

# LA PORTE COUNTY BOARD OF COMMISSIONERS

555 Michigan Avenue, Suite 202 La Porte, IN 46350-3400 (219) 326-6808 ext. 2229 Sheila Matias President

Richard Mrozinski Vice President

> Joseph Haney Member

La Porte County Commissioners' Meeting Minutes Wednesday, August 17, 2022 at 6:00 p.m. County Complex Room 3 & via Zoom

**President Sheila Matias** called the meeting to order at 6:00 p.m. followed by the Pledge of Allegiance led by guest Paula McKeithen. A moment of silence for Congresswoman Jackie Walorski, staff members, Zach Potts and Emma Thomson and Edith Schmucker who all died in a two-vehicle accident in Elkhart County on August 3<sup>rd</sup>.

**Auditor Tim Stabosz** called the roll: Commissioner Sheila Matias - Present; Commissioner Rich Mrozinski - Present; Commissioner Joe Haney - Present. Quorum present therefore meeting commenced.

Considered the amended agenda. Commissioner Mrozinski motioned to add minutes from a Special Meeting held August 10<sup>th</sup> for the Human Resources Director to the agenda for approval. Commissioner Haney seconded. Motion carried 3-0.

Considered approval of July 20, 2022 and August 3, 2022 minutes. Commissioner Mrozinski motioned to approve.

Commissioner Haney seconded. Motion carried 3-0. Considered approval of August 10, 2022 minutes for a Special Meeting with Council/Commissioners on the hiring of the Human Resources Director. Commissioner Mrozinski motioned to approve.

Commissioner Haney seconded. Motion carried 3-0.

Auditor Tim Stabosz read the Claims with Payroll ending 8/12/2022 - \$1,286,308.76 and Operating Expense Claims - \$1,857,767.23. Commissioner Mrozinski motioned to approve. Commissioner Haney seconded. Motion carried 3-0.

### **Public Comment**

Stephen Nightingale, 998 E. 1000 N. La Porte, Daniel Versaw's property is adjacent to his farm. The 'land contouring' project has started up again. A 'stop work' order was issued April 5, 2022. Photos were taken on August 12<sup>th</sup> and 15<sup>th</sup> of work on the Versaw property and shared with President Matias, Attorney Shaw Friedman and Sheriff John Boyd. The damage being done on the adjacent property is affecting the value of his own farm. Mr. Nightingale will be filing a form 130, a tax payer's notice to initiate an appeal, with the Assessor's office which will be based on the reduction of the fair market value of his farm caused by the inability of our local government to enforce the joint zoning ordinance. Commissioner Haney, asked about the emails Mr. Nightingale shared because he had not seen them yet. Stephen Nightingale, took a photo of an excavator on the property on the 12<sup>th</sup> and a photo on the 15<sup>th</sup> of a dump truck exiting the property that almost sideswiped a little blue truck.

#### **Department Reports/Department Head Comments**

Nicole Messacar, MS4 Coordinator, reported on the Versaw property on 1000 North. Since the complaint came in from Mr. Nightingale last week, she has made 3 trips to the site. On Friday Mr. Versaw was working on the property with another gentleman, a front loader and an excavator were being used. Nothing was leaving the site; the excavator would move a load of dirt from one area to another and the front loader would spread it out. Asked Dan Versaw what is his 'end game' on his property because the original permit issued was for a land contouring project which is typically for future development like a subdivision or something similar. Dan is a farmer and has expensive cattle. When he first purchased the property, it was used prior for sand mining and had an existing hole that is from about 50 years ago. There is approximately 5 acres of hay in the front of the property. Sand is being moved from behind the existing hole and bringing it to the sides. He will bring his cattle to this property, there is fencing up and she believes he is doing exactly what he explained to her that he is doing. He is an excavator, has his own company in Michigan and stated at times he brings a dump truck in to take sand to another location where he is working on a project. He is not selling it; he wants the soil to create a pasture for his expensive cattle. She has not seen any dump trucks nor work being done to suggest he is violating the 'stop work' order. Agricultural operations are exempt from MS4 operations therefore if Dan Versaw is doing an agricultural operation and getting ready to move cattle on to the property then he does not need a Storm Water permit, he does have one though and it is posted. There is a sign with everything posted including an active IDEM permit. She did take photos for her report that are available if needed. Attorney Shaw Friedman, to be clear for the record, he tried to inform Dr. Nightingale that "agricultural land contouring doesn't need an MS4 permit so its incumbent on any complaining party, such as him (Mr. Nightingale), to demonstrate that what he's doing,

