



BOARD OF COMMISSIONERS LAPORTE COUNTY

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Barbara Huston,
President

William Hager,
Vice-President

Mike Bohacek,
Member

LAPORTE COUNTY COMMISSIONERS TUESDAY, FEBRUARY 6, 2007

The LaPorte County Board of Commissioners met in regular session on Tuesday, February 6, 2007 in the LaPorte County Complex meeting room #3.

Present at the meeting were Commission President Barbara Huston, Commission Vice President William Hager and Commission Member Mike Bohacek. Also present were LaPorte County Deputy Auditor Rita Layton, LaPorte County Attorney Shaw R. Friedman and Executive Secretary Linda Arnett.

Commission President Barbara Huston called the meeting to order at 6:00 p.m.

Mr. Paul Young led the Pledge of Allegiance.

Approval of Agenda

Mrs. Huston, we have amendments to the agenda as follows, under "New Business" remove Attorney Shaw Friedman, Ordinance to Establish Copy Fees and add "E" under "New Business" amend Appointments to the Community Corrections Board and "F" Purchase Agreement with NICTD.

Mr. Hager, made a motion to approve the agenda as amended, second by Mr. Bohacek. Motion carried with a voice vote 3-0.

Approval of Minutes

Mrs. Huston, we have an amendment to the January 16, 2007 minutes by Mr. Bohacek on page 2 amend it states silk fence and it should read silt fence.

Mr. Bohacek made a motion to approve the minutes as amended, second by Mr. Hager. Motion carried with a voice vote 3-0.

Weekly Reports

The Commissioners review and sign weekly reports during the meeting.

Claims

Payroll

Mr. Bohacek made a motion to approve Payroll Ending February 9, 2007, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

Miscellaneous Claims

Mr. Bohacek made a motion to approve Miscellaneous Claims in the amount of \$586,612.28, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

CORRESPONDENCE

William Poag, Emergency Planning Coordinator

Mrs. Huston we have plaques to present Emergency Plan Committee of LaPorte County in recognition of outstanding planning that is one and the award is presented to the local Emergency Planning Committee for Outstanding Administrative Achievement, Emergency Planning Committee for Outstanding Data Management, Local Emergency Planning Committee for Outstanding Outreach to the Public all are from the Indiana Emergency Response Commission.

James Donnelly/ Outdoor Wood Fired Boilers

James Donnelly- 4622 North 525 West, LaPorte, Indiana.

Mr. Donnelly explains the boiler workings of the boilers and goes on to explain how it smolders and this produces a matter that it can filter thru windows and the matter stays airborne for up to three weeks. There are new rules developed by the EPA and News Cam but those are voluntary. Marion County took it upon themselves last year to band the unit and they had two units that were grandfathered and they were out in the country and Evansville has also banned the units. There is one of these units across the street from Joy Elementary School and this matter is highly toxic to children. What I recommend or ask the commissioner to be involved in is a moratorium on the new units being brought into the community. It would be well advised to set up a moratorium and set up a committee with stake holders involved in it, there is so much information on this. There are no regulations or ordinance regarding the installation on this.

Mrs. Huston you said work with the people that have the units now, how do we do that?

Mr. Donnelly, I don't know, we need to put a committee together to decide how to handle this and we need to stop what is coming in.

Mr. Bohacek, Long Beach is an incorporated town, so we can't do much with Long Beach.

Mr. Donnelly, I understand that but the idea is that they could put one like that.

Mr. Bohacek, my question is, have you heard of any action by the Long Beach Town Council on that?

Mr. Donnelly, no I haven't.

Mr. Friedman, Mr. Donnelly as you know NIPRC is putting together a draft or a model ordinance. I had communication with Dan Gardner of NIPRC staff and they are close to having a model ordinance.

Mr. Donnelly, why can't we do one better take what they have given us and have our own stakeholders, our own committee spend a few more weeks and put a moratorium on what is coming in the next six months and put a hold on it.

Mr. Hager, we have our county planner here and he has an ordinance from another county and we are going to be working on this with our attorney's.

Mr. Friedman, I should note for the record, that Mayor Oberlie sits on that NIPRC Committee that is working on a model ordinance.

REQUEST

Paul Young, EMA Director/ Additional Appropriation \$15,979.00

Mrs. Huston, Mr. Young as of today this amount that you are requesting has changed.

