

WHEREAS, in the opinion of the County Auditor, the public interests required that the Lake County Council, should be called to meet in regular session at this time, for the purpose of considering additional appropriations, a written notice was sent to each member of the Council, and proper advertisement made, and all other acts performed in accordance with the laws governing such matters.

And now in obedience to such call, come Thomas O'Donnell, President, Ted Bilski, Ernie Dillon, Jerome A. Prince, Christine Cid, and Larry Blanchard County Councilpersons, together with Ray Szarmach, County Council Attorney. Councilperson Elsie Franklin was absent.

In the Matter of Resolution to Approve the Sheriff's Correctional Officers Collective Bargaining Agreement for the Calendar Year 2011 and 2012.

Blanchard made a motion to approve the Sheriff's Correctional Officers Collective Bargaining Agreement for the Calendar Year 2011, and 2012, and the attachment, which is an agreement, part of the Collective Bargaining Agreement. Cid seconded the motion.

Blanchard introduced the Chairman of the Correctional Officers Local, Lloyd Fravel, and the Vice- Chair, Deborah Stacks, along with Attorney Berkowitz.

O'Donnell said that this is a great resolve for the County, and I think it's a great resolve for the Correctional Officers. O'Donnell said, as Larry indicated earlier, substantial concessions were made with the Officers and by the new scheduling, there should be substantially less overtime, if there is any at all, hopefully not, but this is the combined efforts lots of going back and forth with the Committee as well as the bargaining committee from the Correctional Officers, and I think it's a good deal for everybody.

All voted "Yes", except Franklin, "absent". Motion carried 6-yes, 1-absent.

RESOLUTION NO. 10-107

RESOLUTION TO APPROVE THE SHERIFF'S CORRECTIONAL OFFICERS COLLECTIVE BARGAINING AGREEMENT FOR THE CALENDAR YEAR 2011 AND 2012

WHEREAS, the current Collective Bargaining Agreement between the Lake County Council and the Lake County Sheriff's Correctional Officers expires on December 31, 2010; and

WHEREAS, the Lake County Council and the Lake County Sheriff's Correctional Officers have reached an agreement for a new Collective Bargaining Agreement for one year from January 1, 2011 to December 31, 2012 (Exhibit "A"); and

WHEREAS, the Lake County Council desires to approve the Sheriff's Correctional Officers Collective Bargaining Agreement to cover the period of January 1, 2011 to December 31, 2012.

NOW, THEREFORE LET IT BE RESOLVED AS FOLLOWS:

That the Lake County Council hereby approves the Sheriff's Correctional Officers Collective Bargaining Agreement (Exhibit "A") to cover the period from January 1, 2011 to December 31, 2012.

SO RESOLVED THIS 23RD DAY OF DECEMBER, 2010.

THOMAS O'DONNELL, President

CHRISTINE CID
LARRY BLANCHARD
JEROME A. PRINCE

ERNIE DILLON
TED F. BILSKI

Members of the Lake County Council

Exhibit "A" is attached to Resolution No 10-107, and on file in the Lake County Auditor's Office.

In the Matter of Resolution Approving Payment by Lake County of 1.5% of the Lake County Employees Contribution to the Public Employees Retirement Fund.

Cid made a motion, seconded by Dillon to approve.

Cid said this is part of our budget. We had to unfortunately, have the employees contribute back into their Perf.

All voted "Yes", except Franklin, "absent". Motion to approve carried 6-yes, 1-absent

RESOLUTION NO 10-108**RESOLUTION APPROVING PAYMENT BY LAKE COUNTY OF 1.5% OF THE LAKE COUNTY EMPLOYEES CONTRIBUTION TO THE PUBLIC EMPLOYEES RETIREMENT FUND**

WHEREAS, the Lake County participates in the Indiana Public Employee' Retirement Fund (hereinafter "PERF) for the employees who are eligible to participate in PERF; and

WHEREAS, the Lake County Council desires to pick up One and a Half (1.5%) percent of the three (3%) percent mandatory contributions required for participating employees who are members of PERF; and

WHEREAS, I.C. 5-10.3-7-9 authorizes employers to pay all or a part of the mandatory employee Contributions for employees participating in PERF.

