



# BOARD OF COMMISSIONERS LAPORTE COUNTY

555 Michigan Avenue, Suite 202

LaPorte, IN 46350

Phone: (219) 326-6808 ext. 2229 - FAX: (219) 326-9103

*Ken Layton  
President*

*Barbara Huston  
Vice President*

*Willie Milsap  
Member*

## LAPORTE COUNTY COMMISSIONERS

Tuesday, March 20, 2012

The LaPorte County Board of Commissioners met in a regular meeting on Tuesday, March 20, 2012, at 10:00 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

Mrs. Phyllis Marks led the Pledge of Allegiance.

### ROLL CALL

All present

### APPROVAL OF AGENDA

Mrs. Huston, for an addition to the agenda, under Requests, item C, from the First United Methodist Church on Child Abuse Prevention.

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

### APPROVAL OF MINUTES

March 5, 2012, Mrs. Huston made a motion to approve as presented, 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 March 30, 2012, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Miscellaneous Claims—\$1,080,359.87, 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—\$ 794,734.95, Mrs. Huston made a motion to approve in the amount stipulated, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

### PUBLIC COMMENTS

Mr. Mike Bohacek, 220 Pokagon, Michiana Shores. I understand that Mr. Milsap wants to have a vote on renewing a law suit with NIPSCO and joining in with Hammond. I wanted to remind the Board of Commissioners' that not only have we spent north of a million dollars in NIPSCO litigation over the past ten to twelve years; the other cities and counties that utilize NIPSCO's services were also the benefactors of those law suits as well. I believe on this last law suit we contributed \$25,000 to Hammond for transcript fees. With the state of the economy in LaPorte and the state of the county's

budget, the last thing this county needs to do is to start engaging in additional litigation. The city of Hammond, Lake County, Porter County, Valparaiso, it is their turn to pay for these things. The city of Hammond has stepped up so I say let them pay and continue the litigation. There is no indication that they are going to cease it so why should we join in.

Mr. Milsap, just so you are aware, you are correct with the \$25,000 however, you are incorrect because we only spent \$9,000 of the \$25,000 and that was just for the transcripts. There is a remaining balance.

Mr. Rick Kentaft, LaPorte, IN. I see by the agenda that you are going to have a first reading on the ethics ordinance.

Mr. Layton, that is not correct. We were just presented with the actual document this morning.

Mr. Kentaft, I have been in front of this commission a few times to speak in support of an ethics ordinance. Some of the things I have heard is that we already have policy in place that address some of these issues that are in this ordinance. Under section 9, subsection E of your county employee handbook, which deals with outside employment, it says, "County employees are prohibited from outside employment with an individual or organization that directly transacts business for which payment is received from the County. Any outside employment must be reported to the employee's department head for approval. If such employment is found to substantially interfere with the employee's county job, he/she will be asked to resign from one place of employment. Employees shall have two weeks to resign from an outside job that the County determines interferes with their County duties. Failure to do so within this time period will result in termination." I believe appointed department heads answer to the commissioners. Would our county highway engineer fall under that ?

Mr. Layton, yes, he is appointed by the board.

Mr. Kentaft, Mr. Layton, Mr. Milsap, Mrs. Huston, are you related to the highway engineer in any way?

Mr. Layton, no.

Mr. Milsap, no.

Mrs. Huston, no.

Mr. Kentaft, that takes away one thing of having people supervise family members. I have a report here I would like to present to the commission dated December 15, 2011. This is a report for the Starke County Bridge #51 Replacement Plan by Creviston Engineering. Turn to page two, I believe the person who signed the bottom of that is our county highway engineer, Mr. Jeff Wright. Has Mr. Wright requested of the commissioners permission to work for an outside agency as Creviston Engineering?

Mr. Layton, not to my knowledge.

Mr. Kentaft, but we have a policy that says that has to happen.

Mr. Layton, I don't know that Creviston Engineering has done business with the county.

Mr. Kentaft, I have a copy of payments made to Creviston Engineering along with payments made to Hendricks Engineering. The amount paid on 7-20-10 to Creviston is \$20,250. There is another one I show here from Hendricks transaction dates of \$20,750. By Mr. Wright's own admission he has worked for both of these engineering firms.

