to encourage that because we don't have the money right now. The citizens have been complaining about the exterior and disappointed in what we have done.

Mr. Yagelski, last of all is the ethics ordinance. I appreciate your looking into this again. Michigan City has dropped theirs. I talked with the Mayor's secretary and they also dropped their committee. This doesn't stop us from not having an ethics committee. The state of Indiana has put a law out there for us to abide by. Having a local one with different rules than the state is not beneficial to anyone. We did send a vote through with the council, a 6-1 vote to support that.

Mr. Yagelski, I would like to bring all the council people up. Mr. Layton, I met you 12 years ago and I appreciate all the different jobs you have worked with us on the council. When we have asked for help you have always been there. From all of us, this is from the council for all the years of service and for all the help.

Mr. Bernacchi, it was an honor working with you, getting into politics young and meeting you has meant a lot. You are a true mentor. Barb also. I want to thank both of you for the service you have done. God Bless you and I hope you enjoy retirement and thank you for everything you have done.

Mr. Mrozinski, I can't add a lot to what they said. In the midst of the KID project there was hardly a day that went by that I wouldn't be on the phone or on a trip or in Mr. Layton's office. He has been the guiding light to get that project to where it is. I have learned a lot from working with Mr. Layton. I don't want to overshadow Mrs. Huston either. She has always been there and has always given me a straight answer. It has been a good working relationship between all of us. We are going to miss you guys.

Mr. Cunningham, I would like to echo the comments of my fellow councilmen except for Mr. Mrozinski and I, we got in to politics at an old age.

Mr. Yagelski, when we first got here, we walked through the courthouse and there were wires running everywhere, desks & etc. We really needed to make a professional office out of the area and you helped take on the challenge of getting everybody in spots. We truly have professional offices.

Mr. Mrozinski, a few of us on the council have been getting emails recently as directed by Mr. Milsap wanting to know if we wanted to still be appointed next year to our different boards. I would ask that you do a little research on that. Although the commission does have some appointments that you make; the liaisons that are appointed by the council are appointed by the council. They are not nominated by the council and appointed by the commissioners. We are appointed by the council and we will continue to do business as we have always done business. I'm just trying to fend off any further action that might lead to a battle you can't win.

Mr. Milsap, first of all, it was not going to be a battle. Second of all, I instructed Reathel to call. She wasn't suppose to call you guys. She had a list to call, I don't know why she called you guys.

Mr. Mrozinski, I got an email that said it was directed by Mr. Milsap.

Mr. Milsap, Reathel, did I tell you to email?

Mrs. Noveroske, to call.

Mr. Milsap, to call and email are two different things. Once again, just keep in mind, I just told her to call.

Mr. Bernacchi, as being president, we all work together to get those liaison positions, everyone has good background in what they do. I heard rumor about some construction being planned for offices in the existing offices and I was curious if that was true and if so, what funding mechanism the commission was planning on using?

Mr. Layton, I assume you are referring to an email I sent to the maintenance department and copied to all three commissioners and all the council. I have not heard of any construction I was informed by maintenance that they were to be doing certain tasks. That was not a decision made by the majority of the board nor had it even been discussed so I asked them to cease. Anything they do after the first of the year with the new commission is perfectly fine.

Mr. Bernacchi, not without funding.

Mr. Layton, we have not even discussed anything about moving offices, moving personnel, or moving walls or anything else.

Mr. Bernacchi, it raised a few red flags and we want to be sure the proper procedure is being followed.

Mr. Layton, Mr. Yagelski, in reference to your questions about interact, I talked to Mr. Dudek, our 911 Director this afternoon, and I asked him where they were at on the changeover. They were at 97%. I made him aware that I had been copied by Chief Swistek's concerns on how it was progressing. I asked him if he was satisfied with the 97% and he said that as the 911 Director he would not sign off on it unless it was 100%. I then asked him if we were ever at 100% with the old system and it had never functioned at 100%. A lot of the errors are nothing more than semantics. My personal opinion is that we need to go on and move forward. We need to get this functioning even if even they are working side by side, one could check the other.

Mr. Layton, about the courthouse, I reported earlier to you today that I did meet with Mr. Ken Hecceg in Indianapolis. The courthouse has had some staining done to it and he told me the entire building will be stained and brought back to its original color at no cost to the county.

Mr. Milsap, I have a question in reference to the Interact. You are aware that we have a penalty in the event we do not go live.

Mr. Yagleski, yes, I highly recommend that we go live.

Mr. Layton, I was under the impression there was no monetary penalty. We had this discussion in a previous meeting.

Mr. Willoughby, the grant documents do not lay out a specific dollar amount. There are provisions that the county may be penalized in terms in how it affects future grants and the ability to secure funds that the county may need.

Mr. Mike Schultz, I want to give you an update on the appeals. LaPorte County is going through what other counties went through in 2006. We finally put our cards out on the table and as of today on the county level we have about 1200 appeals. I am told if we come in under 10% which would be 6800 appeals we are doing okay. I think what is confusing is that this is a mass appraisal and with that you are hoping to get 80-90% correct and then you have the ones where an adjustment needs to be made.