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claiming to build a cattle ranch, is pretextual and designed to cover other intentions for the property. There's no question that the Stop Work order that you (President Matias) issued five months ago to stop any commercial sand reclamation resale operations at the site has helped, it has been enforced but we've also indicated to Dr. Nightingale's attorneys that we can't come to this Commission and ask to apply for injunctive relief until we can demonstrate immediate or reproable harm to public health or safety and from the report of Nicole's two inspections of the property, and that's been communicated to Dr. Nightingale's attorney, the limited onsite contouring upgraded that is being claimed by Versaw is connected to his intended agricultural use of the property and until or unless we can demonstrate that such a claim is pretextual or a roost to cover renewed or expanded commercial sand resale, we can't credibly claim violation of your (President Matias) stop work order. And further as we have pointed out to Dr. Nightingale's attorneys, there is nothing stopping him from bringing his own civil action against Versaw for alleged damages to his property or even diminution in value of property due to the work previously done and you heard him indicate he's going to apply for some sort of reduction in value but that's to be handled by the Assessor's office and Auditor's office and not really a legal issue for the Commissioners to concern themselves with." President Matias thanked Nicole for her inspections of the Versaw site. Nicole reported on Ray Selke's property on 400 North in La Porte. The site looks exactly the same as when she visited it a month ago. No action taking place at this location that requires a permit. Shared with the Commission that builders need a Storm Water permit for individual building sites in subdivisions, they have been under the impression for a while that it is not needed and that simply is not true. It is stated in the 2016 Joint Zoning Ordinance for verification.

**Heather Stevens**, Clerk, emailed the Commission requesting more office space in the Michigan City courthouse. Has a large staff. Was not a part of the planning for the Michigan City courthouse remodeling. She needs to be there, she needs privacy when speaking to her staff, whether disciplining or interviewing she needs a private area. The judges are requesting extra supervision of her employees and it is difficult if she doesn't have a place to work.

Mike Polan, Building Commissioner, waited months on the storm water permits to be reviewed that were issued by the previous MS4 Director, reported he was previously on the Board for MS4 and is very familiar with the sites. A certain gentleman would attend the Commissioners' meetings, slander and liable his name and his department as well as two out of the three Commissioners plus the County Attorney. The reviews are over, results are in and it feels good to know there were no zoning violations. He repeated to the people in the room and to those that were watching on ALCO, there were no zoning violations. Not according to the JZO, not according to their attorney with a law degree of 20 plus years of zoning experience, and the smaller excavating sites that were moving top soil or sand, they're not sand mining operations. Anyone can check with the Federal Mining Authority. "We've been through this for seven years, it's time to put a stop to it. It's time to put a stop to it because if I have to come back here every meeting like a wrecking ball of truth to clear my name and others, and these dealings then that's what we'll do, we'll do an episode of mean tweets at every Commissioner meeting about all of the things that are being said about the various officials that oversee these and what these operations are being called so that feels good." Commissioner Mrozinski thanked Mike. President Matias, during a radio show a caller asked if anyone in the county can do whatever they want like the sand mining operations. She asked Mike to explain to the public the county zoning ordinance or how to contact his office. Mike Polan, there are sand mining operations in our county, Ozinga is one example, but when you look at their operation compared to a farmer with a tractor, you'll see the difference. As reported by the new MS4 Director on the Selke property on 400 North in La Porte, there's not thousands of trucks going in and out of the location, there's a hole that has been there for years with three sand dunes, two of them have two years of dune grass on them. That is excavating, not sand mining. If the legislative body of the county wants to pass laws forbidding that activity, then his staff can be increased and he'll shut them all down. Then when we have to have 'fill and sand' brought in from 60 miles away to every construction site, raising the cost to every project, but for now he enforces the current laws that are on the books. Attorney Friedman, just for clarification, borrow pits were regulated in the JZO until about 2016; correct? Mike Polan, in a prior Joint Zoning Ordinance, the term 'borrow pit' was forbidden in a residential area. It was removed because sand or fill was having to be brought in from an outside area for all projects, including municipal and road work. The current JZO is available online.

