



BOARD OF COMMISSIONERS LAPORTE COUNTY

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Ken Layton
President
Barbara Huston
Vice President
Willie Milsap
Member

LAPORTE COUNTY COMMISSIONERS

Tuesday, June 7, 2011

The LaPorte County Board of Commissioners met in a regular meeting on Tuesday, June 7, 2011, to be held at 6:00 p.m. in the LaPorte County Complex Meeting Room #3.

CALL MEETING TO ORDER

Mr. Layton, President, called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Ms. D. E. (Sonshine) Troche led the Pledge of Allegiance.

ROLL CALL

All present

APPROVAL OF AGENDA

Mrs. Huston made a motion to remove Item C under New Business, seconded by Mr. Milsap, motion carried by voice vote 3-0.

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

APPROVAL OF MINUTES

Mrs. Huston made a motion to approve the minutes of May 17, 2011, seconded by Mr. Milsap, motion carried by voice vote 3-0.

WEEKLY REPORTS

Commissioners review and sign the weekly reports during the meeting.

CLAIMS

Payroll Ending June 10, 2011, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Misc. Claims ———\$397,254.28, Mrs. Huston made a motion to approve, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

PUBLIC COMMENTS

Mr. Daniel Adams, 5252 N. Fail Road, LaPorte, IN. Do you have any idea when the zoning ordinance will be coming to you for a vote?

Mr. Layton, I believe sometime in July. There will be plenty of public notification before it comes to this body.

Mr. Earl Cunningham, 6311 W. Shiva Drive, LaPorte, IN. At your last meeting Sheriff Mollenhauer presented facts and figures on how he spent the commissary money. In regard to a question from Mr. Milsap related to a State Board of Accounts audit and if there had been any problems, I believe Sheriff Mollenhauer answer was that he had an audit each year and there had been no problems. I have handed Mr. Milsap a copy of the State Board of Accounts audit results. The first item alone is \$6,069 that was spent for advertising donations. Using the figure of \$6,069, divided by 18 months, which that audit covered, comes out to \$337 per month. Multiply that by 53 months that the Sheriff has been in office, I get about \$17,900. However, if you will remember back in February, the Herald Argus and News Dispatch printed a lengthy full page article related to the commissary fund. In that article, the reporter says that the amount spent on advertising and donations was \$26,128 and that was in a three year period. If you divide that by 36 months you get \$725 a month multiplied by the 53 months he has been in office, you come up with \$38,000. I don't think that takes into consideration the additional nights in hotels that was for personal use. We are not talking about a couple of hundred dollars. We are not talking about \$600 that one of our elected officials paid back after a State Board of Accounts audit a couple of years ago. Mr. Layton made clear at the last meeting that even though they are not tax dollars they are tax payer's dollars. In the original February article, the Sheriff said he had received \$134,310 in reimbursements from the General Fund for a three year period. We continue to do that. Once you take General Fund dollars and send them to the commissary fund, they get commingled. Approximately 20% of all the dollars that have been spent out of the commissary fund over the last four years and four months have come from the General Fund. The Sheriff wants this to be put behind us and I couldn't agree more. I think the only way this can be put behind us is for the Commissioners and Council to come to some agreement with the Sheriff on how we are going to get this money back or go to court. We are in a win win situation, he is our employee, we pay him every two weeks. My position as a tax payer and more importantly as a council member representing the fiscal body, this is not going to be over until we get some money back. What other department head or elected official would we allow to do this? I am asking for direction from you and your attorney with the council and the council's attorney to take some steps to put this behind us. Do we negotiate a settlement or do we go to court? This is not fair to the public. You have worked for four months now trying to get an ordinance that you adopted last year related to the phone income and you are having no success in that matter. I am requesting your assistance to join forces and rectify this problem. When we know somethings not right, we need to fix it.

