

**EXECUTIVE COMMITTEE  
MINUTES  
April 10, 2007**

The Executive Committee of the DeKalb County Board met on Tuesday, April 10, 2007 at 7:00p.m. at the Legislative Center's Gathertorium. Chairman Ruth Anne Tobias called the meeting to order. Members present were Roger Steimel, Michael Haines, Pat Vary, Julia Fauci, Bob Rosemier, Sally DeFauw and Eileen Dubin. Mr. Osborne and Ms. LaVigne were absent. Others present were Ray Bockman, Jerry Augsburger, John Hulseberg, Anita Turner, Steve Walt, Christine Johnson, Dennis Whittlesey, Tracy Stanhoff, Tribal Chair of the Prairie Band Potawatomi Indian Nation, Greg Millburg, John Farrell, Ronald Matekaitis, Paul Stoddard and Jeff Whelan.

**APPROVAL OF THE MINUTES**

**Moved by Mr. Rosemier, seconded by Ms. Fauci, and it was carried unanimously to approve the minutes from March 2007.**

**APPROVAL OF THE AGENDA**

Mr. Rosemier asked to add new consideration of Resolution #R2007-24? Chairman Tobias said that she would place it on the agenda as item #6a.

**Moved by Mr. Rosemier, seconded by Ms. Fauci, and it was carried unanimously to approve the amended agenda.**

**APPOINTMENTS:**

**Board of Review:**

Mr. Gerald Wahlstrom  
Mr. Marlin Chaplin  
Both reappointments for a term of 2 years, until April 30, 2009.

**Workforce Investment Board:**

Mr. Jeff Whelan, appointment for a term of 2 years, until April 30, 2009.

**Ad Hoc Solid Waste Committee:**

Mr. Kenneth Andersen, to fill the unexpired term of Mr. Steve Slack, until 07/01/2007.

**Regional Planning Commission:**

Mr. Frank Altmaier, primary representative for the Village of

Kingston, reappointment for a term of 3 years, until 04/01/2010.

Mr. Jerry Thompson, primary representative for the Village of Malta, reappointment for the term of 2 years, until 04/01/2009.

**Moved by Ms. Fauci, seconded by Mr. Dubin to forward all of these appointment recommendations to the full board for approval.**

**Appointments expiring for May 2007 are:**  
Workforce Investment Act Board – 1 position

### **SUPPORTIVE LIVING NOT-FOR-PROFIT (NFP) DISCUSSION**

Mr. Ray Bockman, County Administrator, said that he sent a letter to the committee along with documents regarding the Supportive Living NFP Facility. They are focusing on mid-May for the closing on the financing for the project. The committee and county board are being asked to approve the documents associated with the transaction and the recent actions of the newly formed Supportive Living Not-For-Profit Corporation board. They are the same members as the Operating Board.

Mr. Steimel asked if Pineview stockholders names were available to the public?

Mr. Bockman said yes, Blair Mitton, George Dinges and John Bugsley. They have a number of these projects around the State.

**Moved by Ms. Fauci, seconded by Ms. Vary, and it was carried unanimously to forward this recommendation to the full board for approval.**

### **POTAWATOMI DISCUSSION**

Mr. Bockman, said that he sent a cover letter along with the documents relative to the Potawatomi discussion of last month. The first document is from our attorney, Mr. Dennis Whittlesey, which is an analysis of the materials that the committee received from the Tribal Council last month. Basically, he is respectfully disagreeing with their position, said Mr. Bockman.

The second document, Mr. Bockman said, is a proposed agreement called an Agreement of Purpose. It does a number of things that tries to move this process into the public policy arena. For several years, we have had some very interesting back-and-forth on various legal opinions on the status of the land, who has the authority to do what, etc. It is increasingly apparent that what we have is reasonable people disagreeing on a very complicated issue. The Agreement of Purpose provides a framework, if you want to, with which you can move forward and leave the resolution of the land status to the only entity that has the authority to resolve it, which is the Federal Government.

It also provides the citizens of this community with the indemnification and provides for reimbursement of the county for its expenses of its endeavors, said Mr. Bockman.

Mr. Steimel said that he feels that we are moving away from the direction of this committee and that we are moving along at a fast pace on this issue for some reason. He hasn't seen any direction by this county board to do as much as we have done. He asked Mr. Witlessly to expand on the information that he presented to the committee last month.

Mr. Bockman said that he would like to answer that. That our first contact with the tribal council was four years ago. There have been no negotiations with the tribe for months. The agreement that you have in your packet was drawn by Dennis Whittlesey as an honest effort to see if we could move the issue along. The way that it was presented to the committee and county board is that it is something that you could do, not that you had to do.

Mr. Steimel said that the agreement that was laid on the tables last month by the Tribal Council, was that an agreement that was put together unilaterally?

