

*LaPorte County Auditor
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**MEETING MINUTES
LA PORTE COUNTY COUNCIL REGULAR MEETING
FEBRUARY 25, 2013**

The Regular Meeting of the La Porte County Council was called to order on Monday, February 25, 2013 at 6:35 p.m. in the Assembly Room of the La Porte County Government Complex.

CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL.

The Meeting was called to Order by President Yagelski who began the Meeting with the Pledge of Allegiance and asked Auditor Winski to proceed with the Roll Call. Council Members present included: Councilwoman Lois Sosinski, Councilmen Rich Mrozinski, Matt Bernacchi, Mark Yagelski, Terry Garner, and Jeff Santana. Absent: Councilman Earl Cunningham (excused). A quorum was present for the Meeting to proceed.

APPROVAL OF AGENDA.

Councilman Bernacchi made a request to add under "New Business" defibrillators in the County and Michigan Township Assessor employee swap between a full-time and part-time employee. A Motion was made by Councilman Bernacchi and seconded by Councilwoman Sosinski to approve the Agenda as revised. Motion carries 6-0.

APPROVAL OF JANUARY 14, 2013 REORGANIZATIONAL MEETING, JANUARY 14, 2013 REGULAR MEETING AND FEBRUARY 25, 2013 REGULAR MEETING MINUTES.

A Motion was made by Councilman Mrozinski and seconded by Councilman Bernacchi to approve the January 14, 2013 Reorganizational Meeting. Motion carries 6-0.

A Motion was made by Councilman Mrozinski and seconded by Councilman Bernacchi to approve the January 14, 2013 Regular Meeting. Motion carries 6-0.

A Motion was made by Councilman Mrozinski and seconded by Councilman Bernacchi to approve the February 25, 2013 Regular Meeting. Motion carries 6-0.

ELECTION OF VICE-PRESIDENT

Councilman Santana stated there were two nominations for Vice President. Councilwoman Sosinski and Councilman Mrozinski. Hearing no others, President Yagelski asked Auditor Winski to take the roll call for Councilwoman Sosinski. Ayes: Councilmen Bernacchi and Santana, Councilwoman Sosinski. Nays: Councilmen Mrozinski, Garner and Yagelski. The vote ends in a tie, the nomination fails.

President Yagelski reiterated to Council Members that because there are only six (6) Council Members in attendance tonight, there may be a vote which ends in a tie. If a Councilperson would like to change their vote, please ask for a revote. At this time, the Vice President will remain Councilman Mrozinski until all Members are present.

LIAISON REPORTS

Councilwoman Sosinski

Councilwoman Sosinski was informed by Clerk Lynn Spevak that the State Court Administration has approved digital scanning for court files. Superior Court 4 will be the pilot office for this test. This will be a completely different process than microfilm as documents will be scanned as they are presented to the Court.

Councilman Bernacchi

Councilman Bernacchi stated the water, sewer and road is nearly complete in regards to the C.R. 400N/C.R. 950W continuation of Cleveland Road. There is a \$1.2 Million Dollar grant available. Holiday Properties and Tonn & Blank are excited about economic development prospects. One of the hold-ups was the lift station on U.S. Highway 421/C.R. 400N could not handle any more sewage so a gravity-float sewer was installed and water is available to the entire park. Once roads are cut there will be an access road installed for Holiday Properties which will relieve the frontage road. There are a couple hundred acres ready for development and several big business and industries are actively looking at the area.

KIP (Kingsbury Industrial Park) is moving forward. Rail is going in and there are a lot of great things happening in La Porte County right now.

Councilman Mrozinski

Councilman Mrozinski attended a joint meeting of GLEDC and MCEDC in which some very good news was reported. MonoSol announced an expansion plan to add 50,000 square feet of new industrial building space at a cost of \$5,000,000. In addition, \$34,000,000 in new equipment will be added which will bring 37 new jobs to the County.

American Licorice announced an expansion of new equipment in the amount of \$10,000,000 which will produce 35 additional jobs.

Space Center will be bringing rail into their building at the Thomas Rose Industrial Park this summer.

