

THE BENZIE COUNTY BOARD OF COMMISSIONERS
January 9, 2018

The Benzie County Board of Commissioners met in a regular meeting on Tuesday, January 9, 2018, 448 Court Place, Government Center, Beulah, Michigan.

The meeting was called to order by Chairman Gary Sauer at 9:00 a.m.

Present were: Commissioners Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke

The invocation was given by Commissioner Griner followed by the pledge of allegiance.

Agenda:

Motion by Griner, seconded by Warsecke, to approve the agenda as amended, removing Election of Chair and removing Closed Session, and adding Appointment of BOC member to New Business and County Administrator contract to Action Items. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Election of Vice Chair

Chairman Sauer nominates Commissioner Warsecke

No further nominations.

Chairman Sauer stated that by default, Evan Warsecke is the Vice Chair.

Board Rules:

Chairman Sauer indicated that he would like to see the Electronic Attendance Policy be a part of the Board Rules; this policy far exceeds the OMA.

Mr. Deisch stated that he could contact Mr. Cohl regarding this, and where it would be best placed in the board rules.

Comm Carland suggests creating a board policy handbook. All policies adopted by the board are binding on the board.

Comm Jeannot asked so you are suggesting not to speak about it in the board rules, but in a handbook.

Motion by Carland, seconded by Warsecke, to include in the board rules: All policies adopted by the board are binding on the board. (Administration to determine the appropriate placement). Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Mr. Deisch to contact Mr. Cohl to determine the appropriate placement of the prior motion.

Motion by Jeannot, seconded by Warsecke, to adopt the board rules as presented with the editing removed and with the addition which was acted on a moment ago. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Minutes:

Motion by Jeannot, seconded by Griner, to approve the regular session minutes of December 19, 2017 as presented. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

COMMISSIONERS

Page 2 of 8

January 9, 2018

Motion by Griner, seconded by Warsecke, to approve the closed session minutes of December 19, 2017 as presented. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Motion by Jeannot, seconded by Warsecke, to approve the organizational meeting minutes of January 2, 2018 as presented. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

9:17 a.m. Public Input

Karen Mallon, Homestead Township, spoke regarding the closed session and stated that she is glad you removed it from the agenda, however would like to remind you of the OMA and that it is a blatant violation of the OMA; it does not allow discussion regarding terms of a contract, once you are an employee, you cannot have a closed session for a contract. Attorney General handbook is where she gathered her information, and you can go into closed session only for collective bargaining.

Eric VanDussen stated that he concurs; if Mitch received an opinion that differs from his understanding of OMA, he would like to see it in writing. On December 19 you went into closed session for his contract and you shouldn't have – you can only do that for collective bargaining. He also spoke regarding his interview for the Building Authority on December 19, subsequent to that he submitted a FOIA request for the minutes of that meeting and he received a memo regarding Mr. Deisch's notes and he believes there should be draft minutes of the interview committee.

Ed Kowalski spoke regarding the opioid lawsuit and stated there is no free lunch gentlemen; you are making a weighted decision; someone always pays for this; good luck.

John Mead, Probate Judge, stated that we lost a lot of institutional knowledge here yesterday. We are all public servants, but no one carries themselves like Frank.

9:26 a.m. Public Input Closed

ELECTED OFFICIALS & DEPT HEAD COMMENTS:

Frank Post, Emergency Manager, requested approval to apply to MMRMA for a RAP grant to help fund additional courthouse security matters – 3 bullet proof windows and 3 doors for the existing door security; total estimated cost is \$15,206 and our cost would be \$7,603; he also stated that he wishes Frank Walterhouse all the best, he has always been a good resource of information.

Motion by Griner, seconded by Carland, to approve the application to MRMMA in the amount of \$15,206 for building security improvements. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Kyle Rosa, Undersheriff, reiterated what Mr. Post stated regarding Mr. Walterhouse. The corrections division recently released a deputy last week so they are now down two positions and will do interviews next week. We had an overdose death prior to the holidays; we did find out through autopsy that carfentanil was found in the person that died.

Comm Carland asks if you will have trouble hiring with the new Wexford jail. U/S Rosa stated that he doesn't believe so.

U/S Rosa also reported that CMH reported that Manistee has had 40 unnatural deaths. The new ME along with Manistee County Sheriff and Detective are doing some digging on this and they are

COMMISSIONERS

Page 3 of 8

January 9, 2018

interviewing the families and finding out about the issues with the individual. We have gone through this a couple of years ago and one of the reasons we joined back with TNT. We have done that.

