



BOARD OF COMMISSIONERS LAPORTE COUNTY

Office Annex

555 Michigan Avenue, Suite 202

LaPorte, IN 46350-3400

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

Barbara Huston,
President

William Hager,
Vice President

Michael Bohacek,
Member

LAPORTE COUNTY BOARD OF COMMISSIONERS TUESDAY, SEPTEMBER 4, 2007

The LaPorte County Board of Commissioners met in regular session on Tuesday, September 4, 2007 at 10:00 a.m. in the LaPorte County Complex Meeting room #3.

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

PLEDGE OF ALLEGIANCE

Mr. Dennis Metheny led the Pledge of Allegiance.

APPROVAL OF AGENDA

Mrs. Huston, under "Request" we are going to remove LaPorte County Attorney Shaw Friedman Request Special Co-Council Intermodal and under "Old Business" LaPorte County Attorney Robert Szilagyi Resolution Comp Time both will be removed and discussed in an executive session prior to coming to a Commission meeting.

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

Mr. Bohacek made a motion to approve the minutes of August 7, 2007 and August 21, 2007 as presented, second by Mr. Hager. Motion carried with a voice vote 3-0.

WEEKLY REPORTS

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

CLAIMS

Mr. Hager made a motion to approve Payroll Ending- September 7, 2007, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

Mr. Bohacek made a motion to approve Miscellaneous Claims in the amount of \$509,855.32, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

Mr. Hager made a motion to approve the Settlement in the amount of \$10,000.00, second by Mr. Bohacek. Motion carried with a roll-call vote 3-0.

Mr. Bohacek, made a motion to approve the Settlement in the amount of \$65,448.21, second by Mr. Hager. Motion carried with a roll-call vote 3-0.

CORRESPONDENCE

None

REQUESTS

Shaw Friedman, LaPorte County Attorney/ Request to retain Special Co-Counsel/Intermodal

Removed from the Agenda

OLD BUSINESS

Robert Szilagyi, LaPorte County Attorney/ Smoking Ordinance

Mr. Szilagyi, you have a copy of the Ordinance regarding smoking and since it is an Ordinance it will take two readings, feel free to make any amendments that you want. Mr. Szilagyi continues to explain the Ordinance.

Mr. Hager, made a motion to pass it on the second reading as it was first written, no smoking on any county property.

Mrs. Huston, motion to pass the original.

Mr. Szilagyi, all you did was make the motion to do it, you did not have an ordinance before you.

Mr. Hager, this changed it and now we are going to set up a smoking zone. The first one you gave us, there was no smoking whatsoever, county building, county property anything.

Mr. Bohacek, Mr. Szilagyi it says in the amendments, from Mr. Szilagyi I gave you the ordinance and I think you might want to may want to make some changes. Mr. Hager you want to scratch the county vehicles out, so it is okay to smoke in county vehicles now.

Mr. Hager, no.

Mr. Bohacek, so Mr. Hager you don't want that now.

Mr. Szilagyi, it's only in personnel vehicles.

Mr. Hager, the county vehicles are county property.

Mrs. Huston, I think the one thing you have was with County Highway and you were going to check on that.

Mr. Hager, talking to County Highway I don't think we should alleviate from one department to the other and if we are going to do it lets do it all the way. I understand that they have a pill out that is very good for the people that would quit smoking, they say it works great. If this passes through I would like to go to the Council and maybe they would like to pay for the people that want to quit but we pay one time.

Mr. Bohacek, so you don't want any changes to that original ordinance?

Mr. Hager, no

Mrs. Huston, I am not happy with number three (3) on this. I believe that a person should be able to do what ever they want in there own vehicle.

Mr. Szilagyi that will not be a violation.

Mr. Hager, I don't want it on county property.

Mrs. Huston, this would be a second reading as amended.

Mr. Hager, I make the motion that we go with it.

Mrs. Huston, as amended?

Mr. Hager, what this! No because the last one did not give it down at the lounge, the lower level of the Complex. I do not think there should be any smoking on any county property and any county vehicles. If we are going to do it for one we are going to do it for all.

Mrs. Huston, I think if someone wants to smoke down stairs outside.

Mr. Hager, as I said I made the motion to go with the original or you can change it as you want.