DEPARTMENT HEAD COMMENTS

None

CORRESPONDENCE

None

REQUESTS

Olde Farmers' Festival/Road Closures

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

OLD BUSINESS

None

NEW BUSINESS

Robert Young, LaPorte County Highway Superintendent/Recommendation for Trucks

Mr. Young, as you know, we opened bids at the last meeting. My recommendation tonight is to accept the Decatur Truck and Tractor, Inc. bid. They are compliant throughout all the specifications for the five single axels and the one tandem axel. The total package for all six trucks is \$1,015,513.89.

Mr. Braje, prior to voting, if it is the decision of the commissioners to accept the Decatur Truck bid, they should also show that Wiers' International and Pozzo Mack were non conforming to the required specifications.

Mrs. Huston made a motion to approve Mr. Young's recommendation for Decatur Truck in the amount of \$1,015,513.89, seconded by Mr. Milsap, motion carried by roll call vote 3-0.

Mr. Young, we only had one bidder for the road patcher truck from Northern Equipment Co., Inc. and I recommend we accept that bid in the amount of \$171,336.00.

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

Attorney Brad Adamsky/Petition to Vacate a Public Way in Koehn's Subdivision, Phase I in LaPorte County, Indiana

Mr. Brad Adamsky, here is notice of publication and certified mail.

Mr. Braje, this has been properly published and ready for your consideration.

Mr. Adamsky, attorney at Newby, Lewis, Kaminski & Jones, 916 Lincolnway, LaPorte, Indiana. I am here on behalf of petitioners Katlyn Koehn and Brett Slater.

Mr. Adamsky reads the petition, PETITION TO VACATE A PUBLIC WAY IN LAPORTE, INDIANA. (see attached)

Mr. Adamsky, as a little background to this petition, Slater's purchased their property in October of 2008. The property was originally subdivided in 1993, there has been no further development beyond the Phase 1 and Phase 2. There has been no development of the farm land behind there in 18 years since the plat was originally recorded. I have pictures to present. The piece we want vacated is a strip of land 50' x 200'. The property next to that is Mr. Jim Fergusons. There are other points of access to the farm land. We have a grass lot that my clients are mowing and being maintained by them. This is not collecting any tax for the county and not serving any use to any person. We will recognize that the property is used on occasion, maybe once or twice, yearly, to access the farm land. Mr. Ferguson does not oppose the vacation of this.

Ms. Michelle Bazen Johnson, Friedman & Assoc., 705 Lincolnway, LaPorte, IN. I represent Jerry and Pamela Koehn. We just received the petition on Friday of last week. Given the number of remonstrators that are here tonight, we would request that we be given an opportunity to present our remonstrance against this. Mr. Koehn does not have another access to his farming property except to cross over his own corps. Also, the vacation would hinder access to develop a subdivision.

Mr. Jerry Koehn, 3386 E. St. Rd. 4, LaPorte, IN. I planted the grass and I mowed it until the neighbors started mowing it. I planted it so I wouldn't get stuck with my semis. The other right of way on 300 South, I would have to cross over all my crop land, pack it down in. On State Road 4 I do have a 50' I can get in to but it is under water most of the time. Maybe within the next 10 years I may want to subdivide that. It is the only way I have getting into that field because it is on an end row. I use it every spring and every fall.

Mr. Layton, on the ingress and egress on the southern part of 300 E just north of highway 4, where it was made reference to that the ground had been tilled, did you plant grass in there as well?

Mr. Koehn, no, I've always planted that. I do go in there occasionally but it is not handy for me.

Mr. Layton, on the ingress and egress that is further north than that and has been turned into driveways for the two homes about ¼ mile north of highway 4. Do they allow ingress and egress through there?

Mr. Koehn, yes they do.

Ms. Cindy Mazur, 1145 S. 300 East, LaPorte, IN. We just put the rock in there when we built because we didn't want the mud. We have always been told that was for him to bring in tractors. We have no problem with him doing that.

Mr. Koehn, it is very convenient for me to use that off of 100. It is not convenient for me to use the Mazur property at all.