Tim Stabosz, Auditor, four weeks ago at a commissioners' meeting he provided an APRA request, Access to Public Records Request, in person then followed it up in writing seeking email documentation from County Attorney Shaw Friedman's December 15, 2021 through March 15, 2022 billings. He contacted President Matias, both in person and in writing, specifically about emails between her and the County Attorney and has yet to get a response. Indiana Code requires that you acknowledge receipt of the request within 24 hours if delivered in person and 7 days if in writing. "No such acknowledgement was received which leaves this Commission, and you individually Commissioner Matias, in violation of the law." The request must be produced in a reasonable period of time and a request in writing must be denied in writing. No such denial has been received. Specifically, the very first section is one short paragraph, I.C. 5-14-3-1, "A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information. This chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record." In conversations with Luke Britt, State of Indiana Public Information Officer, he said there's a difference between clear-cut attorney client privilege



communications regarding legal defense and other elements of protecting the county, matters on policy, politics or other means or discussions. "To the degree that you have chosen to give your attorney of choice a wide berth and to allow a wide latitude of behavior, those items are disclosable. I would also point out that in the Access to Public Records Act that it indicates that the - if access to a public record would reveal disclosable and non-disclosable information, the information that is disclosable must be available for inspection. The public agency must separate or redact the non-disclosable information so the notion that this - that there's a blanket 'we're not going to provide any of this' is simply unacceptable and a violation of both the spirit and the letter of Indiana law." A few examples of items not provided to him were emails to Commissioner Matias from County Attorney Friedman on 'AIMS Replace Don't Erase Campaign,' and an email from Mr. Friedman to Commissioner Matias about the roosting crows on the courthouse. He submitted this request as a citizen. Infant Mortality is another email he requested. The sale of the county home was another email he submitted. As Auditor, the bill paying agent of the county, not to receive a response for the request is not only sad but outrageous as well. Why was he not responded to? What are your intentions with regard to the public records request? President Matias thanked Tim for his report. She read into the record the Match 15, 2022 letter from the State Board of Accounts. All three Commissioners review the claims, the work product and allow the department heads the authority to approve claims and present them. They are trusted and are doing the people's work. Auditor Stabosz, asked if he could respond to her comments. "That is not relevant to what you're saying because that's about the billing disputes. I made a public records request so the notion that because you think that I'm acting illegally and we're going to expose the State Board of Accounts as being, having its integrity improperly suborn in court, that's why we're in court, but the notion that because you think I'm acting illegally you can act illegally, is that legitimate? President Matias, it is work product that the Auditor asked for in his request. Mr. Joyce with the State Board of Accounts addressed work product in his letter to the Auditor. Commissioner Haney, the letter specifically says the Executive is charged with reviewing the details in billing. The Auditor is being denied emails. He, himself as Commissioner, has not received emails or information he has requested. We have a County Attorney that is refusing to provide any documentation to the Auditor nor a Commissioner. If we go according to the SBOA letter then he, as Commissioner, should be provided the work product he has requested from the County Attorney. President Matias, read a sentence of the letter and said it is not the Commissioners but the Department Heads who are receiving the goods or services. Auditor Stabosz, asked if he could give an example. Commissioner Mrozinski, we need to continue the meeting. Commissioner Haney, the APRA request made by Auditor Stabosz was addressed to all 3 Commissioners. He asked Attorney Friedman if he responded to the request. Attorney Friedman, the Executive speaks through its majority on any issue and the claims. Auditor Stabosz, we're not talking about the claims, we're talking about the Public Records request. President Matias, we'll take this offline. Not sure what capacity Tim is in currently, private citizen or Auditor. Tim, he was as a citizen. President Matias, questioned why then did he speak under Department Head comments. Tim, said he was both.

## Requests

Considered permission to approach the Council for additional \$7,000 for fuel - Jeremey Sobecki, Parks Department. Commissioner Mrozinski motioned to approve. Commissioner Haney seconded. Motion carried 3-0.