Mr. Bohacek, I think it will be tuff to enforce, I like the fact that we are going to allow a smoking area somewhere in the Courthouse. I think trying to enforce a no smoking in county owned vehicles is going to be impossible to enforce. I am not for passing unenforceable ordinances, how are you going to enforce who smokes in a county work truck. If you see the employee smoking in a county work truck are you going to instruct his supervisor to write him a letter of instruction and disciplinary action?

Mr. Hager, where are you going to put a smoking area in the Michigan City Courthouse, County Home and the Highway Department you are going to have to put smoking areas in everyone. If you put in a smoking area, I understand by law you have to put in a ventilation system.

Mr. Bohacek, that's why I don't support the ordinance. I think it is unenforceable, can you see the residence at the County Home that are smokers, where are they going to smoke are they going to stand out on 2 and smoke?

Mr. Hager, the only thing out there at the County Home that I am very against and have been out spoken on that and I am scared that one of them are going to start a fire.

Mr. Bohacek, are we going to fine the residence \$100.00 or are we going to throw them out of the County Home?

Mrs. Huston, I think that is unenforceable.

Mr. Bohacek, it is an unenforceable ordinance and that's why I don't support it. If you want to make it specifically not on the walkway, I will support that and create a smoking area as we have but I am not going support it because it is not enforceable.

Mr. Hager, they did it over in the City of LaPorte, they did in all the others and we have to start somewhere and if they get caught and if they get caught they are not going to do it. If they get caught and have to pay or if there jobs end up in jeopardy.

Mr. Bohacek, I don't have a problem with making the walkway a no smoking area because it is a public access and this would be enforceable but trying to enforce it everywhere is unreasonable.

Mr. Hager, that's like with everything, we have speeding laws and if they catch them they get fined, if they don't they get by with it.

Mrs. Huston, so with some amendments you would be in favor of it?

Mr. Bohacek, the amendment that I would support is that if you want to make no smoking zone, make the walkway no smoking between the two buildings, fine and that would be it. I don't know how you are adequately going to enforce somebody smoking in a County Highway vehicle or a Sheriff's car, maybe they weren't in the car, so what a supervisor walks in and says it smells like smoke, I am writing you up for this. It is unenforceable, I don't know how your going to tell a County Home resident that is there by choice and is paying and is self paid to be there that they can't smoke. If the goal is to keep the Courthouse looking nice and we have agreed that people are sloppy even with the use of ashtrays, if that is the goal then let's address that.

Mr. Hager, that is not my only goal, my other goal is insurance on the employees that goes up like three times then a nonsmoker, so this is costing us and everybody.

Mr. Bohacek, that is a good reason but that is not going to stop somebody from walking out to the sidewalk to have a cigarette with there foot off the ramp. I am in favor of it in theory but I think in reality it is not going to work.

Mrs. Huston, can we table this until we can talk about it more?

Mr. Hager, I made the motion they can hold it or vote it down. The council has made there statement, if your going to do it go all the way or forget it.

Mrs. Huston, when we put in the commissary downstairs, it was my intentions to designate the outside down there to be use that as a smoking area. They have not been using it they have been going out on the sidewalk which I don't feel is right. I think if we could designate the walkway between the County Complex and the Courthouse be a non smoking area and we could designate a smoking area for the employees as the patio down there. There is a

motion on the floor to pass this on second reading by Ordinance by Title only; motion fails for a lack of a second.

I would like to bring this back on the table at our next meeting but I would like further discussion on this.

Robert Szilagyi, LaPorte County Attorney/ Resolution Comp Time

Removed from the Agenda

Robert Szilagyi, LaPorte County Attorney/ CAFO Ordinance Final Reading

Mr. Szilagyi, the only issue you had last time had to do with if CAFO's should be allowed in flood plains and if they are allowed in flood plains that they would have to have a special permit.

Mr. Bohacek, I still have concerns and I will support the Ordinance if we make a change that CAFO's that are being proposed in a flood plain area be allowed only with special exceptions so that we can have a public hearing. I just have a problem allowing CAFO's in a flood plain area.

Mr. Szilagyi, if you want to you can make a recommendation and send it back to the Plan Commission and have them look at it.

Mr. Hager, I would go back and make the motion that we pass it on the final reading because we have had the farmers out there and they have worked on this diligently. They were not for it either but the finally came through and said that they could live with it and said go ahead and pass it, so I would go along with their recommendation.

Mr. Szilagyi, somebody needs to make a motion because this is a form of Ordinance.

Mr. Bohacek, I make a motion to send the Ordinance back to the Plan Commission for a change that CAFO's be only allowed in the hundred year flood plain with special exceptions.

