



# BOARD OF COMMISSIONERS

## LAPORTE COUNTY

Circuit Courthouse  
813 Lincolnway, Suite 301  
LaPorte, IN 46350-3400

Phone: (219) 326-6808 ext. 229 – FAX: (219) 326-9103

Marlow Harmon, President

Barbara Huston

William Hager

### LAPORTE COUNTY COMMISSIONERS TUESDAY FEBRUARY 7, 2006

The LaPorte County Board of Commissioners met on Tuesday, February 7, 2006 in the lobby level meeting room #3 of the LaPorte County Annex and Security Complex at 6:00 p.m...

LaPorte County Commission President Marlow Harmon called the meeting to order at 6:00 p.m...

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

Commissioner Huston led the Pledge of Allegiance.

#### APPROVAL OF AGENDA

Mr. Harmon, made the following amendments to the Agenda under Correspondence add Resolution in reference to the RDA. Mr. Hager made the motion to approve the Agenda as amended, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

#### APPROVAL OF MINUTES

Mrs. Huston, made a motion to approve the minutes from January 17, 2006 as presented, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

#### WEEKLY REPORTS

Commissioner's review and sign weekly reports during the meeting.

#### CLAIMS

Mr. Hager, made the motion to approve Payroll Ending February 10, 2006, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

Mrs. Huston, made the motion to approve Miscellaneous Claims in the amount of \$4,379,891.59, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

#### CORRESPONDENCE

##### Attorney Shaw Friedman, Update Nipsco

Mr. Friedman explains all updates on Nipsco. I am pleased to report that the non-profit Indiana Utility Ratepayer Trust has helped to reimburse the County over \$80,000.00 in cost and fees over the last couple of years in some of these cases being brought against Nipsco. The IURC backed our position on the service centers which meant that Nipsco could not

close its service center here on State Road 2 which has been open for nearly 50 years, the IURC ordered all five (5) service centers kept open. We are currently pushing for public hearing in Northern Indiana on gas rates and it has been set for February 22 in Goshen, Nipsco is opposing the public hearing and we will let you know if that hearing goes forward. I will tell you that everywhere I go I talk to ratepayers in the county and they are very pleased that their County Commission is leading the fight against Nipsco.

Mr. Harmon, thank you Mr. Friedman and on behalf of myself and the board we appreciate your work that our attorneys are doing to keep Nipsco feet on the fire and I want to thank Commissioner Hager and Commissioner Huston and also the seven County Council Members for supporting our endeavor to and the other Commissioners, and the Council members and again thank you.

Mr. Hager, we have to keep it up.

Mrs. Huston, thank you Mr. Friedman.

Resolution RDA, Attorney Shaw R. Friedman

Mr. Friedman, as the commission knows we had received some contact in the past couple of days from elected officials in St. Joe County, a county council member and County Commissioner, Steve Ross faxed over some communication to the Commission Office today about the RDA. This is very closely tied in with the Toll Road issue and I know all of you have expressed concern over the potential lease of the Toll Road and the impact. There has been some discussion about establishing a Northeastern Indiana RDA and so Commissioner Harmon and I spoke today there is a desire to go on record to express number one the concern about the proposed Toll Road lease as you all know the NIRPC Board of Directors by a near unanimous vote just two weeks ago recommended that rather than being approved at this session that they go to a special session and if this goes forward over our objection, than in fact money is designated for regional development authorities that this county and St. Joe County be able to recoup some of the money that is there. I have prepared a draft resolution and would be happy to read for the commission's consideration.

Mr. Harmon, I think this is something we need to do, I was very pleased when I got a call from the Commissioners of St. Joe County who are willing to step up and do something with us to try and do something with us as far as coming up with three and a half million dollars which is ludicrous and not have a say of where the money is going and not knowing if we will get any of that money back.

Mr. Hager, we don't have the money to put in three and a half million dollars for this RDA and I am strongly opposed to putting money in. The other counties over there have gotten it and I am not in favor of going with them over there one bit.

Mr. Harmon, I am asking that this be read the resolution be read in its entirety. Mr. Friedman would you read the resolution.

Mr. Friedman reads the resolution in its entirety.

Mr. Harmon, you have heard the resolution.

Mrs. Huston, made a motion to adopt and forward to Commission of St. Joe County and to Senate Representatives, second by Mrs. Hager. Motion carried with a roll-call vote 3-0.

