



BOARD OF COMMISSIONERS LAPORTE COUNTY

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Ken Layton
President
Barbara Huston
Vice President
Willie Milsap
Member

LAPORTE COUNTY COMMISSIONERS

Tuesday, July 19, 2011

The LaPorte County Board of Commissioners met in a regular meeting on Tuesday, July 19, 2011, held at 10 a.m. in the LaPorte County Complex Meeting Room #3.

CALL MEETING TO ORDER

Mr. Layton, President, called the meeting to order at 10:00 a.m.

PLEDGE OF ALLEGIANCE

Mr. Stan Maddox led the Pledge of Allegiance.

ROLL CALL

All Present

APPROVAL OF AGENDA

Mrs. Huston, we have two additions; under Correspondence, please add A., letter from Attorney Doug Biege and under Requests, please add, A., letter from YMCA regarding road closures. Also, under Old Business remove A., Ethics Ordinance.

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

APPROVAL OF MINUTES

Mrs. Huston made a motion to approve the minutes of July 5, 2011, seconded by Mr. Milsap, motion carried by voice vote 3-0.

WEEKLY REPORTS

Commissioners review and sign the weekly reports during the meeting.

CLAIMS

Payroll Ending July 22, 2011, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Misc. Claims ---\$1,442,646.36, Mrs. Huston made a motion to approve in the amount stipulated, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

Regular Claims---\$866,344.94, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

PUBLIC COMMENTS

Mrs. Julie Roesler, Union Mills, IN. I would like to invite the Commissioners and anyone else that would like to have input on the Ethics Ordinance to please provide input to the committee. Willie Milsap is the chair of the committee. We are looking for input and there is an ethics meeting tomorrow

at 1:00 p.m. in the Commissioner's chambers. Please send comments and we can get a draft to you if you need a draft.

Mr. Jim Kaminski, an attorney in town. I represent the LaPorte County Builders Assn. who has some concerns regarding the proposed zoning ordinance. Is this the point in the meeting where you would like comments regarding that ordinance?

Mr. Layton, what this board has decided is to table the issue. We have been told that there are legal issues that need to be changed in the draft that was presented to us. There have been changes in state law. We are not even going to hear it this morning. It is going to be returned to the Plan Commission for them to take to a public meeting to make necessary changes to comply with state law. At that time, this board will set a specific purpose meeting and nothing else will be on the agenda but the plan.

Mr. Kaminski, with that said Commissioner, we will wait to see what the final draft is and then attend that hearing with any comments we might have.

Mrs. Huston, at the direction of our attorney, if there are parts of this that people want to address specifically, if they will let us know ahead of time and we can mark the pages so we are not flipping through. I think that would be more expeditious.

Mr. Kaminski, will the dates be on the web site for the Plan Commission meeting and then the follow up meeting of this body?

Mr. Ray Hamilton, Building Commissioner, if the meeting does take place, it will be on the web, we will advertise and post notice.

Mr. Dan Coffee, I own property in LaPorte. I have been involved in talking to the Plan Commission for about three years. What are you directing them to do at that public hearing? Simply address the specific legal issues you have raised or are you going to address some of the issues that some of us have been talking about for three years?

Mr. Layton, I don't believe that those issues are going to be addressed. However, it is the Plan Commissions meeting. What we are asking them to do is clear up the legal issues. Since there has been a change in the laws July 1, some of it does not apply.

Mr. Kaminski, you are asking them to deal with those issues, otherwise they are finished.

Mr. Layton, yes, sir.

Mr. Roger Singleton, I see that you have tabled that ethics ordinance until August 16, 2011. Didn't we hire a lady to do that? Are you replacing the Human Resource Department? What is going on?

Mr. Milsap, we don't have an ethics department. Human Resource is just Human Resource. We plan once this ordinance is adopted, making her the ethics director. I would invite you to the meeting tomorrow at 1:00 p.m., second floor, 555 Michigan Avenue, and all your concerns will be addressed.

Mr. VanSchoyck, my understanding is there is no time set for the Plan Commission meeting? Would the meeting be public?

