



# BOARD OF COMMISSIONERS LAPORTE COUNTY

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*Ken Layton  
President*

*Barbara Huston  
Vice President*

*Willie Milsap  
Member*

## LAPORTE COUNTY COMMISSIONERS

Tuesday, August 16, 2011

The LaPorte County Board of Commissioners met in a regular meeting on Tuesday, August 16, 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

Mikey Mauer led the Pledge of Allegiance.

### ROLL CALL

All present

### APPROVAL OF AGENDA

Mrs. Huston, we have a couple of additions. Under requests, Lynne Spevak, under B, Abolish Voter's Registration and under C., Bob Young, 4 Way Stop Signs. Under New Business, C., Am Trak Fiber Optic Long Beach Contract.

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

### APPROVAL OF MINUTES

Regular meeting of August 2, 2011, Mrs. Huston made a motion to approve, 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 August 19, 2011, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Misc. Claims —\$ 1,740,116.03, 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—\$ 1,424,470.65, Mrs. Huston made a motion to approve as stipulated, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

Mr. Layton, going back to miscellaneous claims for the public's edification, \$550,000 of that is a transfer in the Auditors budget for insurance purposes and not an expenditure at this point. Another \$358,000 is an insurance payment to Michiana Insurance for liability.

## PUBLIC COMMENTS

Mr. Keith Harris, 523 Tremont Street, Michigan City. I am here in my capacity of chairman of the LaPorte County Republican Party. For your informational purposes we have a presidential candidate that is going to be coming through LaPorte on Tuesday, August 30, at 8:00 a.m. I suggested that they use the east lawn of the courthouse for meeting the public. I do not expect a large crowd; this is not a mainstream candidate. His name is John Davis. I wanted to let the county know that this is going to be taking place. They are traveling in a motor home and I suggested that they park behind Ludwigs. Their intent is to be here for 20-25 minutes.

Mr. Layton, I also think it would be considerate of you if you contacted the Mayor's office since the parking you suggested belongs to the city.

Mr. Jerry Cooley, 1777 W., 1000 N., LaPorte, IN. I would like to congratulate the State Police, the County Police, the Prosecutor, the Judge and everyone else involved in getting these perverts out of the school system. I think this is something we need to do to keep active in the community. I was at the fairgrounds this year and usually our county sheriff's department is out there, we have 4-H kids out there, carnies all over and our county sheriff's department is not as present as they should be. There are complaints about the sheriff's department using commissary money to advertise for anything to do with sports or the school system and stuff. I have four granddaughters involved in sports all summer long. We have a serious problem with child abuse and sex offenders. We need to catch these perverts. We need to do a better job. We have had a county cop accused of this; we have had a coach.... We are from a small community, we have had rumors about other coaches in the past, touching our kids, tracking them out after they graduate, got caught in showers with students. I think we ought to take the forefront on this thing. Let's put a bounty out there, the sheriff has money in the commissary fund. Let's go after these perverts. I know you all have grandkids and they all can't protect themselves so we can do our part. You need to work with the prosecutor, I know they have money; when Jim Arnold was sheriff and the prosecutor was there, they built a building at the fairgrounds. There is extra money out there to be had. You have the judges, the prosecutors, and the sheriff's department, why don't we have a reward, something to get these kids to come forward. Let's start protecting our kids. Go back in the past and get some of these other perverts that have been around for a long time. Let's commit \$100,000 and start going after these guys.

Sonshine Troche, I am president of the board of the Worthy Women Recovery Home. We are in the process of waiting on the return of a proposal we put out to purchase a building that will house up to 10 women that are coming out of the jails and prisons in order to integrate them into society here in LaPorte County and to make the productive citizens through programs and mentorship and through job skills.

Mr. Milsap, where are you housed right now?

Ms. Troche, we do not currently have a building. We incorporated November 10, 2008, and we are in the process of locating a building to use. We have been working feverishly to raise funds and in the mean time doing reentry programs here in the jail. We are a nonprofit. We take donations, we take time, and we have a lot of volunteers. We are a Christian organization. We want these women to heal and become productive in this community. We do have a serious drug addiction problem and alcohol problem.

Mr. Milsap, how would someone get in touch with you?

Ms. Troche, [www.worthyrecovery.org](http://www.worthyrecovery.org) and my phone number is 219-405-7006. We feel we will fill this building rather fast and then open one up in Michigan City as well. We have the support of the judges, and probation departments, we just need monetary help. We have five board of directors who spend a lot of time on this.