Mr. Harmon, this will be known as Resolution #2006-03

Wall Gang

Mr. Harmon, we the Board of Commissioners have a Quit Claim Deed for you, so you can get it recorded and move forward with your next project.

Mr. Yagelski, I approached you two years ago on this project and we appreciate it and thank you for keeping things going and the Wall Gang appreciates it.

REQUESTS

James Burke, EMT-P/CRT/ Retiring –request to continue with County Health Insurance

Mr. Harmon, Mr. Burke he has been with us for 26 years and he meets the qualifications to receive the insurance and he is required to pay 30 % of the insurance premium.

Mr. Hager, made the motion to allow him to carry the health insurance until he is eligible for the Medicare program, second by Mrs. Huston. Motion carried with a roll call vote 3-0

Duneland Health Council, request for feasibility study Homeless Population in the amount of \$15,000.00

Mr. Harmon, I have met with Mr. Norm Stagger, Director of Duneland Health Council and Mayor Oberlie and there is a homeless problem in LaPorte County. I am asking this board to consider a feasibility study that the City of Michigan City would pay part of the Duneland Health Council and LaPorte County would pay part of it. The study would be done by the Indiana Coalition on Housing and Homeless Issues, Incorporated would come from Indianapolis and do the study, so I am asking the board to appropriate the \$15,000.00 to move forward to the council for their approval.

Mr. Hager, my comment is Michigan City is putting in \$10,000, they are putting in \$5,000, I would be willing to appropriate \$10,000.00 and believe they should go to the City of LaPorte and ask for the \$5,000.00 that would be my motion.

Mrs. Huston, I have no problem with the study, when do we have to do this?

Mr. Harmon, we need to make a decision tonight and then it will move forward. Everybody else has agreed to it they were going to meet with Mayor Morris see if they can come up with the money.

Mrs. Huston, so the total cost is \$30,000, so if we did appropriate \$10,000, we would ask the city of LaPorte.

Mr. Hager, made motion to appropriate \$10,000 at this time, second by Mrs. Huston. Motion carried with a roll-call vote 3-0.

OLD BUSINESS

Appointment to IT Director Position

Mr. Harmon, Ms. Darlene Hale is Interim Director for the IT Department for LaPorte County. We asked the Data Board to submit three names, interview, and advertise for that position, interview the candidates and bring three names back for their recommendation. We have received the letter from the Data Board, see the minutes of their February 6 meeting. Mrs. Huston, being chairman of the Data Board why don't you take it from here.

Mrs. Huston, a little bit of a background on this, last October the Data Board met and we knew Mr. Tulacz was leaving and we posted in-house for any one that wanted to apply. Darlene Hale at that time was the only applicant. We had a Data Board meeting and it was a 4-1 vote to unanimously appoint Darlene Hale as the new Director. . Then there was some controversy going on in the Data Department, obviously we made Darlene interim until we can get to the bottom of it, which proves there was nothing wrong with the computers, we did have an outside agency come in and they downloaded all the hard drives and I do have the report that they gave us that there was nothing wrong. Ms. Hale was found innocent of any wrong doing in that matter. Then I went on vacation and came back and last evening the Data Board met because we were told the sheriff department does not have the county email that the rest of the department's have, so they didn't know that it was a posting for this position and the didn't know that it was posted on the bulletin board either. We had two more applicants from the Sheriff's Department Mr. Todd McCoy and Mr. Dave Foster and both interviewed well and any of the three people in-house would be fine. Now, I personally would like to promote from within and I have always thought it was a good thing. Ms. Hale has very high recommendations from different department heads plus the four department heads that serve on the board were all in favor of Ms. Hale. So, last night when we met again the three candidates were Darlene Hale, Todd McCoy, and David Foster. It was brought to my attention in October we did decide as far as the minutes went that if we got one from inside we would post it in the newspapers. After talking to the other board members, at least three of the other board members we had two additional people apply in-house we decided to go ahead and interview them. There were four board members there last night, one was absent. It is the recommendation from the LaPorte County Data Board to appoint Darlene Hale to the position as the LaPorte County Data Director that is from the Data Board.

Mr. Harmon, now it is up to this board to decide one of the three or concur with the recommendation.