Comm Griner asks if they will have any input on replacing Dan King. No, it is MSP

COMMISSIONER REPORTS

Comm Carland stated that we will miss Frank; he attended Networks Northwest last night and they will begin meeting at Northwest Michigan Works rather than the Hagerty Center as a cost savings measure. Chairman Sauer asked if he had an update on the Building Authority: they discussed how to move forward with Phase 3; it sounds like ELA is receptive to assist with Phase 3, which is good news to complete the project. Looking at completion date of June 2018. Elmer's have terminated their contract with Comstock, so they will have to renegotiate.

Comm Roelofs reported on Grand Traverse and Benzie County Veterans Affairs; the new director at the Grand Traverse VA started on January 3, 2018; they are going thru growing pains and have had another resignation; Benzie County Veterans Affairs met yesterday and Bob is the new chair.

Comm Jeannot stated that he has attended four meetings since our last BOC meeting and stated that at Platte Township they talked about the finance director/manager at the county level and they did show some interest and may be utilizing them on a contractual basis; Lake Township talked about the restructure of the Planning Commission and encouraged them to bring forth a candidate. Regarding the email from Ed Roy, he stated that the attached affidavit didn't come from him, it was unsigned and have never had a one on one conversation with Mr. Roy and have asked that that be addressed in court today.

Comm Griner spoke regarding the Airport Authority and that Crystal Lake Township may be divisional as to their support; he stated that he was happy with the work that Coury has done over the last year and look forward to the next year and hope to move on with the progress; Frank Walterhouse had a tremendous amount of institutional knowledge, I can sit here this morning and only reminisce and wish him the best. Sorry to see him gone.

Comm Jeannot asked that we share with the public the information we have regarding Frank. Chairman Sauer asked Dawn to report. She stated that Comm Walterhouse is home from the hospital and we received a resignation from him yesterday as County Commissioner and from all committees that he was assigned to.

Comm Warsecke stated that he cannot say enough about Frank and he will miss him as well. He did attend Inland Township last night and tomorrow will be at Colfax.

Comm Sauer also stated that Frank took us all under his wing when we started and we will all miss him and wish him the best. He turns his time over to Matt Skeels from the Road Commission to speak about HB 5096, 5097 and 5098 which would allow private companies to put up 40-100 towers in the road right-of-way for high-speed internet to the rural areas. The problem is that those towers are in the public road right-of-way. With this being private companies putting these up, and if they discontinue the use of the tower, then it would be up to the road commission to remove since it is in the road right-of-way. Mr. Skeels said these bills are being pushed through Lansing. The County Road Association, Michigan Association of Counties (MAC), Michigan Municipal League (MML)

COMMISSIONERS

Page 4 of 8

January 9, 2018

and Michigan Township Association (MTA) are all opposed and he asks this board to oppose as well. Mr. Skeels stated that all we ask is that they go through all the steps for towers.

Comm Jeannot understands that they want to be treated like a utility; but this is brought to us as a handout and you want us to act on it before your own board. How time sensitive is this. Mr. Skeels stated that: It doesn't matter if you act on it today or put it on a future agenda, however it is on the fast track in Lansing. I understand if you aren't comfortable doing this now.

Comm Jeannot asks about the townships acting on this. Mr. Skeels said that he knows MTA and MAC are opposing it.

Comm Sauer stated he is ready to act on it but understand if other commissioners want to research it. Comm Warsecke would like to have time to research this.

10:04 a.m. David Schaffer, Recycling, requests approval to purchase a snow plow for the recycling pick-up truck and pull the funds from the public relations line. With the additional bins, there is more space in between and it is getting messy. The SWAC consensus is to purchase a plow.

Comm Jeannot asked if it comes out of your budget. David indicated that he would like to pull the money from the public relations line and then put the money back in with extra revenue that will be received this year.

Comm Jeannot asks if this is really a request to amend the budget. David stated: Yes, it will be requested, however I could request that now.

Comm Jeannot is concerned that we would lose track of this and that those amendments don't get done and we are trying to straighten it out at the end of the year.

Three quotes have been provided -- \$4,075 - \$4,917; Boss, Western and Fisher plows. David has researched and all are good plows; request is to give him permission to form his opinion what is best suited for this truck, not to exceed \$5,000. This is be used for clean-up not clearing the sites.