Mr. Layton, is this our surveyors' father's company?

Mr. Kentaft, I would not know. If that is not a direct conflict of interest, I don't know what is. This is just one more reason I feel that an ethics ordinance is something this county needs and has needed for a long time.

Mrs. Huston, actually what you read out of our employee handbook is more to the point and addresses this particular action of our highway engineer than the ethics ordinance. Now that we know about, we will address it.

Mr. Milsap, when Mrs. Huston was making reference to disclosure; I think you were trying to make the point that the ethics ordinance has a disclosure clause in it, that would have been covered.

Mrs. Huston, my point is that it is already covered under the personnel policy.

Mr. Kentaft, in that personnel policy, I see nowhere there is an obligation to disclose. In the ethics ordinance you would have an obligation to disclose. So there is a difference. I think it upholds people to a higher level of accountability; something that all people who are elected and appointed should be held to because they work for us. Accountability has to start at the top.

Mrs. Huston, I agree with you on that.

Mr. Kentaft, I understand people need outside employment and second jobs in this economy. I believe our highway engineer makes in excess of \$70,000 which is well above the average income in LaPorte County. I feel one of the best ways we can stop this from going on is that if Mr. Wright wants to work for those people, then those people should not have a right to bid on contracts in LaPorte County. You have a man taking tax payer dollars and projects that have not been finished; I would say a precedent should be set. We need a transparent form of government. I would ask that when a reading does come that this commission supports it and protects the voters. There is a House Bill 1005 that is on the governor's desk and it deals with some of these issues. I believe it is time for LaPorte County to set the example.

Mr. Milsap, for the audience and viewers, could you read that first paragraph?

Mr. Kentaft, from the Times dated March 18, 2012, "our opinion: The people who run the government should not be their own employees as well, nor should public officials pad the payroll with relatives under their direct supervision."

Mr. Jeff Wright, I guess I need to defend myself here. I think since I was hired in, the commissioners have always had an open door, lay your cards on the table philosophy. As far as working with Creviston, when I hired in there were no details from the previous engineer for any types of construction whatsoever. I filled out this Conflict of Interest form and it should be in my file. It is not like I didn't do what I was supposed to do. I think you could work inside the county but not for the county. This happens to be the United States and we can work as many jobs as we want as long as we don't violated any state or local issues. As far as projects not getting finished, we are designing those projects in house to the extent that we can. Since I have been here, we have 7 million dollars worth of projects that I brought in. That is just in terms of Federal dollars. When I started in, we did a study five years back regarding consultant expenditures. We were spending on the order of \$850,000 a year, five years in a row for consultant fees. Since I was hired in, we are spending approximately \$200,000. Anyone is welcome to come and look at what we are doing. Just the savings in bridge designs alone is anywhere from \$80,000 to \$120,000 just to design a bridge. We have kicked four of those out and did not pay penny one for consulting fees. As far as the Department Head comments, I was going to say we have bridge 183 out for proposal, that was designed entirely in house. Being a political year and trying to get an ethics ordinance passed, I guess I would like to say I am as ethical as the next guy. I am taking care of my business in the best possible way I know how.

Mrs. Huston, Jeff, I have been asked this more than once and know it is probably just a rumor that is going around, are you related to me in any way?

Mr. Wright, no and I wouldn't be ashamed if I was.

Mr. Milsap, in reference to this proposed ethics ordinance, do you support it?

Mr. Wright, I believe in ethics, yes. I think some of this stuff that has been eluted to could be addressed through the employee handbook. I do believe in ethics, I am a licensed minister. I do support an ethics ordinance. The problem I see is you guys are going to use it to beat each other in the head with. I hate to see it used that way. I work with the county people and we have good people

working hard, doing the job. We run way outside the scope of highway work, above and beyond their jobs.

Mr. Milsap, just for the record, this ethics ordinance is not designed to beat people over the head.

Mr. Wright, I understand that is the intent and purpose and the heart, I am just afraid people are going to use it as a club.

Mr. Earl Cunningham, Am I to understand that NIPSCO is still on the agenda?

Mr. Layton, yes.

