



BOARD OF COMMISSIONERS LAPORTE COUNTY

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*Ken Layton
President*

*Barbara Huston
Vice President*

*Willie Milsap
Member*

LAPORTE COUNTY COMMISSIONERS

Tuesday, July 17, 2012

The LaPorte County Board of Commissioners met in a regular meeting on July 17, 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

Annemarie Polan led the Pledge of Allegiance.

ROLL CALL

All Present

APPROVAL OF AGENDA

Mrs. Huston, please add under Requests, Michael Schultz, LaPorte County Assessor/Connie Lute Retirement Request Unused Sick Days.

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

APPROVAL OF MINUTES

July 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 July 20, 2012 and August 3, 2012, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Miscellaneous Claims---\$2,447,237.97, 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-----\$1,519,778.42, 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. Gene Abraham, 604 Jefferson Avenue, LaPorte, IN. Our company is interested in becoming your government meeting/local events provider. Our price/value ratio is unbeatable. We will provide complete production for 200 county meetings and 26 local events per year for an annual cost of \$42,400.00 per year. Our approach is a little different. We don't rely on underwriting. When I was at ALCO, underwriting was very problematic. In our approach, all the costs for coverage are already

included in the contract. We don't have fluctuating revenue flows and it allows for more accurate, pre-determined costing and budgeting and this will allow for a higher, consistent, quality of product. We offer a higher pay package. Our people earn \$55.00 per a two hour meeting. I think right now it is \$25.00. The standard of living for our employees will increase under this contract. We use leading edge, state of the art tapeless digital systems. One of the problems at ALCO was we would lose meetings because of tape malfunctions. We believe that if it is important enough to tape, it's important enough to tape reliably and provide an archive copy. I would like to discuss and further pursue this opportunity.

Mrs. Huston, what about the equipment? I believe we bought the voice equipment for here. Is that an additional cost?

Mr. Abraham, no, that is included in the contract price. We would purchase the equipment.

Mrs. Huston, over the past several years, when we first started out with ALCO it was less than you are proposing and then it went up significantly in the future. Do you foresee increases? I guess I need to know what your \$42,000 would include as far as equipment and etc.

Mr. Abraham, the \$42,400.00 would include everything. It includes 200 meetings a year, 26 local events a year from taping, to post production, to finished product, to putting it on the web, giving you an archive copy and putting it on the channel.

Mrs. Huston, that is so much less than the county is paying now. I am just questioning how you can bring it to us for less money.

Mr. Abraham, efficiency and our overhead is spread out over many customers, not just the county or city.

Mr. Milsap, why are we discussing this, this should be an agenda item. Did we advertise for bids?

Mr. Layton, no, we have not advertised for bids. If you will remember, two or three months ago this was a very hot topic when Mr. Cooley was in making a presentation for ALCO and Mr. Abraham was in here making a presentation at the same time for his company.

Mr. Milsap, which reinforces the need to have this on the agenda so we can get the full package instead of bits and pieces.

Mr. Earl Cunningham, 6311 W. Shiva Drive, LaPorte, IN. I agree with Mr. Milsap. It seems to me this should be a request for proposals. If we have one individual who lives in LaPorte and we already have an existing company providing the service, there may be two or three other people that would like to do the same thing. The county should be trying to get the most for their money. My primary reason for being up here today is to ask this commission to adopt a standardized starting date for the Ethics Board. As you know, a couple months ago you appointed two board members, a month ago the Council appointed a couple members and we are still awaiting someone from the Department Heads. It would seem to me you should pick a date like August or September 1st and have that as a standard date rather than a year from when you appointed and a year from when we appointed because you would have a constant revolving door. I would ask that you consider a date such as September 1st or whenever the Board convenes prior to that so that everybody is operating from the same starting date. Thank you for the consideration.

Mr. Layton, Mr. Braje what are your thoughts?

Mr. Braje, I don't know that there is a provision in the Ordinance for appointment when one of the appointing authorities doesn't make it. The Ethics Board can move forward at any point and if there is a member missing, there is a member missing. I don't know that you have to wait for them. It would seem logical that they would get that done. I don't know that there is any provision in the Ethics Ordinance that says that if they do not appoint that the board has the ability to fill that spot so you would be operating with a board minus the employee. I think the Ethics Board, at any point, can convene themselves and begin operation as long as there is a quorum of the board in place.