So far, it seems to be on tract. I tell most taxpayers that have a concern, don't be mad until nothing gets accomplished. The deadline is 4:00 p.m. on December 31, 2012. This is the first time we have sent out a Form 11 in many years. This is the only document you can use to appeal your assessment. When you get your bill in January you cannot appeal the assessment of the strict value. The staff has been working hard. We are going to meet our deadline so there will be no fine. Everything is correctable that goes out. We should be back on tract next fall. Thanks for the support that my office receives.

Mrs. Huston, last week at the IACC in Indianapolis, in the state of Indiana there is 92 counties and they usually have around three commissioners per county which is a little over 270 commissioners for the entire state of Indiana. At this past conference, Mr. Layton was named Indiana Legislative County Commissioner of the Year.

Mr. Layton, it was quite an honor and quite humbling. I am most appreciative to my association, commission and fellow commissioners.

Mrs. Huston, It was a group effort and very much deserved.

CORRESPONDENCE

None

REQUESTS

None

OLD BUSINESS

Attorney Brad Adamsky/For Vacation Of A Public Way In Smith's First Subdivision, Hudson Lake, LaPorte County, Indiana (Tabled)

Mr. Layton, Mr. Adamsky we are not going to remove this from the table but I understand you want to address the commission.

Mr. Adamsky, attorney with Newby, Lewis, Kaminski & Jones, speaking on behalf of my client Ray McCormick. We are not going to address the contents of the petition with it being on the table but there is an issue that has arisen off the side of that petition; that is that the county right of way now that is between his property and the Lakin's property, someone has taken it upon themselves to remove the vegetation from that property and then lay down about a 60' x 20' swath of wood chips. That is county property and our concern with that is Mr. McCormick does have a well very near that. He is worried about chemicals leaching off the treated wood chips. That large of a path could affect his well and has been advised not to drink it until the water has been tested. We are just drawing attention to that as it is a county right of way. We will be back here in two weeks.

Ordinance For Sexually Oriented Businesses, Establishing Licensing Requirement And Regulations For Sexually Oriented Businesses Within LaPorte County, Indiana, County Ordinance #2012-09

Mr. Layton, we learned after our last meeting that we had probably inappropriately heard it on second reading and passed it on second reading, even though we went through the proper parameters of waiving the meeting rights and rules and having a motion by Mrs. Huston and a second by Mr. Milsap, when it actually came to the vote only two of us, Mrs. Huston and myself, voted for the second reading. Mr. Milsap made no vote either way nor did he abstain. The law says it has to be unanimous. So the reason that we are here again this evening to readdress this is that we actually need to take a formal vote on the second reading of the ordinance for the final passage.

Mr. Willoughby, this is an important vote and an important issue. The issue as you stated is that in order to pass and to consider an ordinance on the same day it is introduced there has to be unanimous consent by those that are present. What has transpired is not clear whether we have that unanimous vote. The minutes that were approved tonight indicate it was a 3-0 vote. There is some concern and my advice is that we want to make sure we are doing it right and that we have done it thoroughly so that we know this is going to get challenged and we want to make sure everything is out in the open and clear.

Mrs. Huston made a motion for the Ordinance For Sexually Oriented Businesses, Establishing Licensing Requirements And Regulations For Sexually Oriented Businesses Within LaPorte County, Indiana to be brought forward for second reading by title only, the chair stepped down and seconded the motion.

Mrs. Huston reads: Ordinance For Sexually Oriented Businesses, Establishing Licensing Requirements And Regulations For Sexually Oriented Businesses Within LaPorte County, Indiana

Roll call, Mr. Layton and Mrs. Huston, Aye and Mr. Milsap Nay. Motion passes 2-1.

NEW BUSINESS

Al Ott, Stationary Engineer/Open 2013 Proposals For Trash Removal, Pest Control, Telephones, Vending Machines, Elevators

Mrs. Huston made a motion to table the bids until the December 18th meeting, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Open Bids For Leasing of LaPorte County Agricultural Real Estate

Mrs. Huston made a motion to close the bids, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mr. Willoughby, we have three submitted bids.
Tom Parker of Parker Farms for \$231.00 per tillable acres for a total payment of \$24,486.00.
Triple J Farms for \$333.00 per acre for a total of \$35,331.30.
Advanced Farm Marketing, LLC, total amount of \$26,850.00

Mr. Milsap, who makes the decision on these bids?

Mr. Layton, the commission and it has always been the high bid.

Mrs. Huston made a motion to turn the bids over to legal counsel for his review, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mr. Layton, we will award this bid on the meeting on the 18th at 10:00 a.m.

Approval of 2013 LaPorte County Commissioners Meeting Dates

Mrs. Huston made a motion to approve as printed.

Mr. Milsap, I discussed this with the incoming commissioners and we might make some alterations.

Mr. Layton, let's do this, how about approving the very first meeting on January 2, 2013, on Wednesday at 10:00 a.m.