Showmen Supplies announced the acquisition of the Keystone Tube Building in the amount of \$2,198,000. They will be adding another 10,000 square feet of office space to the existing 110,000 square feet. They hope to hire an additional 12 new positions while retaining the 31 present jobs.

GLEDC Executive Director Burt Cook gave three new leads on prospects to Matt Reardon. Holiday Properties has signed on to be the developer for Newport Landings. There are a lot of good things happening in Economic Development.

Councilman Garner

Councilman Garner met with Sheriff and Chief Sosinski to discuss the bidding of vehicles. Bids were solicited and received from local companies, and Sauer's from Michigan City was awarded the bid. The Sheriff will be coming before the Council to request permission to use Commissary monies to pay for equipment and decals for the new vehicles. The Sheriff will also be setting up a workshop with the Council to discuss their pension investments. They are very pleased with the investment advisor, as this will save the County a substantial amount of money.

Local resident Barb Blake recently passed away and left money to the Sheriff's Department for the purchase of a canine. With this donation, there will be no monies requested for the purchase of another canine. The dogs are necessary and the Council must be mindful of their future.

The flooding in the basement of the Complex should be fixed as the solution was found to the problem. So there should be no need to come before the Council again.

MS4 Director Rick Brown informed Councilman Garner that Michigan City has chosen to do its own thing. They are looking to fund their own program differently than the County. Councilman Garner is opposed to this until they sit down and present something before the Council. This is an expanding program and he does not want the County to be shut out and pay the entire bill.

Councilman Santana

Councilman Santana reported he was removed from the EMS Board by the Commissioners. He will however, remain as the Council Liaison. Larry Butcher of Michigan City Fire Department will be the Commissioner's appointment. Mr. Butcher is an EMT and also has a nursing degree which will bring insight to the program. President Yagelski will be naming a Liaison to EMA as this is a Board that needs to be put together for Homeland Security.

Maintenance Director Jerry Cooley gave Councilman Santana an extensive tour of both buildings. Flooding issues were evident on the Complex side of the building and the carpeting repairs which will be done using carpet squares. Jerry Cooley will compile a checklist and prioritize it for presentation to the Council.

Tony Hendricks will get in touch with Councilman Santana when things slow down and he is not so busy.

President Yagelski again reiterates if there is a tie vote on any item this evening and a Council Member would like to reconsider, please let him know for revote.

ALCHOLIC BEVERAGE BOARD

President Yagelski informs the Council there are four (4) Republican candidates up for nomination. President Yagelski opens the floor for nominations.

Auditor Winski informs the Council that one of the nominees, David Parrett, will not be in attendance tonight as he is not feeling well.

Councilwoman Sosinski would like to nominate Cliff Wozniak, which is seconded by Councilman Santana.

Councilman Bernacchi would like to nominate Roger Wolff, which is seconded by Councilman Garner.

President Yagelski hearing or seeing no other nominations asks Auditor Winski to call the vote for the nomination of Cliff Wozniak. Ayes: Councilwoman Sosinski, Councilmen Santana and Yagelski. Nays: Councilmen Bernacchi, Garner, Mrozinski. Nomination fails as it ends in a tie 3-3.

President Yagelski hearing or seeing no other nominations asks Auditor Winski to call the vote for the nomination of Roger Wolf. Nays: Councilwoman Sosinski, Councilmen Santana and Yagelski. Ayes: Councilmen Bernacchi, Garner and Mrozinski. Nomination fails as it ends in a tie 3-3.

President Yagelski states that this will be brought up at the next meeting, when all seven (7) Members are in attendance.

MICHIGAN CITY LIBRARY APPOINTMENT

Auditor Winski informed Council Members that the Michigan City Library Director contacted her and that the Council had already appointed two members last year. No appointments will be necessary until 2014.

EMERGENCY MANAGEMENT LIAISON

President Yagelski stated that Councilman Santana has declined to be the Liaison for Emergency Management. There are four (4) Council Members who are interested in the position. President Yagelski appoints Councilman Garner as the Emergency Management Liaison. Councilman Garner will get in contact with Councilman Santana in regards to Emergency Management and specifics.