NOW, THEREFORE, LET IT BE RESOLVED as follows:

1. That effective January 1, 2011, the Lake County Council desires to pick up one and a half (1.5%) percent of the three (3%) percent mandatory contributions by the employees who are members of PERF through a reduction in salary through a payroll deduction. No contributions prior to the Council's action shall be picked up.
2. That said picked up contributions even through designated as employee contributions for State Law purposes, are being paid by Lake County in lieu of said contributions by the employee.
3. That said picked up contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding taxes, until distributed from PERF.
4. That said picked up contributions will be included in the gross income of the employees, for employment tax purposes, as the contributions are made to PERF.
5. That said employees shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by Lake County to PERF.
6. This Resolution rescinds and repeals all prior resolutions regarding the "Pick up" by by Lake County of Lake County employees contribution to the Public Employees Retirement Fund.

SO RESOLVED THIS 23RD DAY OF DECEMBER, 2010.

THOMAS O'DONNELL, President

CHRISTINE CID
LARRY BLANCHARD
JEROME A. PRINCE

ERNIE DILLON
TED F. BILSKI

Members of the Lake County Council

In the Matter of Ordinance Establishing Lake County Health Insurance Coverage for the Lake County Sheriff's Legal Advisor on Contract.Discussion

Bilski said for the purpose of discussion, they had discussed an issue arising not only with the Sheriff, but the Public Defender' Office as well. Bilski said that through conversations with Blanchard they thought they might have a resolution resolving this issue so that those folks that were depending on, and submitted

prices, wouldn't have the rug pulled underneath them. Bilski said he wanted to refer to Attorney Szarmach to say if we can amend this, to include the Public Defenders in this motion.

Attorney Szarmach said this is an ordinance, and you would have to do it by ordinance, and it has to be very specific, and this one is, it's for one position, and it's got a cap on it, and it has an hourly rate. If we're going to do it for any other contracted employees, I'd rather do it by separate ordinance spelling out the details.

I don't know how much their salaries are, do they work by the hour, is there going to be a cap? You're talking about contract correct? The answer was correct.

Attorney Szarmach said and in the Ordinance approving the Contract you would include coverage under Lake County Self-Insurance Program. So we could I suppose hand write it in.

Bilski said for the purpose of discussion, the conversation went on, and some of the thoughts that went on in that is what we would do is establish basically a "grandfather clause".

O'Donnell said it's obvious that there is confusion about this. If I can just state what the problem is, and then let's see how we can resolve the issue.

The problem is two-fold. One is the problem that we've got and the primary concern is with the Sheriff's Legal Advisor. Because of the IRS rulings, we can't have a contract employee that's also a statutory employee, a W-2 employee.

The Public Defender Office, the same problem. They have 18 Attorneys all of whom are Death Penalty Certified, as I understand, and could all be assigned to Death Penalty cases. In a perfect world where there are no death penalty cases, their salaries are fine, and everybody's happy. But their salaries aren't fine, and they get health insurance, and they all get that health insurance.

The problem that arises now is that there could be death penalties assigned these attorneys, and they would have to defend them, and they would assign that to a public defender, who would then bill hourly. It's going to be a timekeeping nightmare, if we have to switch over to billing hourly because they don't get a choice, they don't get to pick one, they would have to keep hourly counting every week of every case they are on, account for that and bill hourly on everything, they wouldn't get to pick and choose. It's gonna be a nightmare, that's why there needs to be a plan for all of this stuff.

Attorney Szarmach asked David Schneider from the Public Defender's Office if he wanted to go to contract only?

David answered, no. He didn't come to the microphone, therefore can't hear the discussion.

Blanchard said he heard the Public Defender's Office representative say that they didn't want to go to contract, but there is a possibility that when this is all said, and done, after discussion, and getting copies of the rules, and talking with attorneys that work with this, it's very possible that you might be forced to in order for the attorneys to get their due pay for death penalty, or high profile case. It's very possible, it may not be your choice, your first option, but it might be something that has to be done. Blanchard said, we don't know that, at this point. That's something that should be debated before, I don't think there is a big hurry to jump in, you don't have anything going right now?

Public Defender's representative said they do have someone, but they haven't submitted their first bill. He did go on to say that no purchase order would be generated until this matter is resolved.

Attorney Szarmach said as a thought, I don't know if this would work, but I know in some counties they do this on their smaller cases, but they are on contract, and contract dollars per case, instead of per hour. I agree with Tom that trying to do this by the hour is a waste of time, so maybe you want to think about doing something per case. Set a dollar amount per case. (The discussion from the Public Defender's representative is inaudible, he is not at the microphone).