Mr. Cunningham, if I recall from previous commissioner meetings, Mr. Milsap has stated that Mr. Friedman is his personal attorney. Is that correct?

Mr. Milsap, that is correct.

Mr. Cunningham, does Mr. Friedman represent the city of Hammond in the NIPSCO case as one of their lead attorneys?

Mr. Milsap, that is correct.

Mr. Cunningham, that is the only question I have at this time.

#### DEPARTMENT HEAD COMMENTS

Mr. Bob Young, Highway Superintendent, the report I have is comparing November 2010 through February 2011 to November 2011 through February 2012. Overtime, there is a savings of \$41,341.23, fuel, a savings of \$20,977.22, salt and sand mixture we use, a difference of \$133,628.76 for a total savings of \$195,947.21 if we are through with winter. These prices include all the salt we had to buy to meet our annual quota with the state; otherwise we are not included in the bid. This comes out of the LRS Budget not the MVH.

Mr. Layton, I think you made the council aware that we are included in the state salt bid and we were obligated to purchase salt to meet that quota.

Mr. Cunningham, since Mr. Young was just up here, I do have one thing that needs to be clarified. At last night's council meeting, I believe a false allegation was made that Mr. Young and the county highway department did not properly bid trucks which indirectly is a reflection of the commissioners. It is my understanding those trucks were all bid properly, money was appropriated properly and I would like clarification if that didn't happen.

Mr. Layton, no sir, it did. We went out to bid, publicly advertised for bids, the bids were accepted and opened at a public meeting then we sent it back to the highway department for their review. Mr. Young came forward with a recommendation of the trucks that were purchased then they went to you for the funding. The correct procedure was followed.

Sheriff Mike Mollenhauer, I would like to report that we have 430 inmates and a 368 bed facility.

Mr. Jeff Wright, we have about 1200 feet of the 3600 feet in at the fairgrounds. Also, bridge #183 is out for bid right now.

Mr. Layton, this will also service the new community corrections facility that is in the process of being constructed on the north side of the fairgrounds. I think it is important that that be known because it is saving us around \$250,000 for purchasing a new lift station for the city of LaPorte because what they have out their won't handle it.

#### CORRESPONDENCE

None

#### REQUESTS

HannaFest/Request \$500 Tourism Fund

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

LaPorte County Fair Pioneer Land Christmas Open House/Request \$500 Tourism Fund

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

First United Methodist Church/Child Abuse Prevention & Awareness Glow Walk

Mr. Layton, the First United Methodist Church represents a group of LaPorte residents who are concerned about child abuse and prevention. They have planned a Glow Walk for Wednesday, April 18, 2012 and are asking for permission to use the south side of the courthouse lawn, near the intersection of Indiana and Lincolnway. They are going to put on a presentation that will take approximately 30 minutes.

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

OLD BUSINESS

Jeff Wright, Highway Engineer/Design Engineering Contract for the CR 400N Economic Development Project (Tabled)

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

Mr. Wright, there was a workshop between the commission and council regarding the Economic Development Project that is under consideration. I think as a result of that workshop the officials are supportive of that project so there needs to be an approach to the council to fund the project. We haven't really had those discussions on the approach funding the project. I think the council prefers that we approach them with identified and specific costs. The costs that are specifically identified and need funding for would be a contract for Beam, Longest, & Neff to proceed with the engineering. There are X number of dollars that need to be appropriated to cover the cost of the right of way. I understand there is something around \$250,000 to purchase the right of way. I understand Beam, Longest, & Neff's contract is on the order of \$150,000 to \$200,000.

Mr. Layton, Councilman Bernacchi, wasn't it discussed at the workshop that we had that the council was more in tune to looking at it in sections?

Mr. Matt Bernacchi, Council President, that is correct. Beam, Longest, & Neff will be at the next council meeting for a formal presentation to the council on the first phase which entails eliminating the lift station on 400 and running sanitary and water up 950. Also, a presentation on the road which would probably be the second phase of the project. The commercial land appraisals have been done, the prices have been negotiated so it is down to the approval of monies acquiring the right of way and the approval of Beam, Longest, & Neff to come in and do the engineering.

Mr. Layton, there is a 1.3 million dollar grant that is available for this project, however, the project must be inked prior to September.