Mr. Layton, I applaud you for what you are doing.

## DEPARTMENT HEAD COMMENTS

Sheriff Mike Mollenhauer, I am going to bring Sonshine back up here. She mentioned about donations and her having a very worthwhile program in our jail, the MRT program which stands for Moral Reconciliation Therapy. She has been working on this for a number of years and is making great strides hoping to take care of some of this recidivism rate that we've got to get it to go down. We have many programs in the jail but this is one of the best ones we've got. I am going to give her a check from our commissary fund in the amount of \$1040.60 for purchasing 40 MRT books for the students they have in the jail right now.

Ms. Troche, Moral Reconciliation Therapy is a coin word for ego. It addresses the behavior of the person. It is a program that is 25 years old and has been used on over a million offenders. It is evidence and research based. It has been at the jail since 2008 and we have had over 165 successful participants. We have been able to increase the program to six meetings per month. The LaPorte County Drug Free Partnership has provided grant money, the jail has provided grant money and it is working. We intend to seek out more grant money for these programs. The big picture is that we bring reentry programs into the jail for the women and now coming up for the men. The sub programs for anger, DUI's, for sex offenders, for domestic violence offenders and to hopefully help them stay out of this jail. I have donated 16 of the books myself because I believe in this mission and I have also donated the anger management books as well for this year. I would like to share this with you, 66% of the women who were here last year, of the 260 names that we had, 66.6% of them were 35 or younger.

Sheriff Mollenhauer, I believe we are going to have an executive session on the recent jail fire. I have had communications with Bob Harris with the State Fire Marshall's office and Lee Hoard with the Indiana State Fire Inspector through the Department of Corrections. They both wish to be here.

Mr. Layton, there will be plenty of lead time so you can notify the Fire Marshall's office.

Mr. Bob Young, Highway Superintendent, I would like to bring something to the commissioner's attention that has been brought to my attention by a few members of the public...School Zones. We have school zones marked with proper signs with either 20 or 30 mph speed limits. The question is from the public, that speed limit is not marked "when children are present" or a time frame. They are complaining that they are getting speeding tickets at all hours of the day. Lots of times you see 20 mph from 8:30 to 5:30 or with children present. I don't know if you want to discuss this further.

Mr. Layton, I am going to defer to the county attorney.

Mr. Braje, it is set statutorily and I think part of the problem is that if you start making time frames, children can be present at any given time. You have to make a determination if you are going to fix times or keep it the way it is now.

Mr. Young, I think the speed limits out there now are backed by an ordinance.

Mr. Braje, they have to be. If the issue is "when children are present" and you put up the school hours, there still may be activities at that school in that school zone. I don't know how you could write an ordinance to pick up all those possible times.

Mr. Young, "when children are present", we don't even have those signs up now. All we have is the triangular sign with the kid walking and a speed limit.

Mr. Braje, I guess my opinion would be that that is designed to cover all times because we cannot predict when children are present so a speed limit simply regulates that area at all times and is probably the safest way to do it rather than have the driver determine when children are present.

Mr. Jeff Wright, Highway Engineer, I will chime in on the school zones. The METCD is the bible for signs; it is what we are held to as a standard. They require that if you want to restrict a county sign that you either post the times or "when children are present". It is either/or, if you don't have either of those, then it is in force all the time. I think it is our preference to put "with children present" to cover that.

Mr. Layton, it would be my opinion that we remove "when children are present", that makes it ambiguous in my opinion. We are rapidly approaching football season and basketball season after that so now you are going to ask the Sheriff's officers to know when the school activities are over or when the actual function has been released. It would be my personal opinion that we remove "when children are present" and that it is a 35 mph school zone.

Mrs. Huston, I think if says nothing, it is enforceable at a certain speed at all times. That is what we have now. If it is properly marked, I believe it should be left alone and it is an enforceable speed limit.