Mr. Hager, on this I may be misinformed, I was under the impression that we would get the three names and qualifications on their applications to the commissioners before we made the appointment. I never seen anything until tonight. I have no problem with Ms. Hale what so ever but I would like to see her application.

Mr. Harmon, the request from the Data Board was to interview the applicants and give us three names for consideration. We did not ask they furnish us with any qualifications.

Mrs. Sosinski, I was the member that was absent yesterday at the Data Board meeting. I was aware there was going to be a meeting because Mrs. Huston was back from vacation and I was waiting the call to tell me that that particular date was good with her and the rest of the board, I didn't receive that phone call so I was not at that meeting and I would have been there. I want to call to the commissioner's attention, I talked to Mrs. Huston and Mr. Hager back in October I have the Data Board meeting minutes of October 11<sup>th</sup>, which basically spelled out what we were going to do as a board as far as hiring of the replacement of Mr. Tulacz.

After a conversation of hiring a replacement we decided to advertise in-house for 10 days, we were also told that was in the county's personnel policy. We would have Monique to put a notice on the bulletin board in both courthouses immediately, after 10 days we are to close and have a meeting and interview anyone who turns in an application in-house. If there is not more then one, we would send it out to the papers regarding the job. Then we would interview them and send the top three to the commissioners that has not happened, I wasn't

aware there were two applicants from within. This job was first advertised in-house on Oct. 12 and the 19<sup>th</sup> through e-mail, I was under the impression that one of our council members told Mr. Harmon we were looking for additional applicants and I assumed that was from outside. I just want to relay to the Board of Commissioners that this is an opportune time to advertise and get the largest group in any qualified candidates. I do not know what the resistance is we have a lot of LaPorte County Taxpayers out there that may find interest in the position and that could bring that department and county government into the next century. I did want to relate that the two applicants that came, one I understand called and asked to have a resume put in, so all that being said I feel that this job needs to be advertised in the paper before anyone is qualified to bring their expertise into county. I'll give you a copy of the minutes and that is also what the Data Board agreed to back in October 11<sup>th</sup> and as far as the February 6<sup>th</sup> meeting we have not approved those minutes yet; I would like a copy of those. That is my opinion, I don't speak for the whole council but I know that there are quite a few council people that think this job is a very important job to the council but how do we know what's out there if we don't advertise. Let's get the best bang for the buck.

Mrs. Huston, Mrs. Sosinski as the other four and I can't talk for the other members of the board but as you're aware the four of us have worked in county government with Ms. Hale and the Data Department. We feel very confident that she can do a good job, obviously and I pointed this out to you, you don't work in county government, you really haven't worked with Ms. Hale and I think that's why the rest of us the other four who have worked with her. I have worked with her for five years, she's been here 8 years. Teresa has worked with her.

Ms. Shuter, I have worked Darlene the entire time, she hired in part-time with the Data Department and she has worked her way up thru the ranks to Assistant Director and now to Interim Director.

Mrs. Huston, the whole thing is we have confidence in her because we've worked with her. There's no resistance to hiring from outside but we've worked with her and have confidence in her. She will be on probation for three months, if during that period she for some reason doesn't follow through or something happens, the Data Board can revisit this appointment.

Mrs. Sosinski, we decided in October Mrs. Huston to advertise outside, that has not been followed through. I'm not pointing the finger but otherwise I could have been there I know one of the other members of the Data Board wasn't there, someone was in her place and I couldn't speak with her and her only comment was she thought our decision, that we should follow our decision was back in October, which was to advertise. I am also on the board, on personnel, on the council and I am the liaison for that department. I have no question, the way I feel about it you advertise you get five candidates, you have two from inside, the best one may be from inside. I just have a problem with missing the meeting and the miscommunication from yesterday.

Mr. Hager, would it be a problem if we tabled this until our next meeting, that way everybody could get this worked out with each other.

Mr. Harmon, it would not be a problem but this has been going on since October to hire somebody. This board is going to make a decision tonight unless the board tables it, with these people that applied for the position from within are very qualified for this job, it's

time to stop playing games and do our job and our job is to make the decision on who is going to be in that position and I hope the board do that.

Mr. Hager, I don't have a problem with Ms. Hale, but I just got this tonight right when the meeting started and I am not comfortable with making the motion to support somebody at the last moment.

Mr. Harmon, I appreciate your opinion Mr. Hager. We now have three names before us with a recommendation the board's pleasure.