Mr. Milsap made that motion, seconded by Mrs. Huston, motion carries by voice vote 3-0.

Michael Bohacek/Golf Cart Ordinance

Mr. Michael Bohacek, I gave a copy to your attorney. What I am asking the commission to consider at your next meeting...in the area of Michiana Shores, the beach community, there is co-mingling of jurisdictions, you have Long Beach, you have county, you have Michigan City police, Michiana, Michigan police, mingling within 8-10 blocks. Michiana Shores has already approved the first reading of an ordinance allowing golf carts with specifications and to keep those within the streets of Michiana Shores. Once they hit certain streets, it is county. We are trying to make this simpler so there is one set of standards for the area. Golf carts are pretty common in different municipalities throughout the county. This is unincorporated LaPorte County.

Mrs. Huston made a motion to turn the ordinance over to the attorney to look over and bring back on the 18th, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Ethics Ordinance

Mr. Milsap, I would like legal to explain that #1, no action can be taken on this due to the fact that there is no ordinance drafted to prepare.

Mr. Willoughby, I am not sure what is before the board but there is no ordinance to be considered.

Mr. Layton, I was requested by Councilman Yagelski to bring this in front of the board for consideration of the abandonment of the current ordinance that we just passed and adopt the state ordinance.

Mr. Milsap, we don't have a drafted ordinance to repeal it so this is just strictly dialogue.

Mr. Yagelski, the original ordinance had great intent when it was written but the problem is we want to stick with one. I would like to ask, my unanimous vote by the commissioners to repeal this and use the state statute.

Mr. Yagelski, if you could put that on the 18th's agenda I would appreciate it.

Mr. Layton, my concern is that we went to great lengths, the county council, the commission and department heads to appoint an authority to review these allegations. The city of Michigan City also repealed their commission. That gives me a great deal of chagrin. Although I believe in the state statute.

Mr. Cunningham, I would like to make sure that I understood. I thought I heard Mr. Yagelski say that the council voted unanimously to ask you to repeal this?

Mr. Yagelski, 6-1.

Mr. Cunningham, there are three of us here that don't think we ever voted to do that. I would agree with Mr. Layton that we have spent a year and a half putting this together. We finally appointed a board. What I see from the state is pretty slow and cumbersome. I think a local board is probably capable of handling. I don't think there was a 6-1 vote of council asking you to dissolve the ordinance.

Mr. Milsap, the president of the council is here and I am sure he could confirm or deny.

Mr. Bernacchi, I think the vote you are referring to is to initiate the ordinance not to dissolve it. You both have strong points. I do feel we have quality people in place and whatever comes in front of us we can handle.

Mr. Bohacek, I would agree with you. The state gives you a guideline and counties are always encouraged to be more restrictive. It makes more sense to have local people as the oversight body.

Mr. Cunningham, it would seem to me as a disservice to the committee members that served over 18 months in the making, and gave of their own time for nothing and to the five people who have been appointed and are sitting here in limbo to dissolve something that we haven't done at all. I think that is a disservice. If you do this, the next time you need a committee to put together something you are going to get fewer people interested in doing it.

Mr. Layton, the reason that this came on the agenda tonight is that I was respectfully requested by a council person to put it on our agenda for discussion. We have had open discussion on it and it will come back in front of us on the 18th at 10:00 a.m.

COMMISSIONERS COMMENTS

Mr. Milsap, in reference to the ethics ordinance, I well understand why the county council supposedly voted 6-1 to repeal the county ethics ordinance. Now that a state law is in place that governs local government ethics, I pushed for a county ethics ordinance at a time no state law was in place. Now that one has been adopted, I also understand why the city of Michigan City voted in July to disband their local ethics ordinance. Not only is a local ethics board a duplication of what the state is doing; there are potential problems with open door and the open records law. I am glad that we pushed for an

ethics ordinance and that it got discussion going locally about the need for good government and open and above board behavior. The county council has a point when it says at a time when count finances are so tight it makes no sense to fund a board and a committee when there is already a state ethics law in place.

Mr. Layton, I have a question, I didn't think we were paying the ethics board anything.

Mr. Milsap, there will be a budget and did you receive the letter from HR in reference to our ethics board? It went to the committee on the ethics board and she planned on coming in front of you guys for a budget. Heads up.

Mr. Layton, for all of you in attendance this evening, to the county council members that so graciously said the accolades of myself and Mrs. Huston, I can't thank you enough. I apologize for not being at your last meeting when we were at the commissioner's conference in Indianapolis. I so much enjoyed working with you all, past council members, past commissioners throughout the years. Thank you for what you have done for Mrs. Huston and me.

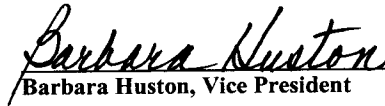
ADJOURN

Mr. Layton, President, adjourned the meeting at 7:06 p.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS




Ken Layton, President



Barbara Huston, Vice President

Willie Milsap, Member

ATTEST:



Craig Hinchman, LaPorte County
Auditor

Chief Deputy