Mr. Young, yes they come back with \$14,700.00 with the trade-in.

Mr. Bohacek, what is the year of your car and how many miles does it have?

Mr. Young, 03 and it has close to 100,000 miles on it.

Mr. Hager, made a motion to approve \$14,700.00 from CCD Fund, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

OLD BUSINESS

Rick McVay, LaPorte County Highway Engineer/ 18th Street Sewer Main & Water Main Extension Project

Mr. McVay, you have my letter in front of you and we need an appropriate \$269,500.00 for American Consulting Engineering and I believe the survey is almost completed.

Mr. Hager made a motion to approve and move forward with this project out of Riverboat Funds, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

Rick McVay, LaPorte County Highway Engineer/ Bid Recommendation / Demolition of 4th St. Fire Station

Mr. McVay, you have my recommendation and Universal Recycling is the low bidder at \$110,093.00 for the demolition of the 4th Street Fire Station and send this on to the council.

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

NEW BUSINESS

Consideration for Resolution regarding possible Sale of Nipsco-Electric Operations

Attorney Friedman with the approval reads the proposed Resolution in its entirety.

Mr. Friedman the resolution and statement by the board would be of help and assistance as we are communicating to legislators, since they are in session now and having the board on record would with a resolution like this would help and guide legislators.

Mr. Bohacek, how do other counties feel about this?

Mr. Friedman, we have had communications with other counties on prior cases, so having the county on record will assist if we go to other counties.

Mr. Hager made motion to approve and sign resolution and also thank Mr. Friedman for taking on suits against Nipsco for the public, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

Mr. Friedman, thank you. I should note too that this board has been steadfast over the past four years in it's supportive efforts regarding the Nipsco rates and service and unfortunately we've had a record of success in that effort but the involvement of elected officials in supporting those efforts it's a trip.

Mr. Bohacek, in making this successful, obviously the county is going to have an expense in trying to start this venture. It's going to offset some of our costs.

Mr. Friedman, that's certainly the whole page. As you know, we've even been able to get reports of the cases that we've been involved in for payment, many of the cases, if not all the cases. Many of the cases we've gotten repayment for the county across from what's known as the Indiana Utility Ratepayers Trust Fund. It would be our intent to submit for that, but also have a joint effort. The Service Center case is a good example. Lake County, City of Hammond and others all contributed to the illegal fees and expenses that were involved in the matter. Certainly something of this effort, this magnitude it's going to need more than just LaPorte County.

Mrs. Huston, this is to be known as Resolution #2007-01.

Consideration of Lease for Extension Service

Mrs. Huston, this is a lease agreement between the LaPorte County Board of Commissioners and Mr. Magnuson, for the Purdue Extension Service and this is being signed. The Commissioners did grant the Purdue Extension an additional years rent, and to stay in the offices where they are now. It's dated and the Commissioners will sign this agreement.

Mr. Hager, made motion we allow the president to sign, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

Approval of Offices & Break Area in Basement of County Complex

Mrs. Huston, as you may or may not know we were directed by the County Council and led to believe they would not grant Purdue the grant to stay out at the offices that they have occupied for the last three years. So in anticipation of that we had the Maintenance crew here, Al Ott and his staff start to make the lower level of the museum into offices. Because it was occupied by the museum it never had phone or electrical work or computer drops or anything like that. They can start that when the Council granted them permission to stay in the offices that they were, we had to redirect the rooms that were down there. Look for its approval of adopting a break area down there.

Mr. Bohacek made a motion to approve the renovations and the basement of complex, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

Amendments to Community Correction Advisory Board

Mrs. Huston, at our January 2nd meeting we made our appointments that was regular to the Community Corrections Board, however we did not have the information in front of us that a couple of people have resigned from the board prior to that. We did not have their names so we have to correct those appointments to find replacements. Attorney Greg Hoffer resigned and Attorney Craig Braje will replace him.

Mr. Bohacek made motion to accept Craig Braje, second by Mr. Hager. Motion carried with voice vote 3-0.

Mrs. Huston, second was Rev. David Gibbs replaced on the board by Larry Trueblood, who is also a Reverend.

Mr. Bohacek to accept Rev. Trueblood, second by Mr. Hager. Motion carried with a voice vote 3-0.