Mrs. Huston, made a motion to appoint Mrs. Hale as Data Director, second by Mr. Harmon.

Mr. Hager, I don't have a problem with it, I think she'll do a great job. I should have been informed on the decision and not at the last minute.

Motion carried with a roll-call vote 2-1 with Mr. Hager voting nay.

Darlene, I look forward to working with everybody in the county to continue to move the county forward.

#### Robert Young, LaPorte County Highway Superintendent/ Material Bid Recommendations

Mr. Young, presented you with a letter of bid recommendation. The bids were opened up a few weeks ago and sent to the highway for recommendations. The second sheet you can look through them. Class I being crushed limestone, 2 bidders both for materials. Material Service Corporation. Accepted both of those bids, straight across the board so many different sizes, and the competitive price. One company cheaper on one set of stone and the other cheaper on the other side of stone. Which that both companies mix and match by who ever is the cheapest, or whatever size we need.

Class II, Colfax material, Reith Riley, Fendon Brown. Accept both of those. Class III, crushed slag aggregate material, I did receive a call from Lennie Slag, that they were not going to get their bid in on time. They were sorry that they weren't going to bid, why the other slag material didn't bid I don't have a clue. So we don't have any current bids on slag material.

Class IV, Reith Riley is natural gravel and sand. Sand mixed with salt, accepted good bids there, very good prices, just pennies apart, one sand being low bided in Rolling Prairie district which would be more feasible to haul from the LaPorte side, the other being feasible to the Hanna garage.

Class V being diesel fuel, three bidders, Triple JMar Petroleum, Rackham Service Corp., Petroleum Traders, accepting all three bids, Triple J-Mar as the primary supplier, Rackham second and Petroleum as an alternate, on the fuel, it's a very hard bid to read. They bid on what is called a bid constant, figure that stays the same then they have their daily price which is the fluctuation between the prices. Add all the taxes to it, so you almost have to figure it every time you have to get fuel. It keeps bids pretty even. They were within a penny, so we accepted all three of those.

Class VI, being signs and sign post we only have one bidder in that category.

**Class VII**

**Debco Metal Culverts bid to extend the bid by Mr. Hager, second by Mrs. Huston. Motion carried 3-0.**

**Mr. Hager, made a motion to concur with recommendations of the Highway Superintendent and accept the bids that were presented, second by Mrs. Huston. Motion carried 3-0**

**Rick McVay, LaPorte County Highway Engineer/ Bridge 258  
Additional appropriation of \$20,000.00 Cumulative Bridge Fund #210.21040.000.213**

**Mr. McVay, I am requesting these funds, this bridge was completed last year and I did not budget it for 2006 however I have received an invoice from Northfolk Southern.**

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

**Rick McVay, LaPorte County Highway Engineer/ Contract Agreement between LaPorte County & DLZ Johnson Road Improvement Section 1-4, Agreement in the amount of \$1,532,700.00 from Riverboat #272.20200.000.272**

**Mr. McVay, this is phase 4 & 3 for the survey six hundred-six thousand four hundred dollars for phases 4 & 3 and to be taken from riverboat.**

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

**Mr. McVay, there are roomers that are going around that this is going to be made into a four-lane road and that we are going to put in a bike route and I would like to go on record to stop that roomer on the record.**

**Attorney Robert Szilagyi/ Resolution to Rescind Bids on Walkway**

**Attorney Robert Szilagyi, I provided you with a copy of the resolution for walk way bids to extend the space. The situation since they can't complete the immediate phase.**

**Mr. Harmon, the reason we are rescinding it's been declared and emergency at the time back in November after the proposals of both contractors to not complete until the spring of the year due to the weather of putting down a liner the emergency situation no longer exist. With that the size of this project, it's necessary the board request bids. At this point ask the board to approve this resolution by title only.**

**Mr. Harmon reads the Resolution by Title Only to Rescind the Bids on the Walkway.**

**Mrs. Huston, made a motion to adopt by title only, second by Mr. Hager. Motion carried with a roll call vote 3-0.**

**Mr. Hager, DLZ is going to bid this out now?**

**Mr. Harmon, Mr. Glaze from DLZ is getting paper work ready for bids and the board will go over the bids.**

**Attorney Robert Szilagyi/ Ordinance Regarding Storm Water Runoff Control/ 2<sup>nd</sup> and Final Reading**

Mr. Harmon, reads the ordinance by title only on second reading. The ordinance by title only, Ordinance Regarding Storm Water Runoff Control. This is second and final reading.