ECONOMIC DEVELOPMENT LIAISON

President Yagelski stated that there are four (4) Council Members who are interested in serving as Liaison to Economic Development. President Yagelski appoints Councilwoman Sosinski and Councilman Bernacchi to fill those positions.

PURDUE EXTENSION WORKSHOP UPDATE

President Yagelski and Council Members had a meeting at the Purdue Extension Office and received an update on economic development, food services, and an array of things they do for the County. Councilman Yagelski would like Councilwoman Sosinski and Councilman Bernacchi to introduce themselves as the Economic Development Liaisons to Purdue Extension group.

DEPARTMENT HEAD REPORTS.

Sheriff Mike Mollenhauer.

The Sheriff would like to inform the Council about a few items:

1. Chief Sosinski presented each Council Member with the maintenance records for the eighteen (18) cars that will be traded in for their review.

2. Sheriff Mollenhauer stated he will be planning a Pension Workshop with Council Members in regards to saving taxpayer utilizing a pension advisor. He would like to get together with President Yagelski and Councilmen Garner and Bernacchi to discuss in further detail.
3. The Department purchased twenty-five (25) Motorola portable radios from the Inmate Commissary Fund for jail staff safety in the amount of \$32,249.30. The old radios will be disposed of properly and the ones that still are in working order will be given to the Posse.
4. The Department purchased forty-four (44) patrol rifles from Rock River Arms. They are .223 caliber, which is the same fire power as the 'bad guys' have. In November 2012 the Department took possession of the rifles. The prices of firearms and ammunition have increased substantially and the rifles were purchased through three (3) different Funds: Firearms Training Fund (\$18,920), Inmate Commissary Fund (\$16,420) and the Diversionary Fund from Prosecuting Attorney Bob Szaligy (\$2,500) for a total amount spent of \$37,840. With the inclusion of the radios and rifles, a total of \$48,669.30 was utilized from the Inmate Commissary Fund, which is a fund that is generated through the sale of inmate goods, merchandise and telephone usage and is not taxpayer money.
5. Currently being constructed is a new 100-yard firearm training rifle range. This will be in addition to the current firearm range. Construction is proceeding; trees have been removed and cleared by the inmates. Bob Young of the Highway Department brought heavy equipment in and removed the stumps and built safety barriers. Once the weather breaks things will be moving quicker, training will be done out on the new course. Rifles will be issued to all uniformed officers and detectives.
6. Money returned last year (2012) that went back into the General Fund include the Department of Corrections for Prisoner Income (\$195,090), DOC Parole Holds (\$35,240), Medical Co-Pays (\$12,287.67) and Restitution (\$2,642.38) for a total brought back to the County of \$245,265.05.
7. In regards to the Canine Program, a few years back the Council took a vote to abolish the Canine Program. In refreshing the Council's memory the Department has (or had) three dogs, one canine on each shift. The Department is now down to two dogs, with the passing of Mirza which was Andy Morse's dog. The Department would like to replace the dog as the dogs are indispensable in regards to drugs and searches. With the drug problem in the County and other neighboring counties, the dogs are used about every day. The dogs are an integral part to the Department, not only for drugs and searches but for public relations as well. Dogs will go into the elementary schools for interaction with students and are a deterrent for the middle and high schools. The dogs are used in the jail cells if there is a suspicion of drugs. The canine donations received or promised include: Prosecutor (\$2,500), Public (\$120), and Ms. Barbara Blake's Estate and one of her last requests to pay for a fully-trained German Sheppard. The cost of the canine and training will be paid. Vet bills and food are paid out of the Continuing Education Fund. Andy Morse would like to have a new dog; he has the pen in his yard. Sheriff Mollenhauer asks the Council for their thoughts.