O'Donnell said there needs to be a plan, I mean, a plan for everybody, that's why it's kind of problematic that we've got 3 guys that are leaving, making this decision. Is there a motion?

Bilski said this is continued discussion, I think we need a little point of clarity here too, so that everybody is very clear on the Sheriff's attorney position. We are not creating an additional insured position. This is currently an insured position that somebody is leaving off of, and coming back on. There is no additional cost to this Plan, by doing this. The Sheriff's Attorney, historically has been covered by health care coverage, as given into his Contracts, a lower hourly rate because of that compensation, and I think there was a lot of confusion out there on how this was going to be, and then that we were going to be giving insurance to anybody delivering boxes of goods to this facility, and that is anything but the truth.

The attorneys have given a bid on a price for their consulting fees, are no different than someone was to be hired to put in a ceramic tile floor someone, and you said, "hey, give me a price on the labor, I'll pick up the tile myself". The guy shoots you the bid, and you turn around and say well that's a great price, but I want you to buy that tile for that cost too. So if it's not going to go that way then that contractor, obviously, in my opinion would have to have the opportunity to re-adjust his rates even to compensate for that loss because he was anticipating one thing and not getting it. So we're kind of changing the terms and conditions of his employment, and what he was originally putting his bid out there for, and that's unfair. I don't see any additional cost.

O'Donnell asked everybody is at \$90 dollars an hour right?

Attorney Szarmach said yes, the vast majority is \$90 dollars an hour. There's an exception for high technical cases at \$150 dollars an hour, the US Steel appeals was one of them, and that rate has to be approved on a case by case basis by both the Commissioners, and the Council.

O'Donnell said you're saying that the cap is lower than you would have gone, the hourly rate is 90 bucks right?

The answer was correct.

Dillon commented, just for clarification that we have two issues, the Public Defenders, so the Public Defenders we will take action at a later time, so now it's just the matter of the legal counsel that we are taking action on.

Cid said actually this contract will provide, I believe, more accountability because now anything that this attorney does, he has to log, where if you're an employee, you work your 40 hours, and you're not punching a clock. This, you're actually putting down your time, and submitting it, so I think this would be more accountability.

Bilski made a motion, seconded by Dillon to approve.

Dillon said, for me it's a position that already exists, and I can support it because of that. It's an existing position that was previously allowed to have the insurance, and it's just continuing as is.

Bilski said what some of the suggestions have been about "grandfathering" these folks in, and then allowing those folks to make a decision on whether they want to bid or how they want to bid on that job or not, I think would be from that point forward. I think it's something that could be established at the January meeting.

O'Donnell said I agree with what Cid is saying. This may be what's always happen, there is, as we found out from reading the paper. There's lots of Consultants that make lots and lots of money, but it's the problem is it's kind of a different day, and the public is not putting up with this anymore. They are saying it's unfortunate that, here's the situation. It's more transparent as Chris has indicated. These fees may have been being incurred all the time, but now it's in the spotlight because of what the IRS has said, and the public doesn't like it. They are calling me saying "don't pay somebody \$115,000 dollars". "If he makes \$115,000 dollars, he should buy his own insurance". That's what the people are saying, and I think that's what the people are saying to us when they talk to us. They have called my private office, they have called up here, I know Terry typed up a memo from this gentleman, and I understand what Bilski is saying, is if it's at \$115,000, and the insurance cost \$15,000, then he should have put the contract at \$130,000. That's an option too.

This isn't just about the Sheriff's attorney. It's about the Public Defender, it's about any contract person that's billed hourly, that is also used to be an employee, and a contracted employee. There needs to be a plan, it's kind of thrown at us, and I don't want to say last minute because we all knew this was coming, we knew that the IRS was looking at stuff, but there needs to be a plan for everybody, a plan that governs everybody that's entitled it. I think that the better thing to do, there are three people voting today, all of whom are leaving in eight days, and gonna throw it in the lap of Councilman Niemeyer to figure out how to pay for this next year. There should be a plan that encompasses everything and say that maybe we'll "grandfather these people, but then they are the last guys that get it. If you are going to say "grandfather", the "grandfathered" people are the Public Defenders, they are already the statutory employees, right now. There is a position, that is, John Kopack would be the one that would be "grandfathered" in, if you're going to "grandfather" somebody, you would "grandfather" John Kopack, cause he is the one that's in the position to be "grandfathered". You can't "grandfather" somebody that's not already in the position, and say "Well, we're going to "grandfather", unless you say I'm "grandfathering" the position and not the person.