Mr. Hager, made a motion to adopt ordinance on second reading and final reading by title only, second by Mrs. Huston. Motion carried with a roll-call vote 3-0. Ordinance 2006-01

**Attorney David McCain/ Ordinance to Vacate a Portion of Old U.S. Highway 30 Final Reading**

Mr. Harmon, we don't have a public meeting to do that.

Mr. Szilagyi, you had a public hearing last time.

Attorney McCain, Mr. Hager wasn't here. But Mr. Harmon & Mrs. Huston voted on it.

Mr. Harmon, Mr. McCain you have any comments you'd like to make on second and final reading?

Mr. McCain, no unless Mr. Hager have some questions because he wasn't here.

Mr. Hager, No, I was here, Barb was the one.

Mr. McCain, if Mrs. Huston have some questions, I'd be happy to go back over it.

Mrs. Huston, would you please, quickly.

Mr. McCain, in the photographs this property is at the intersection of C.R. 700 West and US 30 and old 30 used to come down and be a curve right there went south then turned back east went through downtown Hanna. Then 1959 the state re-did highway 30 into a four lane and bypassed Hanna. When they did they abandoned old 30. And there was a curve, attached to the petition. This road here is the road were talking about. This where old 30 may occur, went down this way. Now 1959 the state highway department abandoned this, shortly after that the pavement was removed. My client has this property over here the property here is owned by Joan Wagner who is here this evening, and the photographs I can show you. This would be Mrs. Wagners home where a tenant lives. This is my client buildings here, this is the driveway that comes off 30 downs to Mrs. Wagner's home. This is a roadway connected between 700 and highway 30 so that the pavement is up to my clients building, which is off of the right away. Both these properties have access to 700 and Highway 30. County Highway Department looked at it. Recommended that it be vacated and there is no pavement there now. There be no reason to have any pavement there, after that reason we were asking to have the road vacated.

JJ. Stan, with me is Mrs. Joan Wagner, the owner, and what were trying to develop today is a short presentation to explain where we were January 17<sup>th</sup> and why we were not here at the first meeting. Secondly briefly address why this should be vacated. The reason Mrs. Wagner was not here, she was in the state of Arkansas approximately December 27<sup>th</sup> until last Friday February 6<sup>th</sup> at which time she picked up here mail upon returning from her relatives who she was visiting due to an emergency right after Christmas. She picked up her mail she faxed it to me last Friday which in the notice from Mr. McCain, indicated that on January 17<sup>th</sup> there was going to be a first reading already two weeks later. Upon receipt of that I tried to contact the Commissioner's Office within an hour upon receiving that fax and