Councilman Garner made a motion to allow the Sheriff's Department to purchase the dog and, if needed, be allowed to pay for it ahead of time out of the Commissary or General Fund as long as the money is refunded back to the County. The Motion is seconded by Councilwoman Sosinski. Councilman Mrozinski questions if the working conditions and overtime are acceptable and

Officers are being compensated properly. Officers said yes they are. Sheriff Mollenhauer states everything has been settled and worked out. Councilman Mrozinski states that he fully supports this. Motion carries 6-0. Sheriff Mollenhauer thanks the Council and lets the public know if they do wish to donate to the Canine Fund; any money should be directed to the Auditor's Office.

Maintenance Director Jerry Cooley

Jerry Cooley would like to thank Councilman Santana for touring the buildings and updates the Council on a few things. Director Cooley asked a few of his employees to take leadership positions in helping to maintain fourteen (14) buildings over the next few years. The County Complex roof is leaking. Mr. Cooley contacted Larsen Danielson, who did the job approximately 10-12 years ago and at that time it was \$150,000 to fix. The Juvenile Center also has a leak which will be looked into when the weather breaks. There have been several problems with boilers, and every weekend there has been an issue where overtime had to be expended. There have been gas leaks, boilers had to be shut down because of a carbon dioxide leak, and the State Fire Marshal was called out to look around. However, the County did pass the Fire Inspection.

There are continued problems in the Courthouse, in particular on the second floor. Things are not zoned so when one area is shut off, everything shuts off. The County's snow fleet trucks have holes in them. Issues need to be addressed, prioritized and made aware of.

Councilman Santana asks Mr. Cooley to speak about ADA compliancy. Director Cooley states several years ago there was a lawsuit against the County in regards to ADA. Director Cooley is working with the Engineer and all building areas will be looked at for ADA compliance. If areas are not ADA compliant, pictures must be taken, and a write up done and sent to the compliance Judge who will either issue a waiver or request the County fix or update it.

Councilman Santana states if the Council follows those steps, the County will still be considered to be in compliance and monies can be set aside to work on areas that need to be brought up to compliance. Part-time people will be assigned to specific buildings for accountability, and he will be utilizing individuals with more expertise in areas that are needed.

Director Cooley would like to thank the Sheriff's Department for the use of inmates assisting the Maintenance Department. Inmates have been used in the past; however they may be able to utilize the inmates with ADA compliance. In addition, employees are being cross-trained so everyone will know how to do each other's job when vacations, sick-time and extended leave may come into play.

Councilman Garner thought the County was up-to-date on everything, until he was informed about the restroom.

Director Cooley says several things were not ADA compliant, and were removed.

President Yagelski states that the Council went through the buildings, thought things were ADA compliant and the County was compliant. If it is not, he would like to see a list. President Yagelski said a lot of monies were spent, so this is all news to the Council.

Director Cooley states that things were not finished and he will provide a list.

Hearing or seeing no other Department Heads, Department Head comment was now closed.

PUBLIC COMMENT

Hearing or seeing no one coming forward, Public Comment was closed.

NEW BUSINESS

Councilman Bernacchi asks that the defibrillator issue be brought up.

Pat Pease of EMS states she inherited the defibrillator project in January 2013. She located all of the AEDs and they need updating and maintenance. Cintas is the company the current defibrillators were purchased from. Cintas already made a presentation in front of the Board of Commissioners; however additional monies and information may be needed.

Mr. Nathan Barcus, Service Manager for Cintas approached Pat approximately four (4) weeks ago in regards to upgrading current defibrillator units throughout the County. The units are about three years old and there are newer, more user-friendly defibrillators on the market. By upgrading the defibrillators there would be no upfront investment from the County to do this. The County would be trading in the current defibrillators, receiving funds back for those, and all maintenance would be covered. Cintas would oversee the program and there would be 24-hour on-call service for each defibrillator.

Councilman Bernacchi confirmed that training would also be provided by Cintas.

President Yagelski would like to know what the total cost of this would be, including the trade-in value.

Mr. Barcus stated annually it would be approximately \$17,000 for the Maintenance Program. Currently, there are two options available: the Maintenance Program or Cintas would implement a quarterly service; the County would pay for the AED pads, batteries and any updates or malfunctions that need to be done. The cost annually for this option would be \$13,742. That does not include training or medical direction oversight.