This needs some discussion, it needs a plan, it needs a fiscal impact, Dante has already indicated he's opposed to it because of the fiscal impact. We're trying to shrink insurance, not increase it.

Bilski said that's where my argument comes in, I don't see the increase, and I've looked at it, there is no increase at this point, and there will be a decrease through attrition, and there will be more accountability. Bilski said, there is no increase that keeps being said, there isn't. This is a cost, that's already been

budgeted for. It's not an increase and through attrition, we would eliminate this, and I think there would be a huge cost savings there, and I think I agree with you, but I think you have to allow those contractors the opportunity to bid, and let them know what they're bidding on, don't tell them they're going to do one job and then bid on that, and then change the terms and conditions in the midst of that. That would be completely unfair. I don't know what jeopardy we, if we defer this to January. Is there an issue with.. because there's a 90-day waiting period?

O'Donnell said they could hone in on just the Sheriff' position. There's a \$21,000 dollar salary right now in the budget, that is insured, so there is nothing that says you couldn't hire him in that position, put him in that position, and then he actually is "grandfathered", if the next Council decides that they are going to "grandfather" people, then he would be in that position that's an insured position as a salaried position.

Cid interjected, he just won't have a contract.

Blanchard said, not right away.

Bilski said that the Commissioners already did approve the Contract.

Blanchard said I thought the Contract said pending Council approval of him coming on the insurance, if I'm not mistaken. So it would still be out there, if we were to come together with a plan to "grandfather" in, and that's what I was supporting, is something like that, at least it would set aside something that had an end to it.

Cid asked did the IRS set a deadline, is this supposed to all be done by January 1? Because then we won't be in compliance with the IRS right? According to the IRS you can't be a contract employee, and be an employee, so we have to do something.

Blanchard said we don't have to do anything. They can't get both after the 1st of January. They can't have both.

Prince said I don't think it's necessary for me to reiterate my position, I started this dialogue a couple of weeks ago, and since then, there has not been a whole lot of conversation. Bilski and I have talked briefly on it, but I thought some very valid objections were raised to it. Not from a personal perspective, but from a fiscal perspective, and I couldn't agree with you more, until we sit down and actually come up with something that's solid, that's going to work across the board, and that we can live with, and that's consistent, with what we're trying to do, I wouldn't be able to vote favorable for it today. I really had no intentions of even speaking on it for those purposes, but as I said a couple of weeks ago, I certainly was amenable to some other option, at the end of it, I hear that this isn't adding another person to the insurance, and in theory, it really isn't. However, I think that Dante spelled it out best, what it is, is an opportunity to decrease what is turning out to be an increasing program that we're running, right now, I think that we're running an insurance program somewhere right around \$30 million dollars. I read just recently that since 1998, the cost of healthcare for individuals has increased, well individuals in particular programs, has increased 10% per year. I mean, having said that, and those numbers could be off, and I hate to throw around numbers, but the point is, is that we have a particular issue here that could only fester and grow if we don't address it in a responsible manner, and one that's going to address the problem across the board, since there are other individuals who will, namely, the Public Defenders Office who will be in the same position, so I would prefer to have some more conversation, or at least, see another option that everyone could be comfortable with.

Bilski withdrew his motion.

Dillon withdrew his second.

Bilski made a motion to defer to the January 12, 2011 meeting. Prince seconded the motion.

All voted "Yes" to defer to January 12, 2011, except Franklin, "absent". Motion to approve carried 6-yes, 1-absent.

Blanchard thanked the Sheriff-Elect for his assistance in the negotiating as well. Blanchard said I appreciate it.

Dillon said that since this is his last Council meeting, he wanted to leave you with this, to coin a phrase from James Cagney.

" My Father thanks you, my Mother thanks you, my Sister thanks you, my lovely Wife Margie and our grandchildren thank you, and I thank you. "Thank you one and all".

There being no further business to come before the Council, it was moved and seconded, that the Council does now adjourn to meet again, as required by law.

President, Lake County Council

ATTEST:

Peggy Holinga Katona,
Lake County Auditor