Mr. Layton, we cannot hear it until the changes are made and, absolutely, our meeting would be public and most assured theirs would be also.

Mr. Dan Adams, 5252 N. Fail Road, LaPorte, IN. When they advertise in the paper, can they make sure they put it in the classified legal ads?

Mr. Rick Kentaft, 1st Ward, city of LaPorte. I was at the meeting concerning the ethics ordinance and I have a few questions. In July, 1990, I started as a county employee. I worked for you, Commissioner Layton, for 4 ½ years. In that time period, I never once saw you do anything unethical. I never once had anyone question any of your actions. I believe you said you were going to work 30 years at the Sheriff's Dept. when you got hired in and you lived up to your word. Since then you have over 40 years of public service. In November, 1994, at the LaPorte County range, you sat me down and told me that the most honorable thing you can do is public service. You also said, don't ever violate the

public's trust because the trust they put in you is the ultimate. If you violate that trust, you can never get it back. For 21 years I have known you and for 21 years you have been an honorable man. With over 40 years of public service I have never heard anyone say anything that would question your ethics. You have lived up to what you told me. We are at a point where this commission has an opportunity to make a long term difference. You can leave a legacy behind of your outstanding, unquestionable, public service by holding other people to the same standards. I don't believe the standards you set are unreasonable; they are obtainable by anyone in public office. There were some people up here who said you cannot teach people ethics, you cannot make people ethical. That is a true statement. You might not be able to make them ethical but you can make them accountable. Accountability will sometimes make an unethical person think twice. You spoke very passionately about the nepotism part. I understand that. I believe there needs to be clarification on that. One area we need to look at is law enforcement. That is a family tradition of public service in a lot of departments. We have to do what is right in this county and make everyone accountable. The importance of an ethics ordinance will set the standards and there has to be some teeth in that ordinance. Public service is for the people, you represent the people. It doesn't let you be above the law; you have to be held to a higher level of accountability. I am asking that the commission make the step in the right direction and join the council in having an audit done on the commissary fund. We have people in positions that are above reproach. I saw in the newspaper where this is common practice. I would like to know when that practice started because it wasn't under your administration or under Bob Blair's administration. How do we make these people accountable? We have to set the standards in this community here and now and do the right thing for the right reasons.

DEPARTMENT HEAD COMMENTS

Sheriff Mollenhauer reads an article from the newspaper of July 9, 2011, about a fight between inmates in the jail. This is an example how commissary funds are being spent. LaPorte County Sheriff's Department detective Sgt. Pat Cicero said a video camera recording system showed the attack that allowed the investigation to come to a speedy conclusion. Again, I wanted to mention how important those video cameras and recorders are. We are spending another \$36,000 in commissary money to gain a total of 150 cameras. Here is another case of hopefully a speedy conviction but also any technical litigation issues can be resolved very quickly and also for the safety of my officers, the inmates and the public.

Sheriff Mollenhauer, on a personal note...the Salvation Army's kitchens are limited with supplies. They are in desperate need for food. I am on the board for the Salvation Army and contacted Major John Crampton who is the leader there and he substantiated that fact. This Thursday, July 21, 2011, at 10:00 a.m. my wife and I will be out at Al's East Supermarket and present Al's with a check for \$2,000 of our personal money and purchase non perishable items for the Salvation Army pantries. I want to let everyone know we are going to have drop boxes for food in our lobby at the LaPorte County Sheriff's Department and at the main gate at the fair.

Mr. Layton, we would like to make the main courthouse, the Hiler Building and the courthouse in Michigan City available also.

Melissa Mischke, GIS Coordinator. I want to make you aware that I am going to be coming in front of you with some changes we are making in software in the mapping area. Those changes are going to need a letter signed by the commissioners to cancel some of our existing contracts. With the new selection, this is going to save us money from a maintenance perspective, it is going to be faster and easier for the users to maneuver through.

Mr. Layton, Mrs. Mischke, I just wanted to say that we received an email due to the sanitary district in Michigan City and the efforts that you put forth in bringing them on board to the GIS system and you need to have public acknowledgement for that.