#### **Old Business**

None

#### **New Business**

Considered appointment to County Economic Development Commission. Matt Reardon, La Porte County Office of Economic Development is seeking an appointment to the Economic Development Commission. By virtue of I.C. 36-7-12, the Executive of the County is required to make an appointment as well as the County Council and the City Council of Michigan City. Don Przybylinski has been appointed by Michigan City. There is an Economic Development Commission that is an entity that reviews financial requests of the industrial revenue bond program which is a Federal Financing program that buys down interest rates for the purchase of equipment and building for the sole purposes of manufacturing. Applicant is eligible for programs up to ten million dollars. Bond counsel will be hired and this process will be reviewed. La Porte County would be the passing agency. No financial obligation of the county. Received update from Matt Reardon on need for Industrial Revenue Bond (IRB) issuance to assist prospective manufacturing operation to purchase and occupy vacated manufacturing facility in Pinola. Commissioner Mrozinski motioned to appoint John Carr to the Economic Development Commission Board. President Matias stepped down and seconded. Motion carried 2-1. Commissioner Haney - Nay.

Considered Resolution supporting Middle Mile Grant Application for additional Broadband coverage in La Porte County. Tony Rodriguez, OCED, distributed a 2-page overview to Commissioners. Vince Arrogonia, President of Neo Networks and a strategic partner of the Broadband Task Force, started Neo Networks in 2013 with a mission to help public sector agencies to develop, catalog and market their vertical real estate for wireless and broadband technology purposes to help generate a non-tax payer revenue stream for the community. There is value with broadband and the twenty-one townships in La Porte County have 'unserved' residents that need to be added to the availability of service. Commissioner Haney motioned to approve. Commissioner Mrozinski seconded. Motion carried 3-0. \*\*\*Resolution 2022-7



Considered Resolution honoring the public service of the late Congresswoman Jackie Walorski and proposing establishment of the Walorski Summer Internship program to serve our county's veterans in conjunction with the La Porte County Veterans' Service Office. Commissioner Mrozinski read the resolution into the record. Commissioner Mrozinski motioned to approve. Commissioner Haney seconded. Motion carried 3-0. \*\*\*Resolution 2022-8

Considered establishing process for use of the Mobile Voter Unit (MVU), the van acquired to promote voter access for registration, absentee voting application, and early voting for use at various locations and events contingent on availability of deputy registrars/county employees representing both political parties. Commissioner Mrozinski, the vehicle is titled with insurance paid for by the Board of Commissioners. Suggested a schedule be set up for use of the van for parades and festivals through the Commissioners' office. Both parties, Republican and Democrat, will be in the van during this use. Made this a motion. Commissioner Haney, he would like to hear from the County Election Board attorneys as well as the County Clerk. All vehicles in the county fleet are titled in the Board of Commissioners' name, we don't go to the Sheriff and ask for keys or a schedule for his department. Doesn't see the logic to Commissioner Mrozinski's motion. Commissioner Mrozinski, those vehicles are assigned to a Department Head. President Matias, the goal for the van is widespread public access to voting, registration, and Absentee applications/voting. It's not about who has the keys but the usage of the van that was acquired with a \$60,000 + grant. It has not been used much; the Commissioners' office is sort of a hub to get information out. County Election Board meeting will be tomorrow and hopefully they will support the idea of a schedule for the van so the public will know where/when it will be in the county. Regardless of the political parties, the van is meant to assist Voter Registration and the Clerk with elections in the community. Chuck Watterson, Republican Election Board Member, via zoom, requested any vote be tabled until the County Election Board can meet. Doesn't care who is in control of the van or keys but would appreciate a say in the process of how the van will be used in the county. The Party Chairmen will appoint the people working inside the van. Ultimately the County Election Board is responsible for the elections. There is no account currently to maintain the van or for gas to run it. He has been paying for it and getting reimbursed. Currently the van is at the highway department. Clerk Heather Stevens, scheduled a meeting for tomorrow but it will be rescheduled. Be sure the paperwork is filled out correctly for those who are working inside the van. Nelson Pichardo, Democrat Election Board Member, supports the Commissioners' request with scheduling through their office for the use of the van. They have more resources, it's a much more efficient method. The goal of the van is to allow the county to use it in a bipartisan manner, get it out in the community. Agreed with Mr. Watterson that there has not been a discussion held by the CEB members however his personal opinion for efficiency purposes makes sense to allow the Commissioners to assist with the upkeep of the van. From a legal standpoint, he is not sure the County Election Board has any authority with the van because it is owned by the Board of Commissioners. The purpose of this vehicle is totally different than the other county owned vehicles, such as the Sheriff or Coroner. Currently the van is being underused. The County Election Board meeting will hopefully be rescheduled next week. The issue with the battery will be looked at as well. Commissioner Mrozinski motioned to table. Commissioner Haney seconded. Motion carried 3-0. \*\*\*Tabled