Mrs. Huston, we have a motion on the floor by Mr. Bohacek to send this back to the Plan Commission, that a CAFO that wants to locate within the hundred year flood plain must do so with a special exception only. Motion fails for lack of a second.

Mr. Hager, as I said I made the motion that we pass it through as it was sent to us.

Mrs. Huston, this is the second reading for this?

Mr. Szilagyi, yes.

Mrs. Huston and your motion Mr. Hager is to pass it through on second and final reading as it has been presented.

Mr. Hager, yes.

Mrs. Huston, we have a motion by Mr. Hager to pass this through by title only, on second and final reading, second by Mrs. Huston. Motion carried with a roll-call vote 2-1 with Mr. Bohacek voting nay.

Mrs. Huston, this will be known as Ordinance #2007-16

NEW BUSINESS

Robert Szilagyi, LaPorte County Attorney/ Excess Property

Mr. Szilagyi, you have a resolution for a small piece of property that is in Michigan City and you have a notice of subject to bid. The bids will be open at the 18th of September meeting and the bids are to be in by 9:00 a.m...

Mr. Bohacek, do you have the common address of the parcel?

Mr. Szilagyi, I had a map on it and it is a small piece of property.

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

Robert Szilagyi, LaPorte County Attorney/ Ordinance Ziegler Road Fines

Mr. Szilagyi, it is a \$100.00 fine for the first two violations which means all the money stays in the county and if they don't pay it and have three or more violations they can be taken to court and up to a \$2,500.00 fine per violation.

Mr. Hager, what about number two here, dumping garbage or waste or also this is to be for no business or commercial people can dump there, that they have to take it on to Westville.

Mr. Szilagyi, who is suppose to dump out there?

Mr. Hager, just the residence yard waste.

Mr. Szilagyi, you need to make an amendment that I can add that provision in there.

Mr. Bohacek, I make a motion to amend the ordinance per Mr. Hager's request, second by Mr. Hager.

Mrs. Huston, motion to amend the ordinance per Mr. Hager's request by title only.

ORDINANCE REGARDING DUMPING ON ZIEGLER ROAD WASTE AREA

Motion carried with a voice vote 3-0.

Mrs. Huston, this will be held over until we can do the amendment.

Appointments to Intermodal Task Force

Mrs. Huston reads the intermodal task force list as follows:

David Christian, Hugh Glasgow, Don Babcock, Marie Gilliland, Henry Lampe, Gary Husky, Dr. Sharron K. Jenkins, David Decker, Bill Turner, Ken Purze, Al Walus, Gerry Jones, Ruth Minich, Jodi Warner, Pat Cicero, Joe Coar, Doug Biege, Scott Hamilton, Robert Boklund, Marie Schwieter and David Chlebek. Staff Support Shaw Friedman, Robert Szilagyi, Matt Reardon, Ray Hamilton and Mitchell Bishop.

Mr. Bohacek made the motion to approve the members of the Intermodal Advisory Task Force, second by Mr. Hager. Motion carried with a voice vote 3-0.

PUBLIC COMMENTS

Mr. Friedman, the appointment of the Task Force represents the next step in which the commissioners have directed into helping public transparent process and this is an important step forward. As you know, the list was compiled from names that each of you submitted after receiving applicants by mail, fax and in person or contact was initiated by you to certain individuals to gauge interest in serving. Again, it is a good cross section and should be very helpful, as the commission goes forward. The Commission has directed Mr. Szilagyi, myself and Matt Reardon to help provide staff support for the Advisory Task Force along with the County Planner as well as the County Building Commission and other County Officials will be available as needed basis to provide support.

Mrs. Huston, for everyone's information we do have an extensive list of people who asked to be on the Task Force, if for some reason someone cannot serve on the Task Force please let us know, we have an extensive list to work from we have an excessive list to draw from.

Mr. Friedman, I should indicate to that one of those things that you all indicated in setting this up, those communities and you pointed to the University of Illinois study those communities that have successfully sited intermodal facilities was because all stake holders were at the table, railroads, freight, local citizens, everyone has to be involved.

Dennis Metheny, what is the situation on walkway out here in front of the building, its cracked is the contractors being called into fix it or is it going to stay cracked like that?

Mrs. Huston, we have had a meeting with the contractors and the engineers and lets just say it is being looked at.

Dennis Metheny, is this Intermodal Group will that be an open meeting to the public?