CORRESPONDENCE

Attorney Doug Biege/LaPorte County Council Request to Join in Request for Audit of Sheriff's Commissary Fund

Mr. Layton, we have received a letter from Attorney Doug Biege representing LaPorte County Council. Mr. Layton reads letter. (Please see attached) Commissioner Milsap and myself both spoke with the Sheriff this morning and he reiterated that he does not have a problem with this request

whatsoever. My personal belief is that we should go forward with this, join with the Sheriff and County Council and request the State Board of Accounts go forward with this request and put this issue to bed for all of us.

Mrs. Huston made a motion to concur with the Sheriff and Council for this audit, seconded by Mr. Milsap, motion carried by voice vote 3-0.

REQUESTS

Danielle Kessler, Wellness Director, LaPorte Family YMCA/Annual Triathlon Road Closures

Mr. Layton, we have a letter from Danielle Kessler, Wellness Director for the LaPorte Family YMCA and is requesting road closures on Small Road from Orchard Ave. to Forrester Road for their annual triathlon on August 6, 2011 and runs from 8:00 a.m. to 10:00 a.m.

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

OLD BUSINESS

None

NEW BUSINESS

Lynn Spevak, Clerk of the LaPorte Circuit Court/New Precinct Establishment Order

Ms. Spevak, I am here today for you to sign a notice that I have to send down state saying that we have precincts that are over the 1200 active voter population. Otis-Pinhook / New Durham has expanded over their limitations of 1200 so we will have to create a new precinct there. This is just a process of us redistricting, phase one, just saying the commissioners have approved the process to begin and we have until December 31, 2011, to complete it.

Mr. Layton, will this help or change the problem that we have had for the last 8-10 years on the ward precinct lines in the city of LaPorte?

Ms. Spevak, hopefully the ward and precinct lines will not go beyond the borders as they did in 2000. They adopted their ward lines after the county adopted the precinct lines. We will have split precincts.

Mrs. Huston made a motion to approve the document to be sent to Indianapolis, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mitchell Bishop, LaPorte County Planner & Doug Biege, Attorney/Joint Zoning Ordinance Final Approval

Mr. Biege, Mr. Mitch Bishop could not be here and he does have a concern that the grant we received to pay for the consultants has been renewed but that expires on July 31, 2011. I do not know what the requirements are for an additional extension. I wanted to make sure the commissioners were aware of that in making their decision as how to proceed.

Mr. Layton, we know we are running on the razor's edge as far as time is concerned but we are not comfortable with going forward on a document we know, through your efforts, doesn't meet requirements of the statute that was changed at the first of the month. Maybe we will have to work out another extension.

Mr. Biege, just so the public is aware, the commission voted to make their decision and that has to be certified to the commissioners, which we did. July 1 the Indiana statute changed and we had no control whether or not it would change. All this kind of had to happen so this position we are in was not designed by any entity whatsoever.

COMMISSIONER'S COMMENTS

Mr. Milsap, we have the ethics meeting tomorrow at 1:00 p.m. second floor, 555 Michigan Avenue.

Mrs. Huston, at the last council meeting, the council gave permission to have cameras installed. Those cameras are installed, there is one in this room and the room next door. They will be able to record the public. It will record for 40 days and then the first one will fall off and it will pick up another one. It is on 24 hours a day, however, it does go to sleep when no one is in the room. I think it is money well spent and of course it is a safety measure.

Mrs. Huston, it was a very good meeting the other night as far as the ethics ordinance was concerned. We had a lot of input and it was very welcomed. One thing brought up by April Van Burean and she had said she had applied for a job here and was not able to get a job and had very good credentials. I did check, she had applied in February of this year. Every time you apply for a job it is put in a specific category because of your credentials and she has very good credentials. She was put in the administrative category. She did not specify that she wanted to be contacted for any job that came up in the county. The council has a hiring freeze on. Her application, along with others, will be kept for six months in the active file, then it will go inactive for six months, and then if she doesn't come in and reapply or check on her application, it will be shredded. It had nothing to do with nepotism at all. It had to do with her qualifications, which were very good.