Considered appointing attorney Brad Adamsky to assist on condemnation of remaining small parcels needed to complete Marquette Trail and utilize grant funds to pay for attorney fees and any other costs associated with condemnation actions. Mitch Bishop, Planner, almost five years the county received 1.3 million dollars to complete a segment of the Marquette Trail along Old Grand Beach Road between El Portal and the state line of Michigan. Roughly 1.1 miles. Currently at the phase of acquisition of 12-15 feet to be purchased along the edge of the pavement. There are 17 owners with 3 of them against the trail, either because of location or the amount of money offered. All land has been appraised. Working with the 3 owners for the last 3 months with no resolve. Next step is condemnation. The court will appoint 3 appraisers, this can take a month with each one going to the site then getting together to come up with one price submitted to the court. The offer is what we would pay. There are different phases of the project among fiscal years. Construction money for this project is slated for fiscal year 2023 which means that all right-of-way has to be in the hands of La Porte County by May 2023 or we lose money, about \$850,000. The project cannot be built if this happens, he will have to look for other sources of funding which takes a year or two to get the construction fund back in order to complete the project. Commissioner Mrozinski motioned to approve. Commissioner Haney asked for clarification, this is 8-10 feet that is immediately next to the current existing roadway and not splitting parcels. Mitch, yes, there are set-back requirements, usually with a 3-5-foot buffer so not to have the trail right next to the road then the trail is 10-feet wide. Commissioner Haney seconded. Motion carried 3-0.

## **Commissioner Comments**

Commissioner Haney, went on record as saying the APRA request submitted to the Commission from Auditor Stabosz, his position is it should be acknowledged as being taken into receipt and then fulfilled in compliance with the laws as expeditiously as possible, if his fellow Commissioners disagree with that he at least wanted his position on the record as saying the County Attorney should respond to the request, which is already outside of the dateline and then fulfill the request with information that is in accordance with the statute. Had the honor of attending the celebration of life services last Thursday for Congresswoman Jackie Walorski, "Jackie was an outstanding individual who did a lot for our community, for Indiana, she went across the world so something that I shared earlier that I'd like to share here tonight with everyone. 'My family and I were honored to attend the celebration of life service for Representative Jackie Walorski today. Today we honored her life and the massive positive impact she had both here and around the world. She was a servant leader whose service took her from Northern Indiana to Indianapolis to Washington, D.C. and even serving multiple years as a missionary in Romania. She was and will continue to be a shining light of leadership and integrity, dedication and



ethics. While our time together may have been brief, we were and are, friends, fellow Hoosiers, Americans, Patriots and brothers and sisters in Christ. I'm proud to have known her and know her through - and know, that through Christ Jesus our Lord and Savior, I'll see her again one day.' Jackie's faith was tremendous and that's something that among many things she and I had in common. While it was a solemn time this week, it was sad to have lost not only her but my friend Zachary Potts and Emma Thomson as well, I didn't really know Emma, I only met her once or twice but it was certainly, it's been a difficult past couple of weeks." Commented on a few meetings he attended; Communications meeting on connection issues, insurance committee meeting, encouraged employees to use the NorthShore Clinic, and a JRAC meeting. Coming up will be festivals. Attended ribbon cutting for Bluhm Park with their new playground equipment. Fantastic job by all involved. Animal Shelter saw a record number of animals adopted out during the 'fee waiver' days. Next month will be more festivals. Family Fishing Night will be in Luhr Park. Thanked everyone for their time at the meeting. Closed with, "It's not what you do in public that necessarily matters but what you do in private when no one's watching." Past 20 months while he has been in office has given him a secondary look back at the front end of that, about what you do in public when everyone's watching, has given him a different outlook or view on doing the right thing even if not everyone agrees. That is just as important as what you do in private.