Mr. Milsap, your key comment was bringing the businesses in. Can you give us a time frame?

Mr. Bernacchi, we have been in discussion with Holladay Properties and Tonn & Blank. Holladay Properties is in a bad situation right now because the lift station would be eliminated and is at maximum capacity right now. They cannot expand or put any more businesses in there until the infrastructure is in. Also, the Plan Commission wants another access road instead of a frontage road. My understanding between both of those businesses is that they have a lot of interested people but they need the water and sewer back there before the businesses will come.

Northern Indiana Public Service Co./Corrected Electric Service Contract (Tabled)

Mrs. Huston made a motion to take off the table, seconded by Mr. Milsap, motion carried by voice

vote 3-0.

Mr. Layton, this was a letter sent to us back in January in reference to a new contract that NIPSCO was asking the county to sign. We did not act on this when we first received it; we tabled it because we wanted more information. It clearly stated in the letter that if we didn't sign it within a period of time it was going to go into effect either way. In the interim we had our County Planner do a synopsis on this and the engineer for the city of LaPorte did one as well. NIPSCO was telling us it was going to be in the vicinity of a 9.9% increase on our electric rates. Mr. Milsap authored a press release that said it was a 12.6% increase. I think it needs to come to a vote here so we can solidify our stance on this to deny endorsing this agreement with NIPSCO.

Mr. Milsap made a motion to reject NIPSCO's proposal to LaPorte County at this time, seconded by Mrs. Huston, motion carried by voice vote 3-0.

Mr. Milsap, I would like you to understand how we came up with that figure. Mr. Friedman will you please take the mike?

Mr. Shaw Friedman, attorney, the commission, a few years ago, had committed \$25,000 to supporting any appeal. I represent the city of Hammond in the current rate case appeal. Only by our estimation, only \$5,000 of that previous amount has been used and what we are seeking is support from the commission to reallocate portions of that remaining \$25,000 to assist Hammonds appeal. You would be helping to purchase the transcript of that proceeding that occurred before the Utility Regulatory Commission. The transcript will run about \$9,000. Also, our recommendation would be to either direct its counsel or hire special counsel to write a friend of the court brief to support what the city of Hammond is doing in its appeal. Hammond's brief is due May 21<sup>st</sup> which means any friend of the court brief needs to be filed by that time as well.

Mr. Layton, we have some time to digest what you have brought to us this morning.

Mrs. Huston, you said that \$5,000 was spent; Mr. Milsap said \$9,000 so \$25,000 less the \$9,000 is what you are seeking.

Mr. Layton, you already have direction from the commission on our previous motion to use that money to purchase the transcript.

Mr. Friedman, I think that the transcript purchased was from the previous rate case. We are needing the transcript from the new rate case. If that is the commissions understanding that we have existing authority based on your prior motion then that is helpful.

Mr. Milsap made a motion to use the remaining funds of \$16,000 to the NIPSCO rate case to assist the city of Hammond by paying for the transcript of the Utility Commissions hearing in support of Hammonds appeal to the Indiana Court of Appeals, seconded by Mrs. Huston, motion carried by voice vote 3-0.

**LaPorte County Joint Zoning Ordinance, Subdivision Control Ordinance And Zoning Maps**

Mr. Layton, as you know, this was brought to us months ago. We made additions, corrections, deletions, and changes that we thought were prudent to the ordinance. It was returned to the Plan Commission and I believe it was accepted. Mr. Biege, the Plan Commission's attorney, is asking us to formally adopt the rules as they were changed so that we fall within the guidelines of the Indiana Code.

Mrs. Huston made a motion to approve, seconded by Mr. Milsap.

Mr. Layton, for the first reading by title only, "An Ordinance To Repeal LaPorte County's Existing Zoning Ordinance, Subdivision Control Ordinance And Zoning Maps, And Any Amendments Thereafter, Adopting A New Joint Zoning Ordinance, Subdivision Control Ordinance, And Zoning Maps Dated November 15, 2011".

Mrs. Huston made a motion to waive the rules and read by title only for a second reading, seconded by Mr. Milsap.

Mr. Layton reads by title only for a second reading. All in favor signify by saying aye. Passed.