Councilman Bernacchi thought a recommendation could be made to the Commissioners.

Councilman Mrozinski questions if any annual maintenance has been done on the current system.

Mr. Barcus states there has been some; however he is new to the County's territory. He does feel that the program they are introducing would be much better than the current one. There are currently 16 units located throughout the County.

Councilman Mrozinski states that with 16 units, the cost would be over \$1,000 per unit and questions how much are a unit to buy and have there been many issues with them?

Mr. Barcus states the original units that the County bought three years ago were \$1,400 each.

Pat Pease states there have not been issues; however no maintenance, servicing or medical direction has been done.

President Yagelski would like to look at this more carefully, as the numbers don't exactly align. He would like more information on the program, including a breakdown on the cost of a pad, battery pack, new defibrillator, warranty explanation on new defibrillator, etc.

Mr. Barcus tells the Council that battery packs are \$200 each, the 9-volt battery included in the current models are \$13 each, adult pads (2 sets at each defibrillator) are \$50 each, software upgrades are \$50 each, medical direction that goes along with each defibrillator is \$249 each, and training depends on how many could and would like to be trained. Maintenance would not be included.

Councilman Mrozinski would like to gather more information on the current units as he has some familiarity with them.

Councilman Santana questions Pat Pease if individuals could train the rest of the employees.

Pat Pease states not from her staff.

Michigan Township Assessor.

Councilman Bernacchi is requesting for the Michigan Township Assessor (who was unavailable to attend) a transfer of a full-time employee to part-time and moving a part-time employee to full-time. There are no additional appropriations needed, just a transfer. He would like the approval of the Council.

President Yagelski questions if the pay would stay the same.

Councilman Bernacchi reiterates this is not an additional appropriation, just a transfer from part-time to full-time and full-time to part time with both transfers being effective on the same date.

A Motion was made by Councilman Bernacchi and seconded by Councilwoman Sosinski to approve the transfer. Motions passes 6-0.

Assessor Mike Schultz would like the Council to know there is a possibility that monies could be left over because the employee going from part-time to full-time has less years. To take some pressure off of the Reassessment Fund, he asks that whatever monies may be left go towards Michigan Township's part-time help.

CORRESPONDENCE

For informational purposes only. Dan Balich and Don Bowman were not in attendance in regards to Eurasian Water Milfoil invading local lakes.

ORDINANCES AND RESOLUTIONS

Ordinance – Adopting the County of La Porte Indiana Salary Schedule and Compensation Policies. Attorney Biege is still reviewing the Ordinance Adopting the County of La Porte Indiana Salary Schedule and Compensation Policies. The Ordinance left with the Auditor's Office when they took charge in January 2013 is inaccurate and would like to hold over again until the next meeting. There already is a Salary Ordinance in place, so there is no urgency. A Motion was made by Councilman Bernacchi and seconded by Councilwoman Sosinski to table the Ordinance. Motion carries 6-0.

Joint Resolution - Regarding Reimbursement of Expenses of County Employees.

Attorney Friedman approached the Council stating the Human Resources Department recommended these changes and brought them before the Commissioners for their consideration. There is one change in the mileage reimbursement from \$30 to \$35. That is the only substantive change. A Motion is made by Councilman Garner and seconded by Councilman Santana to read by title only and then adopt the Resolution. The Motion carries 6-0.

APPROPRIATIONS, TRANSFERS, REQUESTS

La Porte County Circuit Court Clerk

Clerk Lynn Spevak requesting permission from the Council to replace an employee who resigned from her position on February 1, 2013 (COMOT IV Bookkeeper). Motion made by Councilman Bernacchi and seconded by Councilman Mrozinski. Motion carries 6-0.

La Porte County Health Department

Requesting permission to create a non-reverting fund for a Confidential Services STD Clinic Fee. A Motion is made by Councilman Bernacchi and seconded by Councilman Mrozinski to table. Motion carries 6-0.

La Porte County Information Technology

Requesting an Additional Appropriation from the General Fund (1000-10184-000-157) for Vacation Time in the amount of \$2,670.00. Motion made by Councilman Santana and seconded by Councilwoman Sosinski to approve. Motion carries 6-0.