Mr. Cunningham, I understand what Mr. Braje is saying. There are four members so you can convene today but you still appointed your members a few months before we did and since they are one and two

year terms, I don't think you intended for your one year term to serve two or three months prior to the first meeting. I don't think you intended them to do a nine month term. We need a starting date for the Ethics Board members so at least the Council and Commissioners are using the same date.

Mr. Milsap, just FYI, the selection process for the elected and department head officials are in the process. I spoke with HR yesterday and she is in the process of scheduling a meeting to be held here in this room in reference to the selection of that. Things are moving.

Mr. Cunningham, the first date should be uniform.

Ms. Joyce Terrault, 7661 East Bell Avenue, Hudson Lake. I am here to remonstrate. There are people that live on the lake front that don't own the lake front they are trying to close, the road that is our only access. They already have their piers in our beach that was there when I was a kid. I have swam there, my children have swam there, my grandchildren have not been allowed to swim there because they have claimed it as their own. I would like not to have the road closed. This is the Lake Park Addition in Hudson Lake.

Mr. Mike Sabbinas, 7065 N. Cottage Grove Avenue in Hudson Lake. For many years this road has been used by the New Carlisle Fire Department as its only fill up on that side of the lake for fire. We, as a community, brought in fill and gravel to stabilize the road so they would have an adequate turn around for fire and filling up their tankers. I spoke with the fire chief this morning and he said he would absolutely not like this road closed. It is the only access for filling up tankers for fires on that side of the lake. If that road closes, they would have to leave the Lake Park area, drive around the lake to Lake Shore Road and fill up their tankers. That is just not effective. He inspected the road. He said it is a stable road, totally usable, and can't see why it should be closed.

Ms. Kym Vincent, 2929 West Small Road, LaPorte, IN. I am a property owner on Cottage Grove and am here for the same purpose. As a property owner and Realtor I was blessed to be able to buy my childhood home. I grew up there and that has always been public access. It is the only public access on that side of the lake. My concern, beyond the emergency vehicles, is as a Realtor, is my knowledge of what it does to property values when you close a road and no longer have public access. You have now damaged the property values. My second concern is that if you do that I believe you will have owners on the other side of the lake asking for the same thing, now you have completely cut off any public access.

Ms. Debbie Perkins, 7647 E. Bell Avenue, Hudson Lake. I am here for the same reason. It seems like every few years we go through this same battle. We fought for our kids then. Our family has lived in our home for 42 years. It is the only public beach we have. It is the only public road to the beach and nobody gets to swim there. We would like to see this remain open.

DEPARTMENT HEAD COMMENTS

Mr. Mike Schultz, LaPorte County Assessor. I will give you an update. For a change, LaPorte County is finally is on the map with the Department of Local Government Finance, we were 100% complete with our data collection and 100% complete with our data entry. For once, we are not lagging behind the rest of the state so we are catching up. They are in the process of reviewing the neighborhoods and making the ratio study complete so we can submit that in early August and hopefully get our answer back from the state that the ratio study has been approved for 10 pay 11.

Mr. Layton, I would like to commend you and your office staff for the huge task that you have undertaken and where you have brought us in this very short period of time. Congratulations to you and your staff.

CORRESPONDENCE

None

REQUESTS

Mike Schultz, LaPorte County Assesor/Connie Lute Retirement Request of Unused Sick Days

Mr. Schultz, I have an employee retiring at the end of July, Mrs. Connie Lute. She has served LaPorte

County for over 29 years, worked under five different Assessors and she has 19 sick days remaining and I request she be allowed to be paid for those remaining sick days.

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

OLD BUSINESS

Attorney Ryan Beall/Petition To Vacate Public Roadway (Tabled)

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

Mr. Ryan Beall, at the last commissioner's meeting Mr. Lode, President of the Saugana Shores Association, Inc. which is the petitioner in this matter gave a fairly lengthy detailed presentation to the reason we are asking for a vacation to this public roadway. We tabled it so we could contact the two adjoining land owners, not only obtain their consent to vacate this public way but also to ask that they understand that if this roadway is vacated it won't become their property, it would become the property of the petitioner. I think there was some concern that if it is approved that when we draft an ordinance that we put in there specific language to include the fact that the county sheriff's department will still be able to use this roadway for purposes of scuba team practice & etc.

Mr. Layton, I think it is important to note here that the actuality of this petition that you filed for vacation, this does not go to the lakefront.

Mr. Braje, there were a number of things that the commissioner's wanted in order to approve this. The consent to vacate is in proper form, however, should an adoption occur the owners of the property will be these two individuals, Mr. Mulcrone and Mr. Vanek. I was under the impression that what would happen then is there would be a Quit Claim Deed prepared and an easement granted to the sheriff's department in those deeds so they have access. If you would approve with the documents that we have here today the result would be that the property would be owned by these two individuals and there would be no easement nor would there be an obligation under these documents for those people to deed the property to the association.