Mr. Bockman said that it was their update of an agreement that was going on before we broke off negotiations with them last year, before the Executive Committee ever met.

Mr. Matekaitis said that there have been no negotiations with the tribe.

Mr. Steimel then asked if the proposed agreement that was given to the committee and board, did you have any role in putting that together?

Mr. Matekaitis said that if it was his druthers it would not have been given out at that stage because it was incomplete.

Mr. Bockman said that we did not present the proposed agreement to the board, the Tribal Council did.

Mr. Haines said that the reference in the minutes about the county board would not move forward until a letter had been sent by the Tribe asking for clarification, has that letter been sent to us?

Mr. Bockman said no. The reason that the Tribe was here last month because apparently they were tired of talking to us internally about that letter and they wanted to talk to the full county board directly about it. As they pointed out to the county board last month, it is their opinion that they do not an additional letter. It is our attorney's opinion that they do and that the land has not been fully determined and the what it appears to him is that you have a couple of choices here. You can either step up and make some policy or you can push it back to the lawyers and see how long they push it back and forth until someone files a lawsuit. Once that lawsuit is filed and if you are comfortable with DeKalb County taxpayers paying the bill for it, then that is what you are comfortable with, said Mr. Bockman.

Mr. Haines said that if that letter was sent that it would take years for a response to come.

Mr. Bockman said that there isn't going to be a letter because the Tribal Council isn't going to ask for one.

Chairman Tobias said that we were not going to wait for the response.

Mr. Bockman said right, our orders were that we could resume negotiations with the sending of the letter, not to wait for the response.

Mr. Haines, said short of some act of Congress or by the Federal Government to resolve this in short order, which seems by all people to be unlikely, that the only way to resolve this is by litigation.

Mr. Bockman said, or agreement.

Mr. Whittlesey said that we have done nothing except work with the Indians on land determination and try to resolve it. The Indians said that they will not seek the land determination because they feel that they have everything that they need. Therefore, his objective is to open the dialogue formally and see if an agreement could be developed that the County would be willing to enter into. Obviously, there were not guarantees that this would happen, he further stated. In the proposed

Agreement of purpose, he has built in protections for the County, that the County would be made whole through the whole process, which he has written all over the country, so it would keep the dialogue moving, and immunize the County pursuant to a proposal that they made last month. That is if a lawsuit is filed that the County would be indemnified on it. We thought this is a good start and a reasonable one, said Mr. Whittlesey.

Mr. Rosemier said that he feels that the County government does not have a say in the decision of the land issue. If the Tribe decides to break land and start a gaming operation and the Federal Government intervenes, then there will be evidence whether or not they have a right to have it. If the Federal Government does not intervene, then they are saying that they do have that right. We, as the County decision making body, he thinks does not have any right, one way or the other. This motion gives us an opportunity to negotiate and establish our role in those kind of issues that we have a concern about.

Ms. Dubin said that she feels that our role is to protect the taxpayers and prevent costs of litigation.

Ms. Fauci said that at her visit to NACO last month in Washington, D.C. she attended a session on Indian Affairs Legislation Effecting Counties. She asked a question on our issue here and there were about five different county representatives from various counties that came up to her and said that we should make an agreement if we could at this level, otherwise we will not have any control at this point. It is in our best interest to begin this discussion, she feels.

Mr. Steimel said that he welcomes the Tribe back and welcomes the proposed Indian Government Center. He is wondering if the Tribe will agree that they will only put in a bingo hall? This is the biggest decision that this County government is going to make during our time.

Mr. Steimel then asked two questions of the County's attorneys.

- 1.) If we sign this Agreement of Purpose, can we move ahead and challenge the Indians right to move ahead to do this without getting a direct response from the Federal Government?
- 2.) Can the Indians move ahead, start construction on this project, before this decision is obtained?

Mr. Whittlesey said that with the first question, there is only a couple of ways that the decision of the tribe to move forward could be challenged. The Federal Government can challenge the tribe and can sue them. The County cannot sue the Tribe. In other states there are examples of end-run actions can - where the land was not in trust

status. The Tribe cannot be sued, but the use of the land could be challenged. Cases are few and far between.

Mr. Matekaitis said that in answer to question number two, if there was no agreement with the Indians and they began construction on the project without County Approval, then we, the County, would issue Stop Work Orders.

Ms. Vary asked if it was possible for the County to petition a request for a decision by the Federal Government?

Mr. Whittlesey said that he thought it would be disregarded at the Department. It's not between the County and the Department, it's between the Tribe and the Department.

After a further brief discussion, it was **moved by Mr. Haines, seconded by Ms. Fauci, and it was carried to forward this recommendation on the Agreement of Purpose to the full board for approval. Mr. Steimel voted no.**

**RENEWAL OF CONSIDERATION OF RESOLUTION #R2007-24 – COMMUNITY OUTREACH BUILDING – 2<sup>ND</sup> FLOOR.**

Mr. Rosemier said that he was asking if the Community Outreach Building Resolution, #R2007-24 could be brought back for further discussion.