Michelle Bazen Johnson, I think that Mr. Koehn's testimony proves that under the statute if it is inconvenient or difficult that you have the opportunity to deny the vacation.

Mr. John Koehn, 3384 E. State Road 4, LaPorte, IN. I am Jerry's son and we farm together. My grandpa set it up for all of us grandchildren for in the future to subdivide. I am not for it.

Ms. Gerilynn Favia, 107 Edgewood Lane, LaPorte, IN. I am Jerry's daughter. I can vouch for the convenience. I know he uses the property to get back there. I am completely against it. The thought of not being able to subdivide this...that is what my grandpa intended.

Mr. Ray Hamilton, Building Commissioner of LaPorte County. I have been out in this area. This subdivision has two stages completed. An architect who designs a subdivision has state regulations on distances that these 50 foot entrances have to be put in. I am looking at this as a high, desirable area to have homes built. With the county's new master plan, we are talking about saving farm land. This is farm land that has already been started so why go somewhere else. This is a very desirable area for future growth.

Mr. Adamsky, Mr. Koehn mentioned he needed semi trucks to get into the property, it was necessary for him to enter this way. When my client first approached Mr. Koehn with this idea, even prior to us filing the petition to vacate, within four hours of him contacting Mr. Koehn, he was out tearing up the right of way with his plow. This does not make it convenient to enter. When this happened, a police report was filed. I only bring this report to your attention because it says there are three alternative areas that he can enter the field. As for the idea of this being a subdivision, this property was originally platted 18 years ago and there has been no intent to subdivide this property.

Mr. Jim Ferguson, 3182 E., 100 South, LaPorte, IN. I have no interest in the easement. I moved here 7 years ago, the Koehns told me they owned the easement and if I wanted my children to play on it, I would have to maintain it. The problem I have is, the 7 years I have lived there and never had any problem with the Koehns whatsoever and I still don't.....until the petition for vacation came up. My problem is the easement was torn up so bad, I tried to fix it, I can't mow it and it is not usable. Someone needs to fix the easement, it is an eye sore. I have no interest in the land.

Mrs. Huston, was this done by Jerry Koehn?

Mr. Koehn, one of my workers did this. My son said to go over there and farm it.

Mr. Braje, this is not an easement. This is property in a platted subdivision and this particular piece is a right of way owned by the county. No one has a right to that property other than the county except to the extent that it is granted to them. Since it is a platted but unimproved road, parties can drive over it but it is not an easement. No one has any right to do anything to that property but travel over it.

Mr. Brett Slater, 3182 E. 100 South, LaPorte, IN. I never said this will be mine and it is the last time you will be able to use it. Who is going to be responsible in fixing that if the vacation doesn't go through?

Mr. Adamsky, I want to bring your attention to Ordinance 2010-05 that you passed last year. This was a vacation with an access, a similar situation. This shows president for the county where you have abandon such an access.

Mr. Layton, I think the one difference on the Szilagyi property is that there was *never* going to be a subdivision reflected by all family members.

Mrs. Huston, I am disturbed where the plowing is concerned but Mr. Koehn said he would fix it since it is our property. There is a family feud here that I am sad to hear about. I am going to make a motion to deny the request to vacate, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mr. Layton, I am disappointed with the actions Mr. Koehn and pleased that you agree to put it back in the state that it was. Mr. Adamsky, when you first approached us you said the vacation was to be so that your client could build a garage on the back part and have access to that garage. This being a county owned thoroughfare I see no reason why your client cannot have ingress and egress to a garage.

Tattoo/Piercing Ordinance

Mr. Tony Mancuso, Administrator, LaPorte County Health Department. This just reflects a state ordinance where we can go out there and inspect them four times a year.

Mr. Braje, this just places with the Health Department the ability to permit it and enforce it. We now have a local vehicle that can implement and comply with state law.

Mrs. Huston made a motion to present the ordinance for the first reading by title only, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mrs. Huston made a motion to waive the rules and pass by title only, Ordinance Establishing Tattoo and Body Piercing Regulations, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Ordinance #2011-07.