#### CORRESPONDENCE

None

#### REQUESTS

##### Barry McDonnell, Deputy Prosecuting Attorney/Bernard A. "Butch" Borg Payment Of Unused Sick Days Upon Retirement

Mr. Barry McDonnell, hopefully all of you received my August 3<sup>rd</sup> letter to the commissioners. It is fairly self explanatory. We have not had anybody leave the child support office with this longevity during my 16 plus years there so this is the first time we have had to follow this process. Hopefully we have done everything right. We are coming to you ask permission to compensate Mr. Borg for his unused sick days. We put 53 ½ in the letter. As of today he has 52 ½ we wanted to ask for the 53 ½ anticipating he would receive a sick day again in September. Obviously, if he gets sick between now and September 30<sup>th</sup>, that number decreases. We wanted to request what would be the high mark which is \$4,012.50. We also are on the County Council's agenda. We didn't necessarily assume your favorable approval but we figured if there was a problem it would be easier to take it off their agenda then to try and get it on at the last minute.

Mrs. Huston, is he on our insurance?

Mr. McDonnell, I think he takes insurance through his wife's employment. I am sure he is not on the County's insurance.

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

##### Lynne Spevak, LaPorte County Clerk/ Ablolish Voters Registration

Ms. Spevak, it is budget time again and I am asking if we will be following Indiana code 3-7-12-3 to place the Voter's Registration Office into the Clerk's office. By statute, we are not over the population by the federal census to have a board on their own. For the past ten years, we have had a board separate from the Clerk's office. The House Bill passed on July 1, 2011, House Bill 1242, again, the department should have a population of 125,000. Elkhart County has just disbanded their Voter's Registration Board and they are higher than us. They find it an economical favorable change over. I am coming again at budget time to see what LaPorte County wishes to do; otherwise, we will probably be out of state statute for another ten years until the next census. We are still out of compliance with the state and federal law. It would have to be a unanimous vote from the county commissioners. Everyone keeps saying it is a political situation and if you can't be an office holder with having people from both parties in your office, then you shouldn't be an office holder. Both co-directors would be place in the office; they would be titled deputy clerks and their job would be voter's registration along with other duties.

Mrs. Huston, it is my understanding that being hired by the Clerks' office, it would be a protected position now.

Ms. Spevak, that is correct.

Mrs. Huston, right now they are appointed by the president of the Democratic and Republican parties. What you are saying is they would still be appointed by the Democrat and Republican parties and what if someone would quit?

Ms. Spevak, we would then send a letter to the party chairman saying that the position, under their appointment is open and to nominate names to the office. We have 74,000 voters, they are needed.

Mrs. Huston, you can use them right now. I believe you have an open position so you can actually put these people in your office.

Ms. Spevak, yes, I have an open position and I am waiting to see how this goes.

Mrs. Huston, according to this law, you need a population over 125,000.

Ms. Spevak, the law says that is the *minimal* amount.

Mr. Milsap, the population figures you are using, is that the most current census?

Ms. Spevak, yes, 2010.

Mr. Milsap, is there pending legislation?

Ms. Spevak, it passed July 1, 2011, House Bill 1242.

Mr. Milsap, the current population for the county?

Ms. Spevak, 110,000

Mr. Milsap, the people coming into your office will get a pay increase?

Ms. Spevak, they would come with the same amount of money they are making now. They are paid higher than my deputy clerks.

Mr. Milsap, I have been receiving a lot of calls about this and I have some issues that I need answers to before I can support this. Mr. Harris, the public chair is here, and I am sure he is not familiar with this legislation.

Ms. Spevak, I am just coming to ask again, it is budget time, and they could be slipped into my payroll either next year or at this time. I have a position open that they could just slide right into.

Mr. Milsap, if this doesn't happen you could find someone to fill that spot, correct?

Mrs. Huston, but then she wouldn't be able to slide these two girls in.

Mr. Milsap, I have some issues about this so I won't be supporting it.

Mr. Layton, hearing the discussion between my colleagues, it is obvious it is not going to be supported unanimously so we will lay it over and hopefully, Mr. Milsap, all the concerns that you have, you can work with Ms. Spevak and we will put this back on the agenda for the September 6<sup>th</sup> meeting.

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

**Bob Young, Highway Superintendent/ 4-Way Stop Signs at Long Lane and 1400 S. and Long Lane & 1500 S**

Mr. Bob Young, I am here to make that recommendation to install 4-way stop signs at both of those intersections. Problem being, that at this time of year the crops are tall and the farmers plant right up to the corners. It would be safer in that area to make both those intersections a 4-way stop. The traffic is light but for that specific area it is a little heavier than normal. These roads set in the Southwest corner of highway 30 and 39 so all these roads lead to a state road so traffic is a little heavier there. They are both 2 way stops now.