I believe this morning I tried to fax some material over to your secretary, Linda to be placed on the agenda. Thank you for allowing me to speak. If we have substantiated at least a reason, in terms of not being here January 17<sup>th</sup> what we would like to address to the panel of commissioners is why we think you shouldn't deny it. If it were headline it would be because there's an old bid of hoosier horses which is "if it ain't broke, don't fix it". Just like I heard RDA being pitched but rejected properly by the commissioner's what you have here is your request to give away county property. The question is why would the county want to give away something that cost nothing proving and petitioning to give away the property. If we take a look first at what is the motivation, asking for this to be given away you now own. It's not the county attorney and it's not a city attorney, it's not a government to provide. It's representing a private party. The petition before you is to benefit that private party. In all real estate, I been around 31 years, I taught Indiana State Attorney's with the bar course. I can say I never seen a deal in real estate where somebody wins and the other party win. It's always going to occur in real estate when it's not government owned that someone's going to gain and someone is going to lose because it's a finite quality. There's only so much real estate to go around it's a net some gain. What we'd like to look at over the last 50 or 75 years, has this been a problem? For 75 years it's been a road. I think that attorney McCain is correct under Title Search of 1959-1960 the state did by law, abandon it and it evolved over to the county. So the last 50 years it's been a road the question again is, why would you want to give this away has it cost the county anything? The answer is "No". My client has paid for all of the snow removal although it's a been a county road. And my client watched what has happened at this intersection since the petitioner Mr. Popajoy has purchased the property. Joan Wagner has owned it for 15 years. Mr. Popajoy has owned it for 4 years. On his property is a gas station which functions primarily as a fireworks display, which is a long and major highway Route 30. If you grant this petition I don't think it's too much of a wild guess to say that we will have a little bigger marketing of the fireworks display during the summer months. And as you have seen on the petition filed with you this little access public roadway right before a major intersection which is 700W and US Highway 30. For any of us who have ever traveled to Florida or been around a fast moving highway no one ever pulls into a fireworks store in a nice slow move. What they see is a big sign coming up, it's 4<sup>th</sup> of July you hit the brakes and you pull in. That's what is going to happen here if there's no access road. Finally closing we say to you take a look at the petition itself that's been filed with you. We believe it has material defects. Let me just go to that petition one second. The petition filed before you which was passed January 17<sup>th</sup> first reading states in your own words, paragraph 3. First you ought do this because there will be no inconvenience or no problems created to adjoining property owners. Ms. Wagner is here to testify that she has seen one major fatality decapitation approximately at that intersection as a tenant was pulling out her current drive perpendicular to route 30. Because Mr. Popajoy has parked his trucks, while on the public road and created a barrier for the tenant to get out any other way. In closing what we ask you to do is take a look at the exhibit that we prepared for you and I hope we had the copies circulated. I don't know if madam secretary had a chance. I numbered them in big numbers, and I color coded them so you can get a quick visual demonstration to what is really at state. Not an abstract surveyor, dry perpendicular look at the scene. On page 1 we tried to color code for you the triangle area on which the gas station, fireworks display by Mr. Popajoy will be used. You see that right along Route 30, you can see that right adjacent to the intersection. Second I tried to highlight in red the road that's asked to be vacated and in yellow the portion of the property owned by Ms. Wagner. Ms. Wagner home I tried to present to you the deeds which she took a title in exhibits 3 and 4 by comparison she took the property and it's been there for 15 years a resident of Indiana. Mr. Popajoy as you can see from this deed has been here 4 years a resident of absentee owner from Chicago. Finally in the exhibit 5, 6,7, I tried

to present to you pictures that we indicate certain equipment vehicles trailers and you're saying to yourself perhaps, what are those pictures showing? What are those vehicles and trailers? And I'll pause by saying those are trailers and vehicles blocking what is your supposedly abandoned public roads. The closing just think about the fact, if this road is not used, if it is not a public highway, why would Mr. Popajoy block it in the first place for daily use. May I finish saying something isn't broke, follow that little horse ruling, don't fix it, so we respectfully asking you to table this for a little investigation because there is no net gain to the county. It's county property being given away. It may result in a major or unsafe access because everybody is now going to be, the Wagner Home perpendicular to Route 30 and they're going to have to edge it immediately before a fireworks display. With that we thank you for your time.

Mr. Hager, if we vacate this Mrs. Wagner will have half of this road. She'll have her access in and out on half of that road. He cannot block her part of that road. She will own half of it. He will not be if you allow him to park on your portion.

J.J. Stan, if it becomes a non accessed road at that point. If you vacate, it's pretty clear the fence will go up immediately after the property is staked. It will remove that whole road way used anyone.

Mr. Hager, right, but she can use it for driving her portion. Because the fence has to go up in the middle of the road she owns the middle of that road.

Mr. Stann, it will block her ability to get out on the side road for better access off 700. Mr. Hager, she'll have half of the road still. She'll be like she's going out right now, she'll be in her lane. She will own that. Mr. Stann, I do not believe that that that's the intention of either Mr. McCain or Mr. Popatrov. Mr. Hager, anytime we vacate a road, both property owners divide it equally. Mr. Stan, other words to your understanding and I may be corrected here, is that you would have that access to 700 will still remain. Mr. Hager, right you will have that portion of the gravel road. You would have half of that gravel road getting to 700. Mr. Szilagayi, the statute say that when you vacate a road each land owner get's one half. Mr. Stan, we stated correctly, if the question is that we are not lacking the secondary access, like to have that insured. Then it seems to us we may be able to continue to use that road as a safe secondary access. Attorney for Mrs. Wagner it will block her access. Mr. Hager, she will own that, the road will be divided by both property owners. Atty. Szilagyi, each property owner is given 1/2 of the vacated road.