Motion by Carland, seconded by Roelofs, to authorize David Schaffer to research the snow plows with a not to exceed amount of \$5,000 to purchase. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

COUNTY ADMINISTRATOR'S REPORT – Mitch Deisch

- Mr. Deisch says thank you to Comm Carland for the great job you did last year as chair and he looks forward to working with Comm Sauer and Comm Warsecke. Like so many of you, I will miss Frank as well and the relationship.

FINANCE

Bills: Motion by Roelofs, seconded by Sauer, to approve payment of the bills from January 2, 2018 to January 9, 2018 in the amount of \$54,963.61, as presented. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Michelle Thompson, County Treasurer, stated that the auditors are here this week.

Snowmobile Budget: Motion by Warsecke, seconded by Carland, to approve the snowmobile budget as amended, reducing the transfer in – General Fund of \$1,400 to -0-. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

HR AND PERSONNEL – No Report.

COMMISSIONERS

Page 5 of 8

January 9, 2018

10:42 a.m. Break

10:48 a.m. Reconvene

COMMITTEE APPOINTMENTS

Building Authority: Mr. Deisch stated that he presented a memo based upon the recommendations of the interview team.

Motion by Warsecke, seconded by Roelofs, to appoint James Clark to the Building Authority for a 3-year term expiring December 31, 2020. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Motion by Jeannot, seconded by Griner, to reappoint Lisa Vogler to the Building Authority for a 1-year term expiring December 31, 2018. Roll call. Ayes: Griner, Jeannot, Roelofs and Sauer Nays: Carland and Warsecke Motion carried.

Motion by Carland, seconded by Warsecke, to reappoint Marcia Stobie to the Building Authority for a 1-year term expiring December 31, 2018. Roll call. Ayes: Carland, Roelofs and Warsecke Nays: Griner, Jeannot and Sauer Motion fails.

Motion by Jeannot, seconded by Sauer, to appoint Eric VanDussen to the Building Authority for a 2-year term expiring December 31, 2019. Roll call. Ayes: Carland, Jeannot, Sauer and Warsecke Nays: Griner and Roelofs Motion carried.

Motion by Jeannot, seconded by Warsecke, to appoint Jeff Johnson to the Building Authority for a 2-year term expiring December 31, 2019. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

Comm Jeannot stated that we have sat four members of the five positions.

Motion by Jeannot, seconded by Griner, to appoint Thor Goff to the Building Authority for a 1-year term expiring December 31, 2018. Roll call. Ayes: Griner, Jeannot, Sauer and Warsecke Nays: Carland and Roelofs Motion carried.

ACTION ITEMS

Voting Equipment Grant: Motion by Sauer, seconded by Griner, to approve the Grant Agreement between the State of Michigan, Michigan Department of State and Benzie County, for the Voting System Hardware, Firmware and Software as presented, naming Dawn Olney as the Grant Manager for Benzie County and authorizing the chairman to sign. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

County Administrator's Contract: Comm Carland stated that the change from closed session last month have been incorporated; this contract is a continuation of the current contract and will be amended and restated; we are in the 2nd year of the 2017 contract.

Compensation: we know the position is underfunded so this has a 2% increase so effective October 1, 2017 the salary will be \$72,828.00.

Vacation: the current carry-over is 20 days; he wanted to double but we agreed on 30 days.

Car Allowance: \$275.00 per month rather than being reimbursed for mileage.

Work from Home: board does not have an issue with this – 2 days per month

COMMISSIONERS

Page 6 of 8

January 9, 2018

Back Pay: state statute prohibits us from paying back pay, but because the board was not timely in getting this together, they feel that that he would be penalized; so we are recommending a one-time lump sum of \$1,143.00 signing bonus upon signing of this contract.

Motion by Jeannot, seconded by Carland, to adopt the Amended and Restated Employment Contract for the County Administrator thru December 31, 2019. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

CORRESPONDENCE

- MMRMA 2017 Annual Report.
- Benzie Transportation Authority November 2017 Statement of Activities.
- Little Platte Lake elevation report for December 2017 received.
- Crystal Lake elevation report for December 2017 received.

UNFINISHED BUSINESS – Opioid Litigation

Motion by Jeannot, seconded by Warsecke, to adopt resolution 2018-003 Resolution to Approve Retention of Outside Counsel for Opioid Litigation as presented, authorizing the chairman to sign. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs and Warsecke Nays: Sauer Motion carried.

Motion by Warsecke, seconded by Jeannot, to approve the Retainer Agreement with Weitz & Luxenberg, PC, Sam Bernstein Law Firm PLLC and Smith and Johnson Attorney PC, authorizing the chairman to sign. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

NEW BUSINESS – Dawn Olney, County Clerk, informed the board regarding the filling the vacancy in Commissioner District V. This board will fill the vacancy and needs to be done within 30 days.