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

Mr. Layton, Mr. Braje, would you take care of the ordinances? We will bring them back for approval at the next meeting.

**OLD BUSINESS**

**Sheriff Mike Mollenhauer/LaPorte High School Liaison Officer Agreement (Tabled)**

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

Sheriff Mollenhauer, this is in regard to our school resource officer Mike Kellems. I have the contract with the LaPorte Community School Corp. with exhibit B attached for your review and pending signature.

Mr. Braje, we have reviewed it and we approved it.

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

**Commissioner Milsap/Ethics Ordinance**

Mr. Milsap, the committee met since the last public meeting that we had and we addressed every concern that was listed at that meeting. We come before you today with the final proposed draft. From what I gather from your emails over the last couple of days there has been some concerns. Mr. Friedman and I have looked at your concerns and hopefully they were answered in the mail sent to you the other day. It appears they were not so Mr. Friedman, could you address those issues?

Mr. Shaw Friedman, Mr. Layton and I have exchanged emails after he had an email from Mrs. Roesler who is a member of the ethics committee. We tried to address the concerns. At this point, I think the ball is back in the commissioner's court in terms of what your pleasure is, any additional changes or amendments or anything that might be done to further reassure members of the commission but the final product is the work of this volunteer ethics ordinance drafting committee after receiving comments at the public session. Any further comments or input would be helpful in collaboration with the county attorney so perhaps an ordinance can be brought before the commission that the majority can support.

Mr. Milsap, it is my recommendation that the final draft be passed on to Mr. Braje and if there are some issues that need to be heard, changes made per your request, we can go that route and then bring it back.

Mr. Layton, I don't have a problem whatsoever forwarding this on to the county counsel, Mr. Braje, nor have him work hand in hand with Mr. Friedman. As you are well aware through the communications, I do have some concerns. Some of those were addressed by Mr. Friedman and I agreed with some of the thoughts or opinions he had on it, some I did not. If I am convinced that I am wrong in my thinking, then I am more than happy to support the ordinance. To me there are some questions in here. Secondly, I never received communication on whether or not elected officials, if you say under the nepotism clause you cannot have direct or indirect control over a party, can I as a Sheriff appointment my wife as matron, which I did.

Mr. Friedman, it is our belief that state statute still trumps the ordinance on an issue such as an appointment. For instance, if state statute permits such an appointment it is not going to be contravened by the ordinance. We could perhaps add a section making that very clear. What you and others have expressed at other sessions is it is not a good idea to have a relative supervising a relative. You saw where we added a section to the nepotism provision that specifically allows the hiring of a relative if the ethics board passes on that. If the specific qualifications, skills, and talents of that individual are such that the ethics board recommends or approves the hire, so be it. My understanding from this ethics board is that you wanted to get away from situations where you had relatives supervising relatives as much as possible. To do so though consistent with state statute that might allow a given appointment in a given office. We probably need to make that clear in a sentence that could be added to that in Section 6 the nepotism section.

Mr. Layton, nepotism was addressed and then there was also q.

Mrs. Huston, how is what you just said any different than the adoption of the state laws that govern all of us? How does this ordinance you are proposing differ from the state law governing ethics and conflicts of interest?

Mr. Friedman, there are various ethics provisions that don't pertain to county officials. There is a state ethics law that pertains to state employees. This is recommended by the ethics ordinance committee, it is drawn from ordinances from around the state. Commissioner Milsap's direction to the committee was to get the best of the best from ethics ordinances around the state. A lot of this has been taken from the Allen County ordinance, some other communities from around the state. The idea is that you don't want a conflict with particular statutes.

Mrs. Huston, as you remember when you first brought this before us and we had not had a chance to look at it, I directed our attorney to look at the one that Senator Jim Arnold was proposing for the state and that has been dropped and then there was the one from Michigan City, I believe Mr. Milsap said we were the only county, and that was not true, that didn't have an ethics ordinance. Let me go back, on the July 19<sup>th</sup> meeting I asked Commissioner Milsap, let me read this.... "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." Mr. Milsap did and I did understand. I also asked at our next meeting, August 2, 2011, under comments I said, "Mrs. Huston, I would like to ask Mr. Milsap if you brought up to your board about the board of the Swanson Center under the ethics ordinance." "Mr. Milsap, yes and we will fall underneath that, County Commissioners are also affected by that. If my being on the Swanson Board as Vice President, it effects me also." "Mrs. Huston, so it will affect the Swanson Center Board, the entire Board?" "Mr. Milsap, if you are an elected official on the board." Actually he did not answer my question but at no time did I say anything about it being a conflict of interest because I know he is a volunteer. I never questioned that.