Ordinance #2012-02.

NEW BUSINESS

Shirley Oberholtzer, Switchboard Operator/Retirement

Mr. Layton reads a letter from Mrs. Oberholtzer, "This is to inform you that I will be retiring from my position as Switchboard Operator as of April 13, 2012. It has been a pleasure to work for the County Government for the past 11 years."

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

Mr. Layton, we are going to miss this lady, she has been a very dedicated employee.

Joyce Leon, Human Resources/Overtime and Holiday Policy

Mrs. Leon, this is a short clarification on this policy to clarify the 7/24 hour departments. We have added for mandated time, the hours in the work week the time is mandated shall be paid at time and one-half, regardless of the actual hours worked. What is added to that sentence is with the exception of 24 hour facilities. Holidays are not considered mandated time when it falls within a regular work week in a 24 hour facility. In these instances the holiday is banked to be used at a later date.

Mr. Milsap made a motion to approve the changes made by our HR Department, seconded by Mrs. Huston, motion carried by voice vote 3-0.

LaPorte County Highway Addendum

Mr. Bob Young, this is a simple addition to the county highway policy. In order to comply with state and federal laws all employees are required to use seat belts in county vehicles a equipment if provided. This was brought to my attention by our liability insurance.

Mrs. Huston, I see on here that the HR Department said this should be signed by all employees.

Mr. Young, we will do that in house.

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

LaPorte County Fair Board/Sewer Loan

Mr. Layton, we were presented with a Memorandum of Understanding and a Promissory Note.

Mr. Gene Shute, our attorney has reviewed and approved this. I would like to make one change if possible, instead of the installments being due on the first day of July, we would like to change that to the 30<sup>th</sup> day of July.

Mr. Braje, we have no problem with that. Just hand change that on the agreement, initial it and sign the note.

Mr. Shurte, on behalf of the fair board I would like to thank you for all the cooperation from the county council and commissioners. Everyone has gone out of their way to make this project happen.

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

The Country Griller Music Festival/Withdraw \$500 Tourism Funds

Mr. Layton, this is to withdraw the \$500 we awarded to them and the reason for that is they also applied through the Mayor of Michigan City and the check has been mailed.

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

Commissioner Milsap/Ethics Ordinance, First Reading

Mr. Milsap, we have two people here from the six member committee, Joyce Leon & Andy Reyna, could you give us your feelings on where we are.

Mrs. Leon, the ordinance would be a good tool to work with in conjunction with the employee handbook.

Mr. Reyna, I think it would be a very good tool for our county.

COMMISSIONERS COMMENTS

Mr. Milsap, in reference to the NIPSCO hearing, I am not anti business, however, the product that we receive from NIPSCO, they are the only show in town when it comes to their product. We have a product that they only produce and serve to us, so they have a lifetime customer in us. We are in this together.

Mrs. Huston, I was given this from Dick Dombrowski of the highway department.

Mrs. Huston reads a letter from Mrs. James Laskarin regarding a street light at the entrance of Island Drive off of Holton Road for safety reasons.

Mrs. Huston, there are three pages of signatures asking us to look into putting a street light on Island Drive and Holton Road. We will take this under consideration.

Mrs. Huston, the weather is exceptionally good and there are a lot of people out enjoying the weather. It doesn't seem like March in Indiana. Just to caution everyone to be careful when driving.

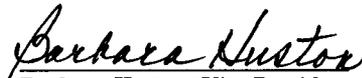
Mr. Layton, our April 3, 2012 meeting which is scheduled for 6:00 p.m. will be held at 10:00 a.m. The reason for that time change is the Association of Indiana Counties Northwest District meeting is going to be in Plymouth that night at the very same time.

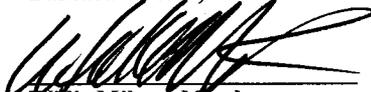
ADJOURN

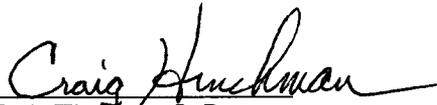
Mr. Layton, President, adjourned the meeting at 11:14 a.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS

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

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

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

ATTEST:   
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Craig Hinchman, LaPorte  
County Auditor