Engineering Agreement

Mr. Layton, this will be an engineering agreement, if approved, between the county of LaPorte and the engineer from the city of LaPorte to be our representative in the Kingsbury Industrial Park proceedings with the rail expansion. It was presented to Mr. Braje's firm for review.

Mr. Braje, we reviewed it and made some suggestions. Mr. Clingerman made those changes and we have approved the document.

Mrs. Huston made a motion to approve the agreement with Mr. Clingerman, professional engineer, to represent LaPorte County and to let the president sign for the commission, seconded by Mr. Milsap, motion carried by voice vote 3-0.

Mr. Milsap, I understand you have been meeting with the groups, can you give us a time frame?

Mr. Layton, we have had many, many meetings with the Halfwassen Group, Barnes and Thornburg, and Mr. Baugher. The Halfwassen Group has agreed to commence with the rail on July 5, 2011.


COMMISSIONER'S COMMENTS

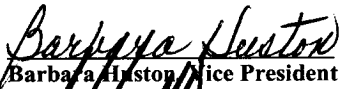
Mr. Milsap, LaPorte County Assessor, Mike Schultz and his chief deputy, Judy Anderson, will hold a question and answer session June 8 from 10:00 – noon at the City-County Resource Center located at 1401 E. Michigan Blvd. Anyone having questions about their property assessment is encouraged to attend. If you have any questions before the session you can call 872-5619 or 326-6809 ext. 2390. Due to road construction, please use the parking in the rear of the building. Refreshments will be served.

ADJOURN

Mr. Layton, President, adjourned the meeting at 7:18 p.m.

LAPORTE COUNTY BOARD OF COMMISSIONERS


Ken Layton, President


Barbara Huston, Vice President


Mike Milsap, Member

ATTEST: 
Craig Hinchman, Auditor

BEFORE THE COMMISSIONERS)
OF THE COUNTY OF LA PORTE,)
INDIANA)

PETITION TO VACATE A PUBLIC WAY
IN LAPORTE, INDIANA

Come now petitioners, Katlyn Koehn and Brett Slater, by counsel, and show the members of the Commissioners of the County of La Porte, as follows:

1. They are the owners of the real estate described as Lot 8 of Koehn's Subdivision-Phase One, located at 3118 E. 100 South, City of LaPorte, County of La Porte, Indiana.

2. The petitioners seek to have a public right-of-way identified as a vacant lot adjacent to their property in LaPorte, Indiana, vacated. A copy of the survey for the vacant lot is attached hereto as Exhibit A.

3. The public right-of-way referred to above is designated a public way by reason of the plat of Koehn's Subdivision Phase One, recorded as Document Number 93-02041 in the Office of the Recorder of LaPorte County, Indiana. In fact, the public way has never been improved by any municipal or county entity.

4. No property owners would be denied access to their property as a result of the vacation of the described portions of said vacant parcel.

5. The owners of the land that abuts the property proposed to be vacated are as follows:

- a. Katlyn Koehn and Brett Slater
3118 E. 100 South, LaPorte, IN 46350
- b. Jim Ferguson and Leslie Ferguson
3182 E. 100 South, LaPorte, IN 46350

c. Jerry G. Koehn and Pamela S. Koehn
3386 E. St. Rd. 4, LaPorte, IN 46350

6. Your petitioners desire the public way described above be vacated due to the fact it has never been in use and that it is neither feasible nor desirable to open the same for public traffic.

7. The vacation of said public way will not materially damage the adjoining properties and will relieve the County of the responsibility for maintaining the public way.

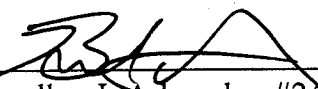
8. The vacation of said public way will add property to the tax rules of the County of La Porte, Indiana.

