

**THE BENZIE COUNTY BOARD OF COMMISSIONERS
COMMITTEE OF THE WHOLE
June 9, 2009**

The Benzie County Board of Commissioners met in a Committee of the Whole meeting on Tuesday, June 9, 2009, in the Commissioners Room, Government Center, Beulah, Michigan, 49617.

Present were: Commissioners Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse
Absent: None

The pledge of allegiance was given with invocation by Commissioner Kelley.

Approval of the Agenda: Motion by Walterhouse, seconded by Roper, to approve the agenda as amended, adding Mr. Figura at 10:00 a.m. regarding Airport Authority & ZBA appointments; 9.B. Building Dept Housing fees; 7.D. Land Sale Proceeds. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Approval of the Minutes: Motion by Pitcher, seconded by Roper, to approve the minutes of May 12, 2009 as presented. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

9:04 a.m. PUBLIC INPUT – None

FINANCE

General Finance Issues:

Lighthouse Interior Construction Contractor: Jon Hawley, Roger Dewey and Amy Ferris (members of the Friends of Point Betsie) are present; the committee has reviewed the proposals; the board needs to approve a contractor, but the State Historical Preservation Office has the final say; the committee recommends MIHM Enterprises for the interior construction; Mr. Hawley states that the committee has reviewed the bids very carefully and NIHM are good people to work with Mr. Dewey supports what Mr. Hawley has said and Ms. Ferris has nothing to add.

Motion by Pitcher, seconded by Walterhouse, to recommend to the Board of Commissioners to accept MIHN Enterprises bid for the Point Betsie Lighthouse Interior Renovations. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Motion by Walterhouse, seconded by Pitcher, to recommend to the Board of Commissioners to send a letter of Thank You to Amy Ferris for her years of service to the Friends of the Point Betsie Lighthouse. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Frankfort Elberta Schools Contract: Linda Wilson, County Treasurer, asks for approval of a contract with Frankfort Elberta Schools for summer tax collection.

Motion by Kelley, seconded by Roper, to recommend to the Board of Commissioners to authorize a contract with Frankfort-Elberta Area Schools for summer tax collection for 2009 at the rate of \$4.25 per parcel of taxable property within the school district, authorizing the Chairman, County Treasurer and County Clerk to sign. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

COMMITTEE OF THE WHOLE

Page 2

June 9, 2009

Purchasing Policy: Motion by Pitcher, seconded by Roper, to recommend to the Board of Commissioners to adopt the Purchasing Policy as presented, effective June 16, 2009. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Land Sale Proceeds: Linda Wilson, County Treasurer, states that this money can be placed either in the general fund or the land reutilization fund. If placed in the later, the funds can be used for the 669 property clean up and that would help a lot.

Motion by Roper, seconded by Kelley, to recommend to the Board of Commissioners to place the \$64,321.12 into fund 241 Land Reutilization. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Budget Issues

2010 Budget Schedule: Chuck Clarke, County Administrator, has distributed the budget preparation calendar to all departments and outside entities; will work to have a budget ready in August at the Committee of the Whole meeting.

Appendix B – Marine Special Deputy: Mr. Clark states that the Sheriff will be hiring someone that is not certified and requests the rate of \$12.00 per hour for seasonal marine. Motion by Roper, seconded by Walterhouse, to recommend to the Board of Commissioners to amend Appendix B to include Marine at \$12.00 per hour. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Spending Issues:

New Server: Motion by Kelley, seconded by Roper, to recommend to the Board of Commissioners to authorize a new server for the Prosecuting Attorneys office in the amount of \$9,725.00 to be taken from fund balance. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Laptop – Assistant Prosecutor: Motion by Kelley, seconded by Damm, to recommend to the Board of Commissioners to authorize a laptop computer for the Assistant Prosecutor with funds to be taken from the Prosecutor's budget of conventions & meetings. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Sheriff: Chuck Clarke reports that the metal detector is being worked on; the board requests Sheriff Heckman to attend this meeting approximately 11:30 a.m.

9:50 a.m. Break

9:55 a.m. Reconvene

10:00 a.m. Mr. Figura

Mr. Figura states that he has provided an opinion regarding appeals from the Airport Authority and Thelma Rider-Novak. He stated that there are no provisions in the Airport Authority Act which address the removal of a member from the board so we then look to the authority of the appointing

COMMITTEE OF THE WHOLE

Page 3

June 9, 2009

authority – in this case the county. Mr. Morris is an agent of the county by his appointment to the authority; there are no items to move forward on at this time; the board needs to seek further evidence from the Airport Authority in items D and E – particularly item E; you need to be careful – don't take steps that you will regret later. You have no obligation under FOIA to response to questions.

Chairman Tanner asks about the racial slur.