Requesting an Additional Appropriation from the General Fund (1000-10130-000-157) for Summer Intern Extra Hire/Part-Time \$3,500.00. Motion made by Councilman Mrozinski and seconded by Councilman Santana to approve. Motion carries 6-0.

Requesting an Additional Appropriation from the Win Tax Fund (4220-20200-157-0257) for Completion of Phase II Tax Bill Reconciliation Project \$20,000.00. Darlene Hale, IT Director indicated to the Council that all of the funds requested may not be used. A Motion made by Councilwoman Sosinski and seconded by Councilman Bernacchi. Motion carries 6-0.

La Porte County Auditor

Requesting an Additional Appropriation from the General Fund (1000-10130-000-102) for Part-Time/Extra Hire for Phase II of Tax Bills Project \$15,000.00. A Motion is made by Councilman Mrozinski and seconded by Councilpersons Sosinski and Bernacchi to approve. Motion carries 6-0.

La Porte County Sheriff's Office

Requesting an Additional Appropriation from General Fund/Building Maintenance Repair (1000-20029-000-142) for Carpet, Paint and Labor \$17,500.00. Motion made by Councilman Garner and seconded by Councilwoman Sosinski to approve. Councilman Bernacchi raises the question has the drainage issue been resolved at the jail.

Sheriff Mollenhauer states there has been a pin put into the main drain behind each stool in the cellblocks and so far things are working. If something is flushed down, i.e., towel, underwear, it will catch it and a few items have been caught. All repairs to be made with the carpet are for a flood area,

and carpet squares will be utilized at the cost of \$17,500.00. Additionally, the post-command area where the jailers and a merit officer are stationed is worn out. The additional amount of the carpet (\$3,748) and painting will be spent out of the Commissary Fund in the approximate amount of \$5,000. The carpet will have the biohazard backing on it. The Motion carries 6-0.

La Porte County Commissioners

Requesting Consideration and Additional Appropriation 2006 Reassessment Fund (2451-30020-000-0247) for Legal Fees of Former Assessor 06 pay 07 Assessments \$16,873.28.

Councilman Mrozinski did some investigating on this request. As far as appropriations from the Reassessment Fund they need to be requested by the Assessor and not the Commissioners. The Assessor would need to come before the Council. If this is for legal funds, the Council restored all Legal Funds to the Commissioners and if they want to spend that on legal funds, the Council does not need to be involved.

President Yagelski states the agreement was to bring it back before the Council. The Commissioners cannot use the Legal Funds in their Budget for this.

Attorney Shaw Friedman tells Councilman Mrozinski that was exactly the agreement; otherwise it would have been put through legal claims. As part of the agreement for the Council reinstating the Commissioner Legal Funds and Insurance Claims, Commission President Milsap had to appear before the Council and have a separate presentation for this particular line item. All Council Members have received the documentation supporting the claim made by Goodman, Katz and Scheele. Two of the Attorneys with the Firm are here this evening. Mr. Steve Sheele and Mr. J. Michael Katz. The County Commission is submitting this item to the Council for consideration.

The former Assessor retained this law firm to bring to the head the issue of certifying the 2006 pay 2007 values the former Auditor refused to certify. Now the Council and the Commission have been involved in the last few months to close out all of the issues connected with the 2006 pay 2007 values. All parties have worked together to generate tax bills and get the County back on track. The Nexus litigation has been resolved. This is the last open piece of business from that time period that needs to be closed.

While the Council may quibble with the notion that the Assessor or any County official can contract separately with legal counsel, at that point in time Ms. McDaniel was well within her rights to do that. It was the former County Attorney, Chris Willoughby who first determined that there was County Ordinance No. 98-10 which was passed June 30, 1998 that permitted County Elected Officials and Departments Head to serve as purchasing agents who could lawfully mind the County with Contracts such as the one Ms. McDaniel signed. That document was provided to the Council. It was not until June 21, 2011 the County Commissioners repealed Ordinance No. 98-10 so that Elected Officials and Department Heads could no longer contract, on their own, without consent from the Board of Commissioners. The bottom line is that the June 11, 2009 Contract signed by Ms. McDaniel was legally binding.