Mrs. Huston, when we do liaison position each Council member is liaison to several different boards. Mr. Mark Ludlow was the Councils liaison to County Community Corrections Board. However he was not the County Commissioners appointment to that board. The Council not realizing this appointed Earl Cunningham to take Councilman Ludlow's place. Councilman Ludlow was not up

for reappointment until 2008. Councilman Ludlow is still on the Community Corrections Board for another year.

Purchase Agreement with NICTD

Mrs. Huston, we have before us the LaPorte County Commissioner sell to Northern Indiana Community Transportation District.

Mr. Friedman, just for the record that is strictly an addendum to an agreement that you previously approved. That's all you would be doing, simply providing this.

Mr. Bohacek, where is the property located?

Mrs. Huston, it's the old Metals building in Michigan City.

Mr. Hager made motion to approve with the president sign, second by Mr. Bohacek. Motion carried with a roll-call voted 3-0.

Public Comment

Connie Clay, from Save the Dunes Council. I appreciate the opportunity to speak before the LaPorte County Board of Commissioners this evening. As listed down we had previously mentioned, regarding the out door wood fired boiler. Save the Dunes Council is also taking an effort in investigating and looking into the issues of the youth and operational distribution of outdoor wood burning. Save the Dunes Council board of directors at their monthly board meeting, last Wednesday, January 31st, voted to ban distribution, operation and use of existing and new outdoor wood burners in municipalities in Northwest Indiana. Currently I sit on that work- study group that is convening to buy the energy fee, which is the arm of NIRPC. Save the Dunes Council has been looking into the concerns around outdoor wood burners for the last several years. It is with the interest of Mr. Donnelly and residents that this use has been brought to our attention in regards to the smoke. I just want to read a few words regarding this "compounding this issue are the figures on escalating energy cost coupled with the fact that more Americans are opted to enjoy more leisurely hours at their private residences. The outdoor wood burning furnace phenomenon is growing which is directly impacting the quality of life for LaPorte County residence and beyond." According to IDEM statistics has indicated that residence living within a few hundred feet of an out door wood burner are suppose to air above the new 24 hour p.m. 2.5 air quality standards. Therefore in light of this information other documentation, the Save the Dunes Council wishes to call for the following recommendations: convene the Commission to singularly address the manufacturing distribution sales and use of out door wood burners, in size of private citizens, county Health Department Officials, public agencies, environmental organizations, out door wood burning manufacturers and members of the American society protecting and other viable entities. Request Governor Daniels to direct the EPA to fulfill the federally mandated obligations to provide the IDEM with stringent importantly capabilities for regulating the operation use of out door wood burners. Ban the sell and use of any new out door wood burners until such time until the newly convene commission as before mentioned has issued their timely recommendations to this board of commissioner on the use of out door wood burners. Ban the sell and use of any new newly convene commission, any new of the wood burners and establish that hotline on the Commissioners website to direct citizens of LaPorte County who wish to report nucense smoke and related health issues from neighboring outdoor wood burners. One of the things that I'm sure of the state of Indiana, the residents of LaPorte value most is their continuity with their neighbors. When neighbors are calling to report nucense smoke that they are doing so with strict anonymity, we feel that the social capital that's being diverted here because of this issue deserves greater attention. Save the Dunes would just like to go on record saying that we do request that the LaPorte County Board of Commissioner take a vested interest in the use in operation of outdoor wood burners and that we sincerely hope that we all work together that the air quality is maintained.

I'll pass out those folders after I finish a brief presentation. A little bit more on the outdoor wood burner.

Mrs. Huston, your name please?

Pam Oakson, I live next door to a outdoor wood burner on Wozniak Rd. 3256 N. Wozniak is my address, and the wood burner is 3302. Amongst the crowd tonight are also neighbors that live on the other side. I'd just like to describe briefly the placement of this unit is slightly in a hole, behind the homeowners home. The stack is approximately 10 feet high. It was probably only 2 feet high when he first installed it. Our neighbors here and myself approached the gentleman in a present fashion and asked if he could decrease the stack because we were expressing our discomfort. Again what was just described by Miss. Clay, you get a very defensive reaction for any suggestions for making the community more comfortable. The congeniality has broken down. It occurs frequently. My husband is a professor of Justice Studies at Northeastern Illinois University of Chicago and last year IDEM began their study, he wrote a brief paper that we shared with various senators and representatives in Illinois and at the federal level. I'd like to share two pieces of that and I'll give you the full paper at the end of my presentation tonight. Just briefly there's about 11 homes in this community people call it country but it's settled like a subdivision. There's a subdivision behind it, so you can kind of get an idea of how densely populated it is.