Mr. Figura understands the concern; it does not rise to that level to be considered racial.

Mr. Morris can contact MDOT; however he cannot address them as him representing the Airport Authority.

Comm Pitcher states that the Airport Authority should contact MDOT and ask if Mr. Morris indicated he was representing the Authority.

Mr. Figura looked and did not see where he indicated he represented the authority.

Ms. Rider-Novak states that there is a gray area of "agent"; there is an email policy in effect, doesn't he have to follow it? If you serve on a board you should represent professional and moral conduct; her life has been changed due to the racial slur.

Chairman Tanner says he is one of the people that saw the email and feel offended too; he is also of Jewish heritage and we cannot allow that communication to continue; there is a vacuum here – Chuck Clarke says no such email exists.

Comm Hollenbeck asks if we can check his hard drive; Tanner says Clarke has agreed to that; she says to Mr. Clarke that you need to be sensitive to their needs; she is disappointed.

Mr. Figura says that what he sees there is not enough to proceed; electronics can open up a whole new area of FOIA.

Chairman Tanner also has asked Mr. Figura to see if Benzie County can separate from the Airport Authority; we are spending a lot of time on unproductive areas.

Mr. Figura says that under the 2006 Airport Authority Act any part of the authority can withdraw with a resolution from this board and 2/3 majority vote of the Authority Board's approval you would still be on the hook for obligations incurred while you were a member.

Comm Roper would like to pursue to withdraw.

Comm Pitcher agrees.

Comm Kelley says be very careful of trying to thwart someone's freedom of speech; we should leave it be – he has a right to voice his opinion.

Comm Tanner would like to pursue withdrawal from the Authority.

Comm Hollenbeck would like to talk with the Authority; she enjoys what they are doing.

Comm Roper states that part of the research would be for Comm Hollenbeck to talk to the Authority.

Mr. Figura will talk with Linda Wilson about the issue of her serving on the authority too.

Chairman Tanner asks Mr. Figura about the Zoning Board of Appeals – allowing alternates to participate in the meeting.

Mr. Figura states that the new Zoning Enabling Act provides for two alternates to sit in for someone absent or a conflict; they continue with that case until it is completed. The ZBA can amend their Bylaws and Policy and Procedures to allow the alternates to participate in the meeting and discussions and not vote unless they are seated.

COMMITTEE OF THE WHOLE

Page 4

June 9, 2009

Motion by Kelley, seconded by Pitcher, to recommend to the Board of Commissioners to authorize per diem and mileage for alternates on the Zoning Board of Appeals. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Mr. Figura states with regard to the Airport Authority, there are two items to consider: 1) Linda Wilson's obligation; and 2) what do the other Authority members say? With they let us out?

11:00 a.m. Break

11:11 a.m. Reconvene

Reports:

Treasurer's Report: Linda presents the cash fund balance report; Child Care Fund is in the red and asks to transfer \$20,000 from the General Fund; she has been informed that a piece of property (15 acres) in Joyfield Township that we now own due to unpaid taxes is being clear cut – she will visit the property tomorrow.

Motion by Walterhouse, seconded by Roper, to recommend to the Board of Commissioners to transfer \$20,000 from the General Fund (101) to Child Care Fund (292). Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

11:15 a.m. Enter Closed Session

Motion by Pitcher, seconded by Kelley, to enter into closed session in accordance with 15.268, Section 8(e) of the Open Meetings Act, PA 267 to consult with its attorney, Chris Cooke, regarding trial strategy in reference to the pending litigation in the case of Robert Blank vs Benzie County Board of Commissioners, et. al., File No. 08-8283-CH. The suit is for monetary damages and discussion of said strategy in public would have an adverse effect on the County's ability to articulate its position in court, to include Chuck Clarke, County Administrator. Roll call. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

11:40 a.m. Re-enter Open Session

Motion by Pitcher, seconded by Hollenbeck, to authorize counsel to act consistent with our strategy discussed in closed session. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Sheriff Heckman states regarding the metal detector that Manistee uses wants to enter the courtroom and that requires more than one person; Judge Batzer wants similar in this courtroom,; a walk-through unit at the entrance of the courtrooms; we are obtaining one for \$1,000 in Ohio and Leelanau County is getting one too, so there is a savings there.

Motion by Walterhouse, seconded by Kelley, to recommend to the Board of Commissioners to authorize the purchase of a metal detector at \$1,000 plus costs of installation for the Government Center courtrooms. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

COMMITTEE OF THE WHOLE

Page 5

June 9, 2009

Controller's Report: Inquires regarding the motion from February 11, 2009 regarding building fees for COA/Benzie Housing Council; the EMS committee met last month and they are asking for per diem – three members would be eligible.

Comm Tanner & Pitcher feel that they should be 100% of the fees – anyone should.