Mr. Haines asked if under the Roberts Rules of Order, is this permissible?

Mr. John Farrell, Assistant State's Attorney, said yes under what is called Renewal of Consideration or Renewal of a Motion and it is permissible.

Mr. Rosemier said that he was bringing it back up because when he spoke to various board members it became apparent that there were still more questions that some county board members had and the votes were very close.

Mr. Haines said that we have had close votes before, should we reconsider the vote to the Sanitary Board appointment because it was a close vote? He felt that the board had discussed this issue.

Mr. Rosemier said that he felt that it is very obvious that people still have questions and we would be allowing them an opportunity to ask them.

Mr. Haines said that every time we ask a question, the answer changes. We have been told that we don't have money to build the jail so we are going to set aside money to build it. Then we've been told that if we set that money aside to build a jail, then it will require belt tightening which would eventually lead to job cuts. Then we were told that the money we are setting aside for the jail is not really going to be there to build the jail, etc. He said that this is money that we were first told would be coming from money from the Veteran's Referendum which was told to the voters that they were voting on was to pay for veteran's services. For the first ten years, a good portion of that money will be paying to create this building, said Mr. Haines.

Mr. Bockman asked Mr. Haines asked if the thought was that they will deliver the services but they will not need a building? The size of the building came from them.

Ms. Dubin said that she feels that the county is growing by leaps and bounds. She also said that the Mental Health Board and the Public Health Department are also going into that building.

Mr. Rosemier said that he has heard five different reasons why people voted no. Because of these different reasons, he is asking for the Renewal of Motion.

Chairman Tobias said that this is a temporary move until some space issues could be worked out on this campus.

After a brief discussion, it was **moved by Ms. Vary, seconded by Mr. Haines, and it was carried to forward this recommendation for Renewal of Consideration to the full board for approval. Mr. Haines voted no.**

#### **APPROVAL OF THE COUNTY BOARD AGENDA**

Mr. Ray Bockman, County Administrator, reviewed the county board agenda for the board meeting to be held on April 18, 2007. He said that the Renewal of Consideration of Resolution #R2007-24 will be placed under the Executive Committee. **Moved by Ms. Dubin, seconded by Ms. DeFauw and it was carried unanimously to forward the amended county board agenda to the full county board for approval.**

Mr. Steimel also asked about the Eminent Domain item under the County Highway section. He wanted to know some of the specifics?

Mr. Augsburger said that this is regarding an elderly lady who has a life time right of residency on the property in question. They don't know who owns the land though? The highway department has tried to find out and they can't find anything on it. The lady who resides there does not own the property.

## **GENERAL DISCUSSION**

Mr. Augsburger, Vice-Chairman of the County Highway Committee, said that they are sending three items to the county board this month. One resolution dealt with the reappointment of Bill Lorence as the County Engineer. The other was for a Bid Award on various hot mix projects throughout the County.

Ms. Dubin, Chairman of the Economic Development Committee, said that they will be discussing questions on tax abatement questions and answers at their next meeting. They will also be revisiting resolution #R2003-52.

Ms. DeFauw, Vice-Chairman of the Law and Justice Committee, said that they heard from John Hulseberg about an idea of a Halfway House to help relieve the overcrowding population in the jail. They may discuss this further at the May meeting.

Mr. Rosemier, Chairman of the Health and Human Services Committee, said they have had two meetings in the last week. The first one held the Senior Services Tax Levy Hearings and the second one, this past Monday, the committee awarded the monies to the various agencies. The amount awarded was \$450,000.00. The committee also awarded \$2,000 from previously accumulated monies.

Mr. Fauci, Chairman of the Forest Preserve Committee, said that they have heard from a person in Cortland Township that would like to have a forest preserve there. There will be a tree-planting event going on Earth Day, too.

Mr. Haines, Chairman of the Finance Committee, said that their meeting was cancelled.

Mr. Steimel, Chairman of the Planning and Zoning Committee, said that that his committee has two items coming to the board and that item number two was a standard request.

Chairman Tobias said that she will be bringing forth a Proclamation this month dealing with County Government Week. If time permits she will be doing her State of County Address too. She is also looking into whether or not she would like to start a strategic planning discussion. And she attended the Regional Water Supply Meeting recently where they discussed what are we going to do if the Water Authority passes or not?

**ADJOURNMENT**

**Moved by Mr. Steimel, seconded by Ms. Vary, and it was carried unanimously to adjourn the meeting.**

Respectfully submitted,

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Chairman Ruth Anne Tobias

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Mary C. Supple, Secretary

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