9. The vacation of said public way will not hinder the growth or orderly development of the unit or neighborhood in which they are located or to which they are contiguous; will not make access to the lands of the abutting landowners by means of public way difficult or inconvenient; will not hinder the public's access to a church, school or other public building or place.

WHEREFORE, your petitioners respectfully pray that the Commissioners of the County of La Porte adopt an ordinance vacating said public way described above.

NEWBY, LEWIS, KAMINSKI & JONES

By



Bradley J. Adamsky, #24070-71

Attorney for Petitioners

916 Lincolnway, P.O. Box 1816

La Porte, IN 46352-1816

Telephone: (219) 362-1577

SAYLOR LAND SURVEYING, INC.

9038 E. 50 NORTH
MILL CREEK, IN 46365

(219) 369-9949

saylorjt@csinet.net

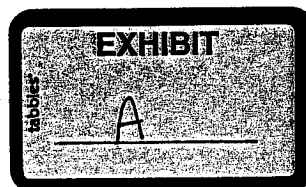
FAX (219) 369-9949

04/16/2011

Brett Slater

Description of vacated road right of way between lots 7 and 8 in Koehn's Subdivision – Phase 1:

PART OF THE NORTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 10, TOWNSHIP 36 NORTH, RANGE 2 WEST, PLEASANT TOWNSHIP, LAPORTE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 10; THENCE N87°42'16"E ALONG THE NORTH LINE OF SECTION 10 A DISTANCE OF 572.35 FEET; THENCE S02°17'44"E A DISTANCE OF 30.00 FEET TO AN IRON BAR AT THE NORTHEAST CORNER OF LOT NUMBER 8 IN KOEHN'S SUBDIVISION – PHASE 1, AS RECORDED IN PLAT BOOK 19 PAGE 15, SAID IRON BAR BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE S02°17'44"E A DISTANCE OF 200.00 FEET TO AN IRON BAR AT THE SOUTHEAST CORNER OF LOT 8; THENCE N87°42'16"E A DISTANCE OF 50.00 FEET TO AN IRON BAR AT THE SOUTHWEST CORNER OF LOT 7 IN KOEHN'S SUBDIVISION – PHASE 1; THENCE N02°17'44"W A DISTANCE OF 200.00 FEET TO AN IRON BAR AT THE NORTHWEST CORNER OF LOT 7; THENCE S87°42'16"W A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.2296 ACRES, MORE OR LESS.



ANTON JAMES A & E MARIE ANTON
1011 S 300 EAST
LA PORTE, IN 46350

COLBURN CHRISTOPHER A & ELIZABETH M
3252 E 100 S
LAPORTE, IN 46350-6821

CORRELL RODNEY L & AVA G
3198 E 100 S
LAPORTE, IN 46350-9145

DUVALL THOMAS & MARY
3194 E 100 S
LAPORTE, IN 46350-9145

FERGUSON JIM & LESLIE
3182 E 100 SOUTH
LA PORTE, IN 46350

JARRETT JERRY D & DARLENE M
3212 E 100 S
LAPORTE, IN 46350-6821

KOEHN KATLYN G & BRETT D SLATER
3118 E 100 SOUTH
LA PORTE, IN 46350

KOEHN JERRY G & PAMELA S
3386 E HWY 4
LA PORTE, IN 46350

MCMAHAN BRIAN M & JEANETTE M
3064 E 100 SOUTH
LAPORTE, IN 46350-9145

NAUGHTON DAVID L & TINA L
%COLLETTE EMILY M
1011 S 300 EAST
LAPORTE, IN 46350-9094

OCHOA SOFIA T
3196 E 100 SOUTH
LAPORTE, IN 46350-9145

RICHTER BRAD R
1015 S 300 E
LAPORTE, IN 46350-9094

ROOK JAMIE & RUSTY
3401 E HWY 4
LAPORTE, IN 46350-6751

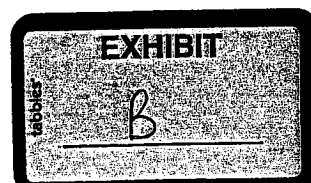
SCALF GARRY W & PATTI M
3402 E 300 S
LAPORTE, IN 46350-6787