Mrs. Oakson reads report

Mrs. Oakson, you have the material in front of you and I'm just going to add some to that tonight. It is therefore significant that it is not the creativity of the builders of such a machine that has been challenged for the desperate nature of individuals to save money by using nature's wood. Another problem in itself. But the hazardous positions, which because of it's content and consistency can constitute major pollutions by degrading of the air quality and consequently the short and long term poisoning of neighbors in our center system. As the paper continues it considers and analyzes various outdoor wood burner rule alternatives in response to each possible rule includes establishing emission standards for outdoor wood burners requiring catalytic converters on smoke stacks restricting the types of phrases and regulating the placement. Tied up smoke stacks quality of wood and so on. Each of these alternatives do not achieve the goal of adequately protecting public health and pay significant monetary and regulatory enforcements. Without consideration to the health of everyone and to their own family. Banning outdoor wood burners would appear more reasonable if all members of any given neighborhood with such furnaces have been installed, give a grandfather clause to the clean air which they enjoy before the premises were installed. There is no critical logic under legal jurisprudence to a certain that in the choice between circumstances. One clearly promoting health and the other assisting on the burden of pollution that would generate anemia or future health problems that regulating bodies would opt for the ladder. It is therefore incompetent upon lawmakers to chose an outcome that would benefit everybody including those who do not see how they being given a choice. It is understandable that such individuals can see based on the knowledge and implications of their choices particular economic demands on assistance on exercising their right amenities. They actually found a way to save money in the current economic challenges. However in the advance society that functions not in response to in order to devise or the majority at the expense with the help of everyone. Keep in the mind the question is not the outdoor wood burners. It's the health of everyone in the area. A law making body would have to consider weather or not it is fair to grandfather pollutions into a neighborhood. The machine in our neighborhood is positioned 10 to 15 feet from the south property line, 50 to 60 feet from the north property line. About 11 families, 20 to 24 adults, 11 children, so were asking you to consider your actions very carefully. My husband isn't here but he made it possible for our 12-year-old son who's a full time student to be at school tonight otherwise he would have delivered this himself. We ask you very carefully to consider the actions that will be taken.

Mr. Hager, when he's doing these studies, has anybody ever studied what cost saving this is to the homeowner that puts one in? By the time they buy the furnace and install.

Mrs. Oakson, I think they try to do such thing. I think it's different for different folks because some people get their wood for free. Going around and collecting it. Other people install them themselves. There are some people who are gifted with their hands and want to help other install them. That's another factor too. If there were two machines in our community, it would be absolutely intolerable. It has to be something done to regulate. Especially in a residential area like that. Were out in the country what can you expect? You should be able to tolerate these kinds of things. Were in a very residential area. We're all right next to each other.

Mr. Bohacek, I appreciate your comments. For the record I do support a six-month moratorium for our Planning Commission and our County Planner to draft an ordinance.

Mrs. Oakson, thank you for all your consideration and I'll share that paper with you.

Mr. Friedman, one of the things were going to need to work out before we bring a model ordinance before you, who will be the enforcement body? That's been wrestled with a number of guys. Is it the Plan Commission and your Building Commissioner or is it going to be your Health Dept., I know your going to want input from both of them but that's part of the issue that this board will need to look at, if you are considering an ordinance.

Mr. Cunningham, Shiva Dr., LaPorte, Indiana. I'd like to thank Mr. Bohacek for mentioning the possibility of a six-month moratorium regarding this issue. I have a couple of questions of clarification. It's my understanding if I build a storage shed in my back yard with no electricity, water, heat, nothing, I would have to have a permit, is that correct?

Mr. Hamilton, if it's larger than a 144 square foot. A 12x12 or greater to build.

Mr. Cunningham, regardless of weather we have records, it would seem to me that that would be the first thing we ought to do. If were involving under ground water, underground electric, we need to have some kind of permit process. If were gonna require a permit for a 12x12 storage shed with no electricity, no water. Then certainly it seems to me that we ought to at least have a permit process. That's something we can look at.

Mrs. Huston, I think that's one of the problems Mr. Cunningham, that when the boilers went in, there was nothing to regulate them, why put the cart before the horse, I think that's what the problem is, there was nothing to regulate it to begin with.