Mrs. Huston, yes it is a workshop.

Dennis Metheny, I would like to request from the commissioners. I received a letter from Comcast; those of you that know me know that I do a TV show on Public Access. Since Michigan City shut down the studio, I received a letter stating that Hammond, Portage and Mishawaka will be shutting their studio's down and I know that this Commission gives ALCO quite a bit of money to broadcast the access channel for the Commissioners Meetings, Council Meetings and others. The City of Michigan City allows there residences to tape at ALCO but we in the county can not. We that have cable in the county also pay an access fee and I feel that it is only right that this Commission relates that to the ALCO directors or to Mr. Lombard and allow the people in the County to also tape in that studio. I know you give quite a bit of money, I don't know what the City gives but I will find that

out. I have been driving for the last three years to Portage to do my show, because I can not access and do it in Michigan City. You are giving money that is used from our access fees, franchise fee, I think we audit have the same access as the Michigan City people and use the studio.

Mrs. Huston, Dennis do the Michigan City residences have a contract with them to do this or what.

Mr. Metheny, I have no idea, I just know that it is broadcast on cable that any Michigan City resident can tape there and that's it.

Mr. Bohacek, I spoke with Mr. Lombard about this and Mr. Lombard told me that he has a separate agreement with Michigan City and they pay an additional fee to have access to that studio, we do not pay that fee and that is why we do not have access to that studio.

Mrs. Huston, do a lot of Michigan City residences take advantage of this?

Mr. Metheny, I could not tell you that, you would have to ask Mr. Lombard. So, at that point I think it is a waste of money for Michigan City to pay for something that is not being used and they County why can't we use it, we give them a lot of money. And from what I am informed on this letter the laws have been changed down state and if that would be the case, I don't know if your even going have the run a TV show in regards to the Commissioners meetings or any other meetings. I think you might want to check with the State laws that were past last year, that went into effect July of this year. I have talked to the people that work at Comcast in Portage even collecting the money, those offices are all going to be closed even the collection points, the studio's and the equipment is going to be removed the 28th of September.

I am asking that because we the people that use the cable and we pay the franchise fees to you the Commissioners, I think that we audit to at least have the access of that studio so that we can do our shows. I would appreciate it if you could look into that and see what you can do about that. We seem to be losing more freedom of speech in this country and that just seems another way of doing it.

Tom Benzie, I am upset with the Commissioners because of a vote that I consider to be some underhanded actions by the Commissioners, regarding some rezoning that took place on the 21st at your 10:00 a.m. meeting. This is regarding Mr. Pritz and his property on route 20 across from Evergreen Plaza. We have been to two Planning Board Meetings, remonstrating against the rezoning of that land and right now it is agricultural its all corn, by historical map that land was a swam, there is a creek going through it. There are a lot of environmental concerns, congestion concerns from people in the county. We made our presentations to the Planning Board at the first meeting there were seven board members in attendance the vote was split three to three with one not voting that evening and it was tabled for the next meeting. We went to the next meeting and remonstrated against it and the vote was split again three to three and they handed down to this Commission a no recommendation, so we came to the last evening meeting of the Commission thinking that Wally Pritz would be on the agenda for that meeting and he wasn't.

We checked the agenda every day coming up to the last Commissioners meeting and Mr. Pritz was not on the agenda but he was allowed to get on the agenda and the board voted to accepted the agenda with the last minute change and allow Wally Pritz to make his presentation. Now remember, there was a no recommendation coming to you folks from the Planning Board. I have a serious; I thought that for somebody to get on an agenda or added

to an agenda, you had to get on that agenda several or seven days before the meeting. When I applied for my variances I had to apply ten days in advance to make my presentation to the Planning Board, this does not seem to be the case. I now question that, and then it is a ten o'clock in the morning meeting, when all of us work and pay taxes to this county to support this county. I can't make a ten o'clock meeting but with something of this nature I possibly would take the day off to come and remonstrate. Your are going to ruin that river, that river runs thru my property and it is horrible what is happening back there. Mr. Masters said that he had mailed to you a revised plan on the 6th of August, you had that revised plan in your hand and you all voted for the revision in that plan. I thought that major revisions had to go back to the Planning Board for a recommendation. Mr. Hager, I was at that second meeting of the Planning Board when you voted against the original plan and then I heard when I was watching ALCO, I heard comments from Mr. Bohacek that he questioned voting on that that day because there had been a revision that had not been to the Planning Board yet but then he said he would vote yes for it because there were no remonstrators. How can we remonstrate if somebody comes in five minutes before the meeting isn't on the agenda and then is given a spot on the agenda, to make their presentation? You can say its legal, what you did; I think it's unethical, I think it's immoral. I am a medical professional; I am bound by my profession to conduct myself with medical codes of conduct for the best interest of my patients. What this board did that night was not in the best interest of the public and there are a bunch of us that don't think this is very fair of what is going on right now. You need to send this back to the Planning Board and get a recommendation from them, because if they have made a major revision then let the Planning Board, otherwise why have a Planning Board.