STEVENS JESSE W & JANET K
3192 E 100 S
LAPORTE, IN 46350-9145

SUDLOW DONALD L & DIANE H
1017 S 300 E
LAPORTE, IN 46350-9094

TUHOLSKI JOSEPH O & CHERYL
3048 E 100 SOUTH
LAPORTE, IN 46350-9145

WATT KENNETH B TRUST
3228 E 100 SOUTH
LAPORTE, IN 46350-6821



461110100018000057
RICHTER BRAD R
1015 S 300 E
LAPORTE, IN 46350-9094

461110100019000057
KOEHN JERRY G & PAMELA S
3386 E HWY 4
LA PORTE, IN 46350

461110100020000057
SUDLOW DONALD L & DIANE H
1017 S 300 E
LAPORTE, IN 46350-9094

461110100021000057
WHERLEY DANIEL D
1019 S 300 EAST
LA PORTE, IN 46350

461110100022000057
FIX DANIEL W & HEATHER J
1021 S 300 EAST
LAPORTE, IN 46350-9094

461110100023000057
SCHMIDT LYNN M & RICHARD E
1033 S 300 EAST
LA PORTE, IN 46350

461110100024000057
KADERLY MICHAEL & PENNY
1055 S 300 E
LAPORTE, IN 46350-9094

461110100025000057
GRZESIAK KRZYSZTOF & LIDIA
1077 S 300 EAST
LA PORTE, IN 46350

461110100026000057
TLAHUEXTL BENIGNO C & LYNNE A
1097 S 300 EAST
LAPORTE, IN 46350-9094

461110100027000057
LOWER MICHAEL L
1117 S 300 E
LAPORTE, IN 46350-9093

461110100028000057
ARNDT NANCY M
1133 S 300 EAST
LA PORTE, IN 46350

461110100029000057
MAZUR CINDY
1145 S 300 EAST
LA PORTE, IN 46350

461110100030000057
GILLEN RANDALL S & CINDY M
1187 S 300 E
LAPORTE, IN 46350

461110100031000057
MCCARTY TIA R
1201 S 300 EAST
LA PORTE, IN 46350

461110100032000057
SORG ARTHUR III & AMANDA G
1223 S 300 EAST
LAPORTE, IN 46350-9092

461110100033000057
SUROWIEC DEREK W & DANA M
1235 S 300 EAST
LA PORTE, IN 46350

461110100034000057
LAZO STEPHEN J & RHONDA K
1243 S 300 E
LAPORTE, IN 46350-9092

461110100035000057
GIERKE JOE A & MARTI A FERRELL-GIERKE
1265 S 300 EAST
LAPORTE, IN 46350-9092

461110100036000057
SOBIESKI RICHARD T & JACINTA C
1287 S 300 EAST
LAPORTE, IN 46350-9092

461110100037000057
LAUGHLIN MICHAEL A & GAIL A
1323 S 300 E
LAPORTE, IN 46350-9091

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LAUGHLIN MICHAEL A & GAIL
1323 S 300 E
LAPORTE, IN 46350-9091

461110100039000057
LANE CHARLES A & SANDRA L
1343 S 300 E
LAPORTE, IN 46350-9091

461110100040000057
JACKOWSKI SANDRA M
1355 S 300 EAST
LA PORTE, IN 46350

461110100041000057
MILLER SCOTT A & KATHRYN B
1401 S 300 EAST
LAPORTE, IN 46350-9090

461110100042000057
DAILY KATHY M
1413 S 300 EAST
LAPORTE, IN 46350-9090

461110300038000057
KOEHN JERRY G & PAMELA S
3386 E HWY 4
LA PORTE, IN 46350

461110300042000057
UNDERWOOD JOSEPH
1421 S 300 EAST
LA PORTE, IN 46350