The law firm agreed, at the County's request, to waive any claim to interest or other expense or attorney's fees so that the issue can get behind us. The Commissioners are asking for favorable consideration on the original bill, which was done at a discounted rate in the sum of \$16,873.28 so the matter can be brought to closure. This firm has done work for the County on other matters and did not assert a formal collection action to date where they would have been entitled to interest and attorney

fees. This will be the last piece of the 2006-2007 scenarios that all County Officials have been working collaboratively on to get closure on.

Councilman Mrozinski questions why Purchasing Procedures and Ordinance 2011-08 were received today and were never brought up before when there was prior discussion about this issue. Councilman Mrozinski spoke to one of the previous Commissioners today and asked him what he knew about this, since his name was on it. He stated only Commissioners can sign contracts for the County and as far as being a Purchasing Agent, Councilman Mrozinski would like a reading from the State Board of Accounts before the Council does something that should not be done.

Attorney Friedman tells Councilman Mrozinski it is important to look at the County Code before you make those types of interpretations and why the benefit of Counsel is available to use. The benefit of Counsel is to try and keep County Officials out of trouble and what is trying to be avoided is a situation where this law firm brings a claim against the County and brings attorney fees and interest that they would legitimately be entitled to. In 2011 the Commissioners determined the County Assessor had retained Counsel and she had done it based on the authority that had existed under Ordinance 98-10. That's the difficulty the Council is posed with. Had she (Assessor) done this after Ordinance 2011-08 was adopted, she would not have had authority to do so. On June 21, 2011 Commissioners specifically adopted this so there would not be future situations where Department Heads or Elected Officials retained legal counsel on their own.

Councilman Bernacchi asks for the opinion of Attorney Biege.

Attorney Biege states he agrees with Attorney Friedman. Department Heads were given the authority to contract. Now whether that would be construed as attorney fees or legal fees, he thought it would probably be. Attorney Biege reviewed the Code and agrees with Attorney Friedman. The request is to pay out of the Reassessment Fund and the next step is to determine if it can be paid out of Reassessment. The bills indicate they were connected with the 2006-2007 Reassessment issues, so the first hurdle has been satisfied. The next question would be who can request payment from that Fund. The Code requires that any payment be approved by the County Council after review and recommendation of the County Assessor. Attorney Biege does feel the County Assessor should have input. After those elements have been satisfied, it is a proper question for the Council.

Councilman Garner states he was part of the group that insisted she (Assessor) not do that because it was specifically stated that the Council would not pay her attorney fees. She was well aware that the Council was not in favor of it.

Attorney Friedman tells Councilman Garner he is sympathetic with the Council's position; however there is nothing in the Agreement that prohibited her from asserting legal counsel.

Attorney Friedman clarifies that for the 2006-2007 values, the Auditor insisted he wanted to stay with the 2005 values/assessments. The problem with using 2005 is they were based on 1999 values and that was the shortfall for the County. The County Assessor had to bring in action to force the Auditor to certify the values. At that time there was a conflict between the Auditor and Assessor and this Council ultimately lined up with the Assessor's position that the 2006-2007 values should be certified and approved. Ultimately those values were vindicated by the Indiana Court of Appeals and that is what the County is operating under.

Attorney Steve Scheele states the Complaint was filed on June 22 and in July there was a responsive pleading filed by Mr. Hinchman and then Goodman, Katz and Scheele, on behalf of Ms. McDaniel sought leave to file an amended complaint basically incorporating the DLGF's findings which were memorialized in a letter sent to Mr. Hinchman vindicating the then Assessor. Duplicate copies of the pleadings are available for any member of the Council. There is a letter from the DLGF dated July 6, 2009 stating:

The County Assessor submitted gross assessed values to you on or about April 14, 2009. Since then more than 30 days have elapsed, and it will soon be 90 days and you have failed to perform your statutory duties. You have unjustifiably refused to certify any net assessed values or generally perform the duties set forth pursuant to the Indiana Code. Your refusal jeopardizes the fiscal health of local taxing units, it impedes their ability to carry out their governing duties and continues wasteful borrowing to pay for local government services and it forces taxpayers to pay back-to-back tax bills. Your refusal to meet your statutory duties and your obligations to your constituents must come to an end.