The board has decided that it will be advertised in the Record Patriot; hand-signed letters to Homestead Township, Village of Honor and Inland-Homestead Joint Planning Commission. Mr. Deisch will prepare a news release for the Record Patriot.

Motion by Carland, seconded by Jeannot, to accept the resignation of Frank Walterhouse with deep regrets. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Motion carried.

11:40 a.m. Public Input

Karen Mallon, resident of Homestead Township, stated that she perceives it as a conflict of interest when Mr. Roelofs could be a private supplier of parts regarding snow plow. Hope you entertain other county employees' requests for nice job agreements like you did for the County Administrator.

Eric VanDussen, Benzonia, addressed the BA appointments with certain commissioners having issue with him having attended the entire interview process; all meetings are open to the public.

Roger Griner stated that he feels Comm Roelofs was OK when he said he has parts.

11:45 a.m. Public Input Closed

COMMISSIONERS

Page 7 of 8

January 9, 2018

Comm Roelofs stated that his offer to Mr. Schaffer was during afterhours when the stores are closed.

Comm Roelofs asked if we were going to talk about Committee of the Whole.

Comm Carland provided information to the board from MSU.

Comm Jeannot stated it was very informative.

Comm Griner would like to see us try it. If it doesn't work, at least we tried.

Comm Carland suggests postpone to next meeting have the chair and vice chair meet with Mitch to discuss this further before the next meeting.

Comm Jeannot spoke regarding the information provided by Coury: 1) it is the vice chair that runs the meeting; 2) does not replace a regular meeting; and 3) cannot take action at that meeting.

Comm Roelofs asks that when scheduling interviews, all people be scheduled for the time the meeting opens and have them sit through all the interviews, and draw a name as to who is up next.

Motion by Griner, seconded by Warsecke, to adjourn at 11:56 a.m. until the January 23, 2018 regular meeting or the call of the chair. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke
Nays: None Motion carried.

Gary G. Sauer – Chair

Dawn Olney, Benzie County Clerk

INDEX

1. Approved the agenda as amended.
2. Chairman Sauer stated that by default, Evan Warsecke is the Vice Chair.
3. Added to the Board Rules: All policies adopted by the board are binding on the board.
4. Adopted the board rules as presented with the editing removed and with the addition which was acted on a moment ago.
5. Approved the regular session minutes of December 19, 2017 as presented.
6. Approved the closed session minutes of December 19, 2017 as presented.
7. Approved the organizational meeting minutes of January 2, 2018 as presented.
8. Approved the application to MRMMA in the amount of \$15,206 for building security improvements.
9. Authorized David Schaffer to research the snow plows with a not to exceed amount of \$5,000 to purchase.
10. Approved payment of the bills from January 2 to 9, 2018 in the amount of \$54,963.61, as presented.
11. Approved the snowmobile budget as amended, reducing the transfer in – General Fund of \$1,400 to -0-.
12. Appointed James Clark to the Building Authority for a 3-year term expiring December 31, 2020.
13. Appointed Lisa Vogler to the Building Authority for a 1-year term expiring December 31, 2018.
14. Denied appointing Marcia Stobie to the Building Authority for a 1-year term expiring December 31, 2018.
15. Appointed Eric VanDussen to the Building Authority for a 2-year term expiring December 31, 2019.

COMMISSIONERS

Page 8 of 8

January 9, 2018

16. Appointed Jeff Johnson to the Building Authority for a 2-year term expiring December 31, 2019.
17. Appointed Thor Goff to the Building Authority for a 1-year term expiring December 31, 2018.
18. Approved the Grant Agreement between the State of Michigan, Michigan Department of State and Benzie County, for the Voting System Hardware, Firmware and Software as presented, naming Dawn Olney as the Grant Manager for Benzie County and authorizing the chairman to sign.
19. Adopted the Amended and Restated Employment Contract for the County Administrator thru December 31, 2019.
20. Adopted resolution 2018-003 Resolution to Approve Retention of Outside Counsel for Opioid Litigation as presented, authorizing the chairman to sign.
21. Approved the Retainer Agreement with Weitz & Luxenberg, PC, Sam Bernstein Law Firm PLLC and Smith and Johnson Attorney PC, authorizing the chairman to sign.
22. Accepted the resignation of Frank Walterhouse with deep regrets.