Commissioner Mrozinski, we have a lot of amazing people in La Porte County who do a lot of good things behind the scenes. Recently when areas in Kentucky flooded, folks at the Pleasant Township Fire Department volunteered to take much needed supplies by way of three semis, a 30-foot goose-neck trailer, and 8 cargo trailers to those people. Some lost everything including their lives in parts of Kentucky. He recognized Tiffany and husband, Sondra Burlingame, Tori Chessor from Starke County EMA, Mike and Rhonda Graves, and his nephew Matt Mrozinski, his girlfriend Ashley and her daughter. They gathered all of the donations, drove to Bremen, Kentucky and met with residents. A meeting was held with Mayor Tom Dermody, La Porte City Planner, Lochmueller Group and County Planner Mitch Bishop about the North South Connector or 'don't call it a bypass' around downtown La Porte. The meeting went very well, the project was started by the County but benefits the City of La Porte, the city can't do it without the County so there was some common ground met at the meeting. He attended a fundraiser at Paladin, they're great people. He visited the new ambulance base in Rolling Prairie, waiting on AEP to hook up electric. Director of Facilities, Larry Levendowski, has been amazing as always doing his job. He worked on Joe Donnelly's committee for St. Joseph County Veterans' Clinic for about 10 years, Congresswoman Jackie Walorski got involved and really helped accelerate the project. The clinic will now be renamed after Jackie in her honor. Both Zach Potts and Emma Thomson were great kids, too. In his nine years as Chairman of the National Legislative Committee for Veterans of Foreign Wars, keeping in touch with all of the congress people, our two Senators and their staff, Congresswoman Jackie Walorski was always on top of the issues. In the 18 trips to Washington, D.C., he could always count on both Pete Visclosky and Jackie Walorski to be in their offices and meet with him to discuss Veterans' issues. Jackie set a great example for us, working with both sides of the aisle, focusing on the issues and not the nonsense. Jackie will be greatly missed.

Commissioner Matias, La Porte County Works! program was started over a year ago to showcase great businesses in our County. Hickman, Williams & Company, a high-end metal producer located at 2321 Progress Drive, La Porte, is one of 15 in the Hickman Williams corporate locations with the home office in Cincinnati, Ohio. The La Porte location employs 15 people. The company was founded in 1890 in Louisville, Kentucky as a partnership t provide raw materials to the foundry industry by Richard B. Hickman and Harry L. Williams. The company is a 100% employee-owned company, serves global metal producers, foundry industries with a wide range of materials and markets related equipment and supplies such as electrodes, refractories and filters. It is the vision of the company to be the premier supplier of high value products and services to the metals and other industries. Their mission is to be the dependable source of high-quality products and services for their customers, principals and employees. As an employee-owned company, they are continually striving to improve their products with a total customer satisfaction as their goal, while meeting statutory and regulatory requirements. They offer a full range of employee benefits and has openings for production employees. Forklift experience is a requirement t be employed. Heavy equipment and aggregate crushing are a plus. Information for this company will be on our county website. Spoke a bit on Congresswoman Jackie Walorski, cared deeply about our Veterans with such passion. Jackie was the daughter of a Veteran and was well aware of the sacrifice they gave, both active duty and former active duty. As a woman in leadership, Jackie used her voice to make a difference. She will be missed and Commissioner Matias is proud that La Porte County will honor her with a summer internship. Awesome county collaboration was shown in the new EMS Base in Rolling Prairie, the work done at the fairgrounds between the Fair Board and FMEC, and the new playground equipment at Bluhm Park. Instead of being negative, it is much better when everyone works together.

## President Sheila Matias adjourned at 7:34 p.m.

EXAMINED AND APPROVED BY THE
BOARD OF COMMISSIONERS OF THE
COUNTY OF LA PORTE, INDIANA
DATE 1-2022

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