This is from the DLGF telling Mr. Hinchman to do his job, which is essentially what Ms. McDaniel the then Assessor was also seeking to get done by way of her complaint. Moreover as her further backdrop to this, the Council may recall that Ms. McDaniel was sued in 2008 by a Commissioner or other taxpayers essentially asserting that she was not doing her job. In response to that our office was engaged by the County, the firm was fully paid with respect to all of the fees incurred on the then-Assessors behalf throughout all of that litigation, and believe everything she undertook was warranted and done in good faith.

Councilman Santana states it is time to put this to rest. If Mrs. McDaniel was verbally told not to hire you, that is not the firm's fault. She may have looked at a loophole and acted under Ordinance 98-10. Councilman Santana knows that waiving fees does not sit well, but these gentlemen did their job and they did what they were hired to do and need to be paid.

President Yagelski's only question is why she (Assessor) did not use the Commissioner's Attorney at that time. The Council had the right to vote it up or down and at that time the Council voted no. The Council wants this issue to go away and to move on and will have to break their own rules and make payment.

Councilman Bernacchi states he was part of the Council when we told her not to do this. It is a bill that is due, he's not happy about it, but it needs to be paid.

Assessor Schultz states he thought the ship left the dock, but luggage was left and came back. It is time to move on, the Council has always supported him and the County is trying to get on track. If it is the County's wishes to pay this out of Reassessment he will not stand in their way.

Councilwoman Sosinski stated they provided services and product and are asking for their fees. The contract is legally-binding and it was a service performed for La Porte County. This was a good-faith effort on the prior Assessor's part and the Council needs to pay the bill.

Councilman Garner stated what is a few more thousand dollars when we have already spent millions.

A Motion was made by Councilman Santana and seconded by Councilwoman Sosinski to pay the law firm of Goodman, Katz and Sheele the amount of \$16,873.28 for services rendered and legal fees for the former Assessor to be paid out of the Reassessment Fund.

President Yagelski asks Auditor Winski for the Roll Call: Ayes: Councilwoman Sosinski, Councilmen Yagelski, Bernacchi and Santana. Nays: Councilmen Mrozinski and Garner. Motion carries 4-2.

OLD BUSINESS

None.

COUNTY COUNCIL/ATTORNEY COMMENTS

Councilwoman Sosinski would like to thank the new Director of Maintenance on his pro-active approach and would also like to thank the estate of Barb Blake for the Canine donation for the Sheriff's Department.

Councilman Bernacchi spoke with Officers at the Sheriff's Department and problems have been resolved and he is full support of the Canine Program.

ADJOURN

A Motion was made by Councilwoman Sosinski and seconded by Councilman Santana to adjourn the Meeting. Motion passes 6-0. The Meeting adjourns at approximately 8:07 p.m.

EXAMINED & APPROVED BY THE LA PORTE COUNTY COUNCIL, dated this 25 day of March, 2013.



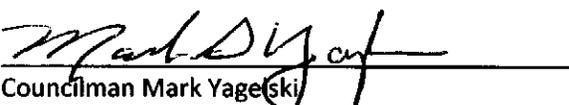
Councilman Matt Bernacchi



Councilman Terry Garner



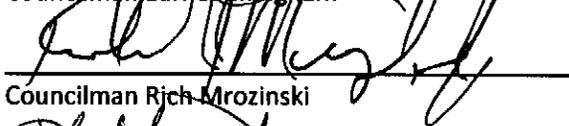
Councilman Jeff Santana



Councilman Mark Yagelski



Councilman Earl Cunningham



Councilman Rich Mrozinski



Councilwoman Lois Sosinski

ATTEST: 

Joie Winski, Auditor La Porte County