Comm Pitcher says where do you draw the line?

Motion by Pitcher, seconded by Roper, to recommend to the Board of Commissioners to set the building permit fees for Northwest Michigan Community Action Agency at 50% of the cost for same. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper and Walterhouse Nays: Tanner

Motion by Kelley, seconded by Walterhouse, to recommend to the Board of Commissioners to authorize per diem to the EMS committee with funds to come from their budget, effective June, 2009. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

PERSONNEL

General Personal Issues

FCCAA Issue: Done above.

Mr. Figura: Done above.

Committee Assignments

Planning Commission: One interview to be done. Comm Pitcher will substitute for Comm Roper on that interview.

HR Study Committee Report

Comm Hollenbeck states that they have met two times in May and the whole issue was to establish a need; they will cover two issues: gossip and trust; Next meeting is June 24 at 12:00 noon; Will work to complete the job descriptions (some are completed); Evaluation process needs to be completed annually; she feels they are very valuable meetings and a lot has come out; they will make recommendations to the board.

Comm Pitcher states that we are lacking in the evaluation process; she suggests that Kris read the job descriptions on file

Comm Kelley feels we need each employee to sign something saying they have received their job description.

Labor Sub Committee Report

Status of Union Contracts: Close to finishing TPOAM.

Other General Topics Requiring Discussion and Potential Board Action

Comm Hollenbeck says she has received an unsigned letter regarding the dogs at the Maples; they feel it is a dangerous situation; she went with the owner of the dogs to the Maples one day to see how they interact with the residents – it is wonderful and a very worthy program.

COMMITTEE OF THE WHOLE

Page 6

June 9, 2009

Chuck Clarke says that about 10 years ago the Maples went with the Eden Philosophy to bring in cats and dogs for the residents.

Comm Hollenbeck was also concerned about a closed session held at the Maples prior to a regular meeting; she had no notice of it; she says no employee was present and it dealt with discipline.

Comm Kelley says she should notify Doug Lapham – he is responsible for The Maples.

Comm Pitcher states that she will be gone from the regular meeting on June 16 from 10:30 a.m. to 12:30 p.m.

NEW BUSINESS: Next meeting: Tuesday July 14, 2009 6:00 p.m.

12:30 p.m. PUBLIC INPUT

Gene Wheeler, Grace Road, discusses the Frankfort Airport; you shouldn't take leave from the Authority; FCCAA can be an asset to the county.

Cindy Wheeler asks why would you drop off the authority and let others decide on the \$2 million.

Rose Coleman, Reynolds Road, states that the Maples Board met in closed session and it was posted; the meeting was held at the request of three employees to enter closed session regarding a grievance.

12:38 p.m. PUBLIC INPUT CLOSED

Motion by Roper, seconded by Pitcher, to adjourn until July 14, 2009, or the call of the chair. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Donald R. Tanner – Chairman

Dawn Olney – County Clerk

COMMITTEE OF THE WHOLE

Page 7

June 9, 2009

Motion by Walterhouse, seconded by Roper, that upon recommendation of the Finance Committee of the Whole for Consent Calendar approval:

1. To accept MIHM Enterprises bid for the Point Betsie Lighthouse Interior Renovations.
2. To send a letter of Thank You to Amy Ferris for her years of service to the Friends of the Point Betsie Lighthouse.
3. To authorize a contract with Frankfort-Elberta Area Schools for summer tax collection for 2009 at the rate of \$4.25 per parcel of taxable property within the school district, authorizing the Chairman, County Treasurer and County Clerk to sign.
4. To adopt the Purchasing Policy as presented effective June 16, 2009.
5. To place the \$64,321.12 into fund 241 Land Reutilization.
6. To amend Appendix B to include Marine at \$12.00 per hour.
7. To authorize a new server for the Prosecuting Attorneys office in the amount of \$9,725.00 to be taken from fund balance.
8. To authorize a laptop computer for the Assistant Prosecutor with funds to be taken from the Prosecutor's budget of conventions & meetings.
9. To authorize per diem and mileage for alternates on the Zoning Board of Appeals.
10. To transfer \$20,000 from the General Fund (101) to Child Care Fund (292).
11. To authorize counsel to act consistent with our strategy discussed in closed session.
12. To authorize the purchase of a metal detector at \$1,000 plus costs of installation for the Government Center courtrooms.
13. To set the building permit fees for Northwest Michigan Community Action Agency at 50% of the cost for same.
14. To authorize per diem to the EMS committee with funds to come from their budget, effective June, 2009.

COMMITTEE OF THE WHOLE

Page 8

June 9, 2009

Motion by _____, seconded by _____, that upon recommendation of the Personnel Committee of the Whole for Consent Calendar approval:

None