Chuck Barnhouse, I would like to go on record, as saying I am with the views of Mr. Benzie. The Planning Board was given a huge amount of data regarding environmental concerns for that land and one of the environmental concerns has never been addressed. There is not any resent data within the last forty years that shows anything about sentiment loading for Trail Creek and there is a reason why that data does not exist because according to the IDEM web site, Trail Creek is and identifies inhibited water body. The sentiment loading study is to be scheduled October of 2008, so there a lot of effort going on to do something with a couple pieces of property in this area before any hard data comes out relating to Trail Creek. This land is not suitable to have a huge parking lot and square footage of roof and drainage. We have footage of the spring thaw that shows water blazing into Trail Creek, the erosion is amazing. I would hope at the next meeting of Wally Pritz's property that the commissioners would put some serious efforts and concerns into thinking this through and vote to keep the zoning of this land.

Dennis Metheny, I have been involved in this about three day after we found out what was going to happen and there has been a group of people that have gotten together and they are upset about this. I contacted your secretary many days before the Thursday before the meeting to ask if this was going to be brought up, Linda kept telling me no it's not on the agenda, no its not on the agenda, everybody in this group was notified, then to find out that you vote on it, when no body was notified and it was brought up just before the meeting. I would like to know who brought it up just before the meeting, we have no idea and we would have been here with a lot of documentation. Now all we heard is save agricultural, save agricultural and now what are we doing, we don't here a word from Mr. Hamilton about saving agriculture, and this includes the intermodal. I am not against the intermodal, I am for the jobs but all I have been programmed for with the master plan is to save agriculture. Mr. Walt Sell, Purdue Extension he is suppose to be for the farmers but not a word from Walt Sell about how much agriculture is being lost. As the trustee of Coolspring

Township I am concerned about what goes in, if we put another complex in I am going to be the bad guy, because I have to raise the taxes. I need you to hold back on this and not allow this to go through. There are four more complexes that are looking about going in, are they all going in Coolspring Township? We are creating a City of Michigan City of low income, we need jobs. I am pleading with you to please not let this happen. I think Linda has been fair, she told me it wasn't going to be on there and I kept notifying the people and then I see it after it is on, it makes me look like I am a liar, makes Linda look like she is a liar, I don't think she is. So please, if you would think about what we have to deal with in the township, I want to take care of the people of Coolspring Township.

Mr. Bohacek, this is a modification and you were concerned about additional multi family units. I just want to clarify that it is not low income housing.

Dennis Metheny, it is changed from the scope that was originally sent in. My concern is, that the original you get a letter to change it and then you make a vote on it after the Planning Commission says no recommendation, that should of went back to the Planning Commission. Please send it back to the Planning Commission.

COMMISSIONER'S COMMENTS

Mr. Bohacek, I felt uncomfortable allowing this project going to a vote since it was modified and there was no notice given to the effected property owners. I apologize I should have spoken a little stronger on the project, I am sorry for that. I will at the next meeting make a motion that the modification go back to the Plan Commission for further review and allow remonstrations, public discussion. I do apologize to the residence over there and the residence of LaPorte County.

Mrs. Huston, I was an over site and at the last minute we can amend the agenda which is what we did because we thought he came before us in good faith. Now, what was brought before us was no recommendation from the Planning Commission on the 89.6 acres, so this was a modification. Mr. Bohacek did say it should go back before the Plan Commission, no question about that but we have to go on the advise of our Attorney and Mr. Szilagyi said this was a modification and we could move forward with this and we did. If that comes before us as a no recommendation any day from today forward from the Plan Commission it will not be heard before this board as long as I am president.

ADJOURN

Commissioner Huston adjourned the meeting.

Barbara Huston, Commission President

William Hager, Commission Vice President

Michael Bohacek, Commission Member

ATTEST: _____
Teresa Shuter, LaPorte County Auditor