Mr. Beall, I can obtain those fairly quickly.

Mr. Braje, what we would need to see in order for the commissioners to meet their concerns. My understanding in what the commissioners were interested in in order to approve this would be some document that transferred the property to the association and in those documents there would be retained an easement granted to the LaPorte County Sheriff's Department for perpetual easement over that property for use in their training. Simply to approve it with these documents will not accomplish what I understood the commissioners wanted to have happen. What we would need at the next meeting would be an ordinance and the ordinance would indicate on its face that the owners of the property will then deed the property to the association, we would need a copy of those deeds retaining a perpetual easement to the LaPorte County Sheriff's Department for the purpose of their access and then I think with that everything could be adopted and I think the concerns of the commissioners would be met.

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

Attorney Brad Adamsky/Petition To Vacate (Tabled)

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

Mr. Adamsky, attorney with Newby, Lewis Kaminski and Jones. I am here on behalf of petitioners Barbara Parlin, Glenn Bukovsky, Tim Hadley and Destiny Hadley and Stephen Arch, Jr. We were before the commissioners on May 1st after filing our petition in April for a petition to vacate a portion of Lake Side Drive. There was one remonstrator, Mr. Victor Smith at the meeting who was represented by counsel, Mr. Dave McCain. There were concerns about access to his property which is to the east of this small section of Lake Side Drive. We came back on May 15th after discussing different options that we might have available as far as granting access to him through Lake Park

Avenue. At the commissioner's counsel's request we went to the Plan Committee on June 14th and there were no objections at the Plan Committee and then we went before the Plan Commission on June 26th for approval of first and second reading to replat that portion of Lake Park Avenue which is to the south of my client's property. The replat of Lake Park Avenue addressed the issue sufficiently of access of Mr. Smith's property should Lake Side Drive be vacated. We are asking now for the vacation of that remaining portion of Lake Side Drive just to the north of my clients properties similar to the larger portion of Lake Side Drive which was vacated earlier this year under a separate petition. We do have a proposed ordinance which does allow for easement to the adjacent lots as suggested by the commissioners at the May meeting that also allows access to public safety vehicles. I did send the proposed ordinance to counsel for Victor Smith, he has approved it. This morning during public comments we heard a number of objections that have various concerns about vacating this portion of Lake Side Drive. Statutorily there are four factors a remonstrator must meet. We have to show that the vacation will not hinder the growth or development of the neighborhood. We have addressed the access to the property to the east. The vacation will not make access to any adjacent property owners land difficult or inconvenient. The vacation will not hinder the public's access to a church, school, or other public building or place. I think that is where the argument is coming in; that we are somehow restricting public access to Hudson Lake. We are not vacating Cottage Grove Avenue. There is still access to the lake. The vacation will not hinder the use of a public right of way. This is not a public right of way; this is merely a road that exists on paper. In addition to the fact that they don't meet the statutory requirements to remonstrate, we also ask the commissioners to take a close look at the time limits of this remonstrance. There were no remonstrators here on May 1st, we published notice as required by statute, we mailed out notices to the adjacent property owners. There was no appearance here on May 15th, there were no remonstrators here in February or March under the other petition to vacate with the exception of Mr. Smith. Our clients have already given up a significant portion of their property rights. We went back to the Plat and Plan Commission, we replatted part of Lake Park Avenue which had previously been vacated. My clients gave up their rights to that property. They would not have done so if they had known there was a significant remonstrance and there was a battle for this "beach" on Lake Side Drive. We are not cutting off Cottage Grove Avenue. We ask to be able to respond to any additional comments.

Mr. Sabbinas, he is incorrect, that beach has had sand brought in, they have put up private property signs, no trespassing. We have fought this issue for years with residents on that road. I made no comment about closing off Cottage Grove.

Mr. Layton, when you were talking about gravel being brought in to support the road so the fire truck could come in, I thought you were referring to Cottage Grove. That was my thought.

Mr. Sabbinas, Lake Side was pretty much just dirt so we as residents brought in gravel and the only reason it hasn't been maintained, it hasn't grown up with weeds, it is grown up with grass. The stable road bed is still there. The fire chief says it is a viable way to fill up their tankers for fire on that side.

Mr. Milsap, I understand your concern for fire service. It appears that you were not notified in April of this?