Mr. Stann, the paved road that runs from 700 to 30 goes right pass my client's building. That's his private property.

Mr. Harmon, Mr. Young can you come forward and explain that curve to us.

Mr. Young, over the years the road has moved. Over the original right a way not being used. Probably by previous home owners, maybe grass lined it there. I think what you need to do is take a survey, reestablish the right a way, see exactly where the right a way is, split it in half. What their saying is that the portion of the road now maybe is on these people property I can't say that. What happened over a period of time is the road has moved over and people planted grass and assumed that's part of the yard. I'm going to guess, I don't know I think maybe a survey is in need to see where the middle is at. Mr. Hager, I make a motion we table it, so they can look at it.

Mr. Stann, Mr. Chairman I believe that the County Department Head is correct I thought that position was if were unsure exactly of where this might fall. Would it be possible for the

chair to entertain a tabling motion until we can more fact and bring it back up at a next meeting.

Mr. McCain, I proposed to table it 2 weeks ago. Mr. Popajoy is here next to him is Mr. Hamilton who's owned the property for several years. The ownership is there. But the thing I point out this road, this paved road, is Mr. Popajoy lane and the land that goes into the house occupied Mrs. Wagner's tenant same kind of access that all front houses and homes have a long highway through. But there is no pavement on the old Highway 30, it's all grass. Now if you want me to go out and look at it, it's fine, I have no problem with that. When I look at I think they're all any good. Their would be a problem in laying out where the right a way and center line is without having a survey done. And were talking surveys to lay out that center line. Were talking several hundreds of dollars. Now it was our plan to vacate it that we would have a center line survey at our cost, so we filed a petition, somewhere close to \$2,000.00 to lay out that frontline. I don't want to incur that expense, unless it's vacated. Part of the survey was to attach a petition that shows the distance of the right a way of old 30 to the house about 22 feet look at the pictures of that pavement right in front of the house and that puts it all on his property. It was never part of the highway. That was the access to the house and what used to be a filling station I have no objection if you want to go look at it. Mr. McVay went out and looked at it of course recommended that you vacate it. I'm sure you don't want another road there. Mr. Harmon, I am going to support vacating this thing, but not until we know where that center line is and we know where the property line is. I think it's important that you understand where the line is at, down the road, that property get's sold to someone and they still don't know where the center line is at. And he won't know where his property is and they won't know what their property is. Mr. McCain, if you could just vacate we would have the survey so we know where the center. To give you an idea the survey was done some years ago approximately at the edge of where the right a way is. Mrs. Huston, Mr. McCain are you saying that Mr. Popajoy uses this or why it was used as his access to his driveway. Mr. McCain, well there are two roads, in the photographs, this would be the green awnings in front of the house. Here's the road coming off Highway 30 it goes to the two buildings of Mr. Popajoy. This road here that runs down to 700 is on Mr. Popajoy's property. Mrs. Huston, that's the road you want vacated? Mr. McCain explains pictures.

Mr. Hager, were going to have it surveyed to the center line.

Mr. Harmon, the only way were going to know, you'll have to wait.

Mrs. Wagner, we use that highway for everything.

Mr. Harmon, it needs to be done in a proper manner the only way to determine is have it vacated.

Mr. Hager made a motion to table until a survey is done, second by Mrs. Huston. Motion carried with a voice vote 3-0.

### NEW BUSINESS

#### Proclamation/ Boy Scouts of America/ February -Scouting Month

Mr. Harmon, Mr. Bolinger could you please come forward. February is Boy Scout month, we appreciate you bringing it to our attention. We'd like to read the Proclamation. Mrs. Huston reads the Proclamation.

Mr. Hager, I would like to personally thank the Boy Scouts of America.

### PUBLIC COMMENTS

Mr. Harmon, Mrs. England I want to get you involved real quick. As you know at this time LaPorte County has no ordinance or rule on waste dumping on farm land. The only ordinance we have in the county is one that take out of county contractor that wants to dump waste out on farmland cannot come into LaPorte County on local contractors can do that. We don't have a say to stop this kind of dumping it's done strictly thru IDEM and if they meet all the qualifications and they will give the permit. There are issues that have to be addressed and I'm sure we will have to notify the health department that all guidelines set up for IDEM to do this. We'll try our best to keep him under control so he doesn't get out of hand with what he's doing, but in the meantime. I'm going to ask this board to forward this to our attorney and do some research see if we can come up with an ordinance.