Mr. Friedman, so you would agree anyone serving on a nonprofit board without pay or compensation, that is different than the kind of issues that are raised in the ethics ordinance.

Mrs. Huston, I don't disagree. The only question I asked was about the amount of money we give, should that board fall under the ethics ordinance and Mr. Milsap said if they are elected. I understand that. I do understand that he is a volunteer.

Mr. Friedman, what we need to make clear because there are county elected officials, board members and others who also serve on various nonprofit groups; it is not a violation of the conflict of interest provision for them to sit on these boards. Those serving in a non for profit capacity are not involved in this particular ordinance. The conflict of interest arises if there was a personal financial interest.

Mrs. Huston, so you will agree with me that never at any time did I say anything about this being a conflict of interest. I guess you can understand that I was taken aback.....are you familiar this email that Mr. Milsap sent to me?

Mr. Friedman, I understand Commissioner Milsap was going to...

Mrs. Huston, may I, it says, "your false and misleading claims of conflict of interest against me. Let me be perfectly clear with you in an email so you don't dare try to raise this issue again in a public meeting." I believe that to be a threat, Mr. Friedman, and I also believe it is against my rights. At the very bottom it says, "either you stop this incessant noise about there being a conflict with my volunteer service on the Swanson Board or I will be forced to correct you publicly where your ignorance of the facts will be on display for all to see." I believe that to be terribly unethical and I do not care for the

substance. I believe it is a threat and a violation of my rights and my violation of my freedom of speech.

Mr. Friedman, Mrs. Huston, take it up with Commissioner Milsap. That is not my correspondence to you. He is obviously concerned about comments that were made and you would agree, and want to make very clear for those who are here.....

Mrs. Huston, I did not make those comments, Mr. Friedman.

Mr. Friedman, you want to be very clear Commissioner Huston, that anyone serving on a volunteer capacity on a nonprofit board is not affected by this ordinance.

Mrs. Huston, that is fine. I understand he has volunteered with the Swanson Center for many, many years.

Mr. Friedman, I would like to return your attention to the ordinance. Again, it is the willingness of the ethics drafting committee to make any changes necessary to ultimately get a comfort level on the part of this board and we are prepared to work with the county's attorney to make any amendments or changes. If there are other remaining issues that we need to deal with, we are prepared to do that.

Mr. Layton, I am still adamantly opposed to the inclusion of the Northwest Quality of Life Council as a whereas clause. I read with interest your response to that. I have no problem with them or what they are attempting to do. I just don't believe it belongs in the embodiment of an ordinance.

Mr. Friedman, in order to meet with approval by the majority of the board the ordinance has to be drafted in a form that does that. Clearly that gives you discomfort and we will suggest to the committee that that be removed.

Mr. Milsap, Mr. Friedman, you would agree that this should be passed to our county attorney's office?

Mr. Friedman, certainly, the ethics committee has met several times, it has taken input, Mr. Layton and this commission has graciously held a public meeting to accept comment on it so the product given to you now is the product of that public meeting and the various meetings of the ethics committee. It should go now to the county attorney's office to get and receive any other input it can from the remaining members of the commission.

Mr. Braje, I have expressed opinions about the ordinance. I am happy to see that a lot of those things I suggested have been dealt with. One thing I am concerned about is whether the activities of the ethics committee are subject to the Open Door law. Most of the legal concerns I had have been addressed, although, I just got this new draft this morning.

Mr. Friedman, it is an interesting question because as counsel indicates the Open Door law does have some exceptions for governmental entities. It is the desire of the ethics committee and certainly the desire of this commission to protect the identities of those involved prior to a probable cause finding. One of the things that the committee recommended is the fact that names are redacted out so that there is no public dissemination of the information. The question is, at what point do the proceedings ultimately become public?

Mr. Braje, if you could think about this as we go forward, there are manners for which people who are employees that we can protect them under the Open Door law. Since we do not employee public officials, the public official point of it is where I am concerned because we can't disguise that as an employment issue for purpose of the Open Door law. It would be preferable to me if we could bring this up again at the September 20<sup>th</sup> meeting.