Mr. Sabbinas, none of the property owners were notified by anybody.

Mr. Braje, they are not obligated to be noticed up; only contiguous owners are obligated to be noticed up under the law. The notices that Mr. Adamsky provided me at the first meeting were accurate. We reviewed that issue.

Mr. Sabbinas, I feel we should have been notified that by closing off this access to the lake it is going to devalue our property value.

Mr. Adamsky, if I could address first the issue of notice; not only did we mail notice as required we also did publish notice so that would have been notice to the general public. It was far more notice than was given for this meeting. So certainly if the petitioners are able to appear here where there was no publication and no mailing they had even more notice of the May meeting when it was published. Additionally, some of the concerns he is addressing, with the private property signs and fences, those are actually to the west of Cottage Grove. That is not even our client's properties. The concerns with the fire department are addressed with our ordinance we are certainly agreeable to allow easement rights for public safety to access the lake there. There is access to Hudson Lake off of Cottage Grove.

Mrs. Huston, the only property that has not been vacated are the three that are petitioning here today. Everything else has already been vacated to the property owners. They have gone above and beyond by rededicating a road that was vacated, Lake Park Avenue. This has been going on since May and since they will allow access to the Fire Department I make a motion to approve.

Mr. Milsap seconded the motion, motion carried by voice vote 3-0.

NEW BUSINESS

Holladay Properties/Final Approval For Life Works Business Park

Mr. Ryan Kelly with Holladay Properties, Portage, IN. It is my understanding that I come before the Board of Commissioners to get final approval for Life Works.

Annemarie Polan, here is the final plat. Mr. Kelly has been to the Plan Commission off and on for two years now. They have fulfilled all obligations and commitments for the Plan Unit development. The last thing they needed was the second access strip which they have the commitment for. They went above and beyond with another document that Ryan will have recorded that gives all the guidelines.

Mrs. Huston, what the Plan Commission required – as far as Life Works Business Park was concerned – there was only one exit currently and that was a road that did not belong to the county. It is an access road that runs by Culvers. In order for this Life Park and everything they have put in and all that they are proposing there, we requested that there be a second access which they did acquire from adjoining property owners. They are also going to be able to go across Tonn and Blanks property to 950 and come out at the stop light. They had to get the second access before they could do anything more. They have one building in there now.

Ms. Polan, they did receive their commitment for that.

Mr. Milsap, the main entrance by the gas station, who was suppose to widen that?

Mrs. Huston, that is a utility access road that the state owns.

Mr. Milsap, are we going to widen it?

Mrs. Huston, it is not up to us, we do not own it.

Mr. Milsap, are we pushing forward for the state to widen it for safety reasons?

Mrs. Huston, I don't believe so.

Mr. Layton, the road is 60 feet wide.

Mr. Tony Hendricks, LaPorte County Surveyor, yes, that frontage road was done by INDOT when 94 came in. The county is under the impression it is still their road. The secondary access from 950 is in progress. I believe INDOT is in discussion about that road. There is no way to fix the physical location of Frontage Road. It is in their best interest to get the 950 Road in use as quick as possible, it is a safer access. It will provide those people on Frontage Road another access away from that intersection.

Mr. Milsap, what is the time frame for this exit?

Mr. Kelly, it would depend on how the Life Works Business Park develops. We have access, right now 950 is a dirt road. We have one building out there. Our job was to get an agreement with the property owner to have access over to 950.

Mr. Milsap, for safety concerns, that road needs to be expedited as soon as possible.

Mr. Hendricks, I believe 950 is up for bid to improve that road. My impression is that Tonn and Blank is moving at a pretty good clip.

Mr. Layton, our business is to approve or deny the request that was made by the Plan Commission.

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

COMMISSIONERS COMMENTS

Mr. Milsap, this Saturday, July 21, at 11:00 the town of Hanna will be having their annual Hannafest parade on old Highway 30 which is Volk Road. On Friday evening they are going to have a lot of activities so if you are in the area stop in and participate.

Mrs. Huston, the Hanna parade and activities is really a lot of fun. Hopefully the weather won't be quite as hot as it has been. I hope everyone had a nice 4th of July.

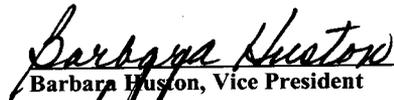
ADJOURN

Mr. Layton, President, adjourned the meeting at 11:01 a.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS



Ken Layton, President



Barbara Huston, Vice President



Willie Milsap, Member

ATTEST:



Craig Hinchman, LaPorte
County Auditor