Mrs. Huston, I wanted to ask Mr. Milsap, if this goes into effect, say we give money to a board that we do not have any appointments to, is that board also covered under this ethics ordinance?

Mr. Milsap, it should be covered but we can discuss that tomorrow with legal counsel.

Mrs. Huston, if there is a board in the county that the county government gives money to every year and it is a substantial amount, that board would fall under the ethics ordinance along with being subject to our HR department and anything like that?

Mr. Milsap, it should and that's what we will discuss tomorrow. Also, if a person sits on that board, he can also abstain if a vote comes up.

Mrs. Huston, it is the Swanson Board which you are vice president of and, of course, Mr. Friedman also sits on that board, Sue Mollenhauer was also put on that board at the request of Mr. Friedman at the beginning of the year, Mark Yagelski sits on that board, Dave Decker also sits on the board. The county gives \$500,000 a year to the Swanson Center. Just for clarification, if this ordinance does pass would the Swanson Center Board who we give so much money to actually be under this ethics ordinance. Bring that to your committee tomorrow, I would like an answer to that.

Mrs. Huston, it is very hot outside, don't get over heated, stay as cool as possible and drink plenty of water.

Mr. Layton, I think as far as the public edification is concerned, in reference to the Swanson Center and the amount of money we give them annually, we are obligated to give them that my state law. The counties must contract with some mental health facility. We pay them a percentage or an amount of money per capita and it is a statutorily thing we must do by law.

Mr. Layton, Mr. Kentaft, thank you for the kind words you had for me this morning.

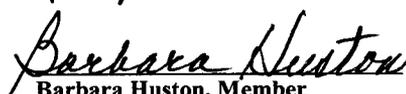
ADJOURN

Mr. Layton, President, adjourned the meeting at 10:46 a.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS



Ken Layton, President


Barbara Huston, Member



Willie Milsap, Member

ATTEST: 

Craig Hinchman, LaPorte
County Auditor

SALLWASSER and McCAIN, LLP
ATTORNEYS
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July 12, 2011

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RE: *LaPorte County Council*

Dear Commissioners:

Please allow this correspondence to clarify the LaPorte County Council's recent request that the LaPorte County Commissioners join in a request for a more specific audit of the Sheriff's commissary fund.

As you know, a majority of the LaPorte County Council recently voted to pursue and file suit against the LaPorte County Sheriff regarding alleged improper expenditures surrounding the Sheriff's Commissary Fund. However, the result of this motion does not necessarily require the immediate filing of a lawsuit and expenditure of county funds.

The County Council's decision may move forward through existing statutory structure for the audit of the Commissary Fund. In other words, the purpose of my recent request on behalf of the County Council is not to ask the Commissioners to join in a lawsuit at this time, but join in a request to the State Board of Accounts for a further, more detailed audit of the Sheriff's Commissary Fund as the next logical step in the process.

We believe the proper first step in this process would be to request a more specific audit of this account with a review of certain and specific items, namely items listed in the report from the State Board of Accounts dated January 4, 2011. Should the State Board of Accounts find further irregularities in a more detailed examination of the

Sheriff's Commissary Account, then the matter may be referred to the Attorney General's office for further legal action.

Thus, the goal of a request for specific audit of the Sheriff's Commissary Fund would be to have a closer review of alleged improper expenditures, an affirmative decision by a disinterested entity (the State Board of Accounts and Indiana Attorney General), and action to recapture any funds by the Indiana Attorney General.

This can be accomplished without the need to expend county funds, and without the need for litigation against county entities. The goal in requesting the Commissioners' support is to show a unified desire to end this ongoing issue with a disinterested third party.

In addition, the LaPorte County Sheriff agreed and welcomed this request in the most recent public Commissioner's meeting. We believe the Commissioners' support of a more specific audit will give more weight to the request to the State Board of Accounts.

We hope that further explanation, and with more time for consideration, the Commissioners may reconsider their position on this issue.

Very truly yours,

/s/ Douglas L. Biege

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