#### NEW BUSINESS

#### Nancy Hawkins, LaPorte County Treasurer/Introducing Noel Williams from AFCS, Inc.

Mrs. Nancy Hawkins, as you know we have many tax payers who do not pay their taxes. If those taxes are for real estate the properties go up for a tax sale. However, if those taxes are for personal property

or mobile homes there are different procedures that are followed. The first step is sending a demand notice by certified mail to those tax payers giving them 30 days to pay the delinquent taxes. At the end of the 30 days, those who have not paid are put on a list that has been registered with the Clerk's office and those become judgments against the tax payer. In 2006 alone, those judgments totaled 2.3 million dollars and much of that remains outstanding. Collecting all those judgments is a huge job and we seldom have the man power or extra time required to follow up. I am here today to introduce you to Noel Williams of American Financial Credit Services. His company currently works with 60 of the 92 counties in Indiana, sending their demand notices and collecting their judgments and he would like to propose doing the same for LaPorte County.

Mr. Noel Williams, we've been collecting delinquent personal property taxes for the last ten years across the state of Indiana. Originally, our company started collecting medical bad debt and we were approached by Hamilton County treasurer to take a look at personal property tax issues that they had. We collected over 30% of their delinquencies. Since then we have brought on an additional 59 counties and have been able to collect over \$45,000,000.00 for Indiana counties over the last ten years. Our process does cover, at no charge to the county, demand mailing and collection through certified judgments to the Clerk of the court. The fee that we propose today is 27% that has been deemed reasonable by the State Board of Accounts. Specifically, I am here to propose that agreement and look for your approval. I will answer any questions you may have and I appreciate your time and consideration.

Mr. Milsap, wasn't there an issue about collections with the State Board of Accounts?

Mr. Layton, I believe the issue was about the amount of time we are running behind on the actual billing process.

Mrs. Hawkins, because we are behind in the whole tax process, the last year we sent demand notices was in 2006. Since 2006 we have been sending provisional bills and until we move forward with an actual reconciliation bill we can't move forward with demand notices. This is part of the process to try and help us get moving forward and to get caught up.

Mr. Williams, there is a ten year limit on a judgment by statute, we take the last two or three years and we get going on those and start generating some revenue for the county on that. As those reconciliation bills are completed, we turn right around and send a demand notice and go through the certification process and we go with you through this and help you get cleaned up. Average recovery percentage is 28%-29% across the state.

Mr. Layton, how long has American Financial Credit Services been in business?

Mr. Williams, since 1993.

Mr. Layton, I have a concern on Addendum A, Services and Obligations, fees 27% of principle amount of tax or, amount provided by county statute. This seems to me, quite frankly, exorbitant.

Mr. Williams, we do not get a fee until the tax is paid. It is not a proportion of any amount that we collect. It is an additional fee and we don't charge unless we collect all your penalty tax, cost and interest. I believe the fee is reasonable and so do the other 60 counties across the state and the State Board of Accounts.

Mr. Layton, Mrs. Hawkins this is for you. It says in the contract that you are giving away your right for them to be your signatory on these checks. Are you going to authorize them to sign checks?

Mr. Layton, I didn't understand, are the checks coming to you or are the checks coming to Mrs. Hawkins' office? It sounds like some of these things are coming directly to you and you are going to sign off on the check that is received and then write a check to the county treasurer. I find that concerning.

Mr. Williams, we are licensed and bonded and have insurance. We want to direct all the taxpayers through our office. The reason is, we can then separate our fee. All the counties that we work with will accept payments at their door and we give them access to our system on line. They send those checks to us. Then we send one check for the principle amount, interest and costs that we have collected.

Mr. Layton, I have to know that Mrs. Hawkins is comfortable with you being allowed to sign her name on any document.

Mrs. Hawkins, yes I am for the reasons Mr. Williams stated. They take their fee and pass on to us what is owed to us. They do all the calculations and all the tracking. If a check should bounce they take responsibility for that also. I am perfectly comfortable with them processing these types of checks for these purposes.

Mr. Milsap, what is your success rate for collections?

Mr. Williams, 27.8% right at 30% across the state.

Mr. Braje, what is the time period?