Mr. Cunningham, and I agree with that. There may be 100 or 200 but it seems to me that something like that we have to stop 2 or 3 years from now it might be a 1000. Another thing to consider, Mr. Hager might remember this, at one point in time the government provided free cigarettes to our veterans. My father was addicted to cigarettes, coming home from WWII. He smoked until he was 70 years old and when their talking about long-term short term effects on your lungs. There was a point in time where nobody believed that cigarette smoke was bad for health either. Look at the evolution that we've come to. It's pretty much banned from all restaurants and some states, and even outdoors. I think in New York City you can't smoke in a park. At any rate, maybe we have to be far reaching look up the road here, at some point in time we may look back and say we should have done something about this 20 years ago or 30 years ago. A moratorium seems like a perfect solution for the immediate situation of LaPorte County. It stays in my mind why would Marion County ban them, if they studied the issue and there was no problem with it. I think the city of Evansville is the same way. Evansville their population is not as dense as Long Beach. I think Mr. Bohacek made a great point here. This is a long issue in Long Beach. If the county gives some guidance, maybe Kingsford Heights, Wanatah, Union Mills and every other little small town is going to take some leadership. I think the gentleman's point here, one right across from Joy School. That's been there for 10 years. I had never heard of this until a few months ago. Probably as price fuel went up, some people have free wood and become more prevalent, and I think that's the issue. Thank you.

Commissioners Comments

Mr. Hager, I would like to say, I don't like in the spring and fall. I do not like fireplaces because that smoke is like a haze over the area. And I'm not in a heavy populated area. But I still don't like them, and I sympathize with the people that are buying. I know the Commissioners are going to move forward with our attorneys and our County Planner is now on board.

Mrs. Huston, I would like to say as Mr. Hager doesn't like wood burning fireplaces, I don't like burning leaves and I never have, but some people do, but I don't either. I'd also like to tell you that Congressman Joe Donnelly has a office here in the Complex and he's on the 5th floor up there with Mr. Hamilton. And his office will open tomorrow. It will be one day a week on Wednesday's from 8-4, Mr. Dwayne Arndt will be up there for the day and the second Thursday of each month from 8am to noon and he will have an office at the City Hall, that location is unknown.

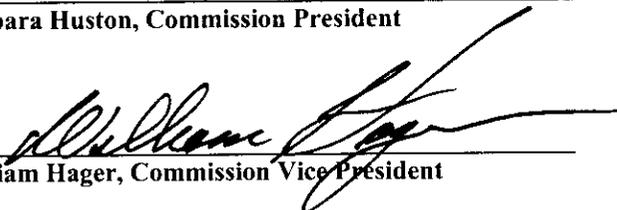
The other thing is, some of the things the Commissioners are doing. The offices downstairs in the basement of the old Museum, Bill Poag's office will be down there. We also have a commissary for our employees. There will be vending machines down there, tables, a designated outside smoking area for our employees in that area. Also In-House Printing is going down there and we were approached by Judge Baldoni for the clerk's office on the 3rd floor to be put down there. And if you never been through the basement and see Judge Baldoni, you'll always see lawyers standing outside talking to clients, there's also a room furnished for them so they can get out of the hallway and talk privately with their clients. So were trying to utilize that space that we have down there for different offices and give them a little more space to work in. We are crowded and cramped as far as that's concern. It was difficult to find a place for Joe Donnelly and in Mr. Hamilton's office there an office being used by Monique at one time, and we move her in our office and Ray had someone in there and he's given that office to Congressman Donnelly. We thank him for that and we want to have Congressman Donnelly's input in this area and we're looking forward to go onboard with it. I thank you very much for attending this evening and meeting stands adjourn.

Adjourn

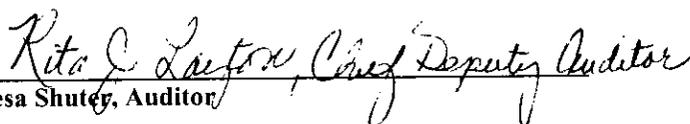
Commission President Barbara Huston adjourned the meeting at 7:05 p.m..

LAPORTE COUNTY BOARD OF COMMISSIONERS
LAPORTE, INDIANA


Barbara Huston, Commission President


William Hager, Commission Vice President


Mike Bohacek, Commission Member

ATTEST: 
Teresa Shutey, Auditor