Steve England, the Board of Health have these water test done, is this something they bring to you or are they going out to get it?

Mr. Harmon, I think the Health Department checks that and make sure they contact IDEM.

Mr. England, is there a committee to make sure the job is done properly?

Mr. Harmon, this is why we will contact the Health Department to make sure they monitor what he's doing. We can find out if there is something that we can do to adopt.

Mr. England, one thing for a vet to be there and people to come and build new homes around it. But for the county that would be any fault of yours, that's good intentions to allow people to build in subdivisions, that's been farmland for years a and a guy comes in and can dump crap on the ground, all of a sudden you can't do nothing about it. If I dumped my crap they'd be on me like stink on crap. It's odd to be able to say that the county can control so many things. We've done an investigation of our own. These places have been shut down because of bacteria they flush so many things down the septic systems. Maybe the county can protect this.

Mr. Harmon, I talked with IDEM today with the man who issues permits. He said as long as he meets the requirements. And if he does not meet the requirements we will contact IDEM.

Leann Haze, I live by the England's and I am worried about the bacteria and what kind is in our air. My major concern is my little girl and she has cystic fibrosis. I will not be able to let her play outside so what ever we need to do I need your help, the airborne bacteria will kill my daughter. What ever we need to do to get this stopped I'm willing go financially to go with it. If we have to take it to courts.

Mr. Harmon, let us look into this and see what we can do.

Mr. Huston, Ms. Haze, have you considered to send this down state to IDEM.

Mrs. Haze I just got the letter today, I called the Cystic Fibrosis Foundation and her doctor which is Dr. Harris, in South Bend. My major concern is my daughter; I can't continue to live in this house.

Mr. Harmon, I can assure you one thing when it comes to property value IDEM doesn't care. This will be a very important letter for them.

Sheryl Reinhart, I had several requests from county employees to offer an education plan for payroll deduction with Edward Jones. Many benefits to this in the past it provide money for college education. I think it can benefit everyone of the county employees.

Mrs. Huston, Didn't you say that money could be used for books and tuition, and it is not taxed.

Ms. Reinhart, tuition, room & board, books any college related expenses. Most of the money for educational purposes is not taxed not only does it provide employee benefits, I do this for LaPorte Hospital, and it's been used there. It provide a nice avenue for those who can't afford to send people to higher education.

Mr. Harmon, how are you trying to present this to employees?

Ms. Reinhart, I would probably do educational meetings at different times, payroll stuffers, those types of things. And we do the education of the employee so that they understand how it works.

Mr. Harmon, we don't allow you to go office to office to talk to employees that won't happen. Set up a meeting somewhere and let the employees come to you.

Ms. Reinhart, that's typically what we've done. I don't go from room to room.

Mr. Harmon, Ms. Shuter, can I have her meet with you and discuss a way to doing that and recommendation. I'm going to ask that you meet with Mrs. Shuter. It might be a mailing thing you might do.

#### COMMISSIONER'S COMMENTS

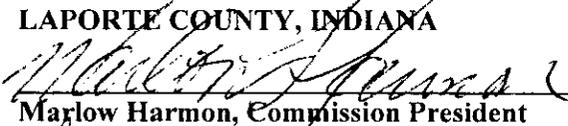
Mr. Hager, we fought that a few years ago on 600 West and U.S. 20 and I'll say the state goes out there all the time and it was not a pleasant smell.

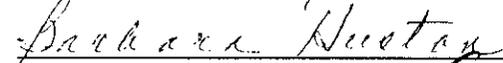
Mrs. Huston, I can't imagine that going in. I think it is something we should strongly oppose. Obviously there is something we can do about it.

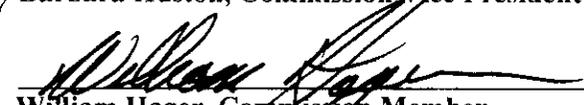
#### ADJOURN

Commissioner Harmon adjourned the meeting at 7:55 p.m...

LAPORTE COUNTY BOARD OF COMMISSIONERS  
LAPORTE COUNTY, INDIANA

  
Marlow Harmon, Commission President

  
Barbara Huston, Commission Vice President

  
William Hager, Commission Member

ATTEST:   
Teresa Shuter, LaPorte County Auditor