Mr. Williams, there is no time period associated with the contract. There is a 30 day out clause in there that if any time the treasurer wants to discontinue our service they send us a letter and within 30 days we will return all your accounts.

Mr. Braje, I guess my concern is if the treasurer terminates your agreement and payments come in subsequent to that termination date of which you sent letters.

Mr. Williams, we would try to retain our fee if we can prove we generated the money and payment.

Mr. Braje, how do you do that other than saying you sent a letter out?

Mr. Williams, you can audit our entire process on line, look at all our notes and conversations between us and the tax payer, if there is a payment arrangement set up. If we have a current and active payment arrangement in place or an agreement to pay, it doesn't hurt the county.

Mr. Braje, what you are saying is, yes, you made contact with that debtor prior to the expiration of the contract and would expect the fee.

Mr. Williams, we are pretty reasonable with our treasurers and if the treasurer feels we haven't done enough to justify the fee we don't push the issue. All the costs are added to the outstanding amount.

Mr. Braje, you mentioned if it comes to court action and you pay costs associated with that, for example, you're in court and have filing fees, you may have costs of depositions.....

Mr. Williams, we cover all those costs. We have never gone to court, we have never seized an asset, and we have never closed on a business. The strongest part that the statute allows is to freeze a bank account on a business. We wouldn't do that without extensive research and approval from the treasurer's office.

Mr. Layton, if we decide to do this, we do not like to take contracts beyond the term of the office holder. It is my preference to be date specific and not exceed beyond the end of 2012.

Mrs. Huston, after listening to everyone talk, basically the fee is 27% over and above what people already owe is excessive and with only a 30% success rate with collections. I find that to be a little bit too much. If people can't afford to pay their taxes how are they going to pay your 27%?

Mr. Williams, the national average is less than 15% so we have doubled that as far as recovery goes. The options that we give to taxpayers to set up payment arrangements to help them and work with them to get this paid over time and get this responsibility taken care of is about as far as I can go to justify what you feel is an unreasonable fee. It has been deemed reasonable because of the search we provide and the results. We work with people to get the taxpayer back on track and get the revenue back in the county without complaints.

Mr. Layton, I would entertain a motion to table this for two weeks until we can sit down with Mrs. Hawkins and talk to her personally and settle some of the issues Mr. Braje has brought up. So we can get a document that is at least date sensitive termination on it.

Mr. Milsap made a motion to table for two weeks, seconded by Mrs. Huston, motion carried by voice vote 3-0.

Kay Felton, LaPorte County Home Administrator/Private Pay Rate

Mrs. Felton, I just need my private rate approved which is \$38 per day.

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

Am Trak Contract Fiber Optic Long Beach

Ms. Darlene Hale, the fiber project is between LaPorte County 911 and Long Beach police has been in the works. It is all the way up to the railroad track now and there is a contract between us and the railroad. We are actually going to own the 10 feet under the railroad because we only have to pay \$1 a year.

Mr. Layton, is this the AM Track rail along 12?

Ms. Hale, correct. We are just looking for a signature so we can proceed with the process.

Mr. Braje, we have no issue with the contract. The contract is fine. The only issue I have that the commissioners can address in a motion other than Mr. Layton to be authorized to sign for the commission would be is there is an insurance provision, which is a crucial provision, since you have changed carriers we want to make sure we have the coverage in place that is provided in the contract. We will ask the commissioners to adopt the contract with the caveat that we confirm that our insurance coverage is adequate.

Mrs. Huston made a motion to approve with the President's signature and concur with the legal opinion of Mr. Braje, seconded by Mr. Milsap, motion carried by voice vote 3-0.

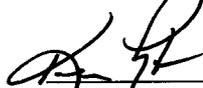
COMMISSIONER'S COMMENTS

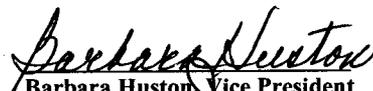
Mr. Milsap, I want to thank all the people that were part of the committee for getting us to this point, and I would like to thank you for passing it on to our legal counsel.

ADJOURN

Mr. Layton, President, adjourned the meeting at 11:20 a.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Ken Layton, President

  
\_\_\_\_\_  
Barbara Huston, Vice President

  
\_\_\_\_\_  
Willie Milsap, Member

ATTEST:   
\_\_\_\_\_  
Craig Hinchman, LaPorte  
County Auditor