

**THE BENZIE COUNTY BOARD OF COMMISSIONERS
COMMITTEE OF THE WHOLE
August 11, 2009**

The Benzie County Board of Commissioners met as a Committee of the Whole on Tuesday, August 11, 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 Pitcher, to approve the agenda as amended. Adding Chip Johnson, CMH at 9:00 a.m.; Broadband at 10:00 a.m.; Tire Grant Extension under General Finance; Two Formal Complaints from Thelma Rider-Novak under Other General Topics. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse
Nays: None

Approval of the Minutes: Motion by Walterhouse, seconded by Roper, to approve the minutes of July 14, 2009 as presented. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse
Nays: None

9:02 a.m. PUBLIC INPUT

Ed McIntosh, President of the Bixler-Carter-Platte Wastewater Treatment Association, presents signatures of the residents that are in support of the Wastewater Treatment program; all 40 members have endorsed the document; at this time about 15 residents have decided not to participate.

Thelma Rider-Novak, she comments on the article from Mary Pitcher; states that the problem is with the Administrator – not the office.

Kathy Ralston hands out a copy of her comments from last month Committee of the Whole meeting regarding the ICC; likes Comm Damm's comment from last month stating that all Commissioners should visit with their Townships each month and then report back to this board; communication with the public too – be proactive.

9:14 a.m. Public Input Closed

FINANCE

General Finance Issues:

Chip Johnson, CMH, AG opinion from May and the breakdown request for services; will enter into a contract with the Sheriff for service of \$25,5613.78 plus \$133,922 Benzie contribution; the \$25,000 was coming to them before PA 428 to effect; the service is already being provided

Central Dispatch Concept – Craig Johnson: Craig informs the board of the interest in an advisory board – not an authority; Sheriff is the sole administrator of dispatch now, but all members would have a voice if created; Sheriff Heckman states that the location of dispatch will not change; Craig says you could vote next month and would hope to start up next year; Sheriff states it would be a very gradual transition; you would have to set up this advisory board; the advisory board would do the job descriptions; sheriff states that if you merge with other counties, you would form an authority;

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Comm Roper asks about additional cost – Sheriff Heckman and Craig Johnson both state there should be no additional costs at this time.

Tire Grant Extension – Linda Wilson: Linda states that the State of Michigan has come up with an additional \$20,000 for removal of all tires from the 669 Property, including the DNR property, the committee asks for approval of an extension contract; Linda will check to see if this will be an additional lien on the property; will be renting an Empire Rake to clean the surface and that will probably be the end for this year; will install a fence for security; trees.

Motion by Pitcher, seconded by Roper, to recommend to the Board of Commissioners to accept the additional \$20,000 tire grant from the State of Michigan DEQ for tire removal at the 669 Property.

Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Sheriff:

Sheriff Heckman states that the roof project has started – should take a couple weeks; Auction is set for Saturday, August 15; have received an additional \$5,000 from the State of Michigan for Marine for a total of \$24,000; Comm Pitcher asks about the motorcycles – they are not used and not practical here.

9:53 a.m. Break

10:00 a.m. Reconvene

Cherry Capital Connection, LLC – Broadband: Tim Maylone is present and Rob Franzo is via telephone conference; Status of NOFA application is due August 14 at 4:59 p.m.; thanks those that have helped out in the application process; Tim explains the difference between loan or grant and how much match would be required; will need to identify matching funds by Thursday, August 13; Tim explains the votes that will be required today; Benzie County has a great history of managing grants; reviews the point system -- how does the county move forward and fund it.

Norm Campbell, Chairman of Benzie County EDC, having come here today and learned that a lot has changed; we have gone from 60 days to 14 days for applications; thought this was going to be a grant not a loan.

Tino Briethupt, Traverse Bay EDC, broadband has been on our list for 6-9 months; try and have this efforts for more than one county – four county regional approach; inventory analysis and asset map and to inventory existing service; working with Leelanau & Grand Traverse County to do up to \$16,500 for to do the inventory; phase 2 – TB EDC step up with \$30,000 to come up with a regional proposal for the US government would be a stronger approach if it was regional; you are supporting Phase 1, 2 and 3 here today.

Comm Damm says that Rob brought on two additional companies to get this done so quickly; feel they provided well documents plan; we are creating an atmosphere that will have a vehicle to move forward together; this is the most viable and exciting group of people; risks are being opening

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discussed; loan – demonstration of how these grants and loans will pan out over the next two years; she is OK with a loan. Realistic and very thought out. A loan would be less expensive.

Comm Pitcher any company could have come to us with this idea; this is the only company that took the initiative and came to us; don't feel bad about it.

Tino: We are very supportive of the efforts; wish we could have pulled all four counties together in this effort; application would be much stronger.

Norm asks if you would have to convert businesses with current service. No How will you pay back the \$1 million loan? With subscriptions

Chuck Clarke asks who the owner of the equipment will be. The applicant – the county.

Who is the operator? Cherry Capital Connection

Why discussion of replacing 911 circuits and T-1 line – security issue.

Tim: Was asked to identify other areas for the future – no way in this budget to go to 911 or public safety.

Who pays bills? Operating expense bills come from CCC

Who gets revenue? CCC

Who replaces equipment? No anticipated dollars needed just money set aside to CCC

Walterhouse: How long? 14 years as set by ARRA

Wilson: Loan in the name of the County? Yes

Revenues – where will we receive them from you? Yes

First payment due? 1st 12 months of distribution interest only; then principal kicks in; principal and interest after 3 years; guarantee the county won't have to use GF to pay? No guarantee

11:30 a.m. Break

11:40 a.m. Reconvene

Karen Roberts, Gilmore Twp, she is in support of this and it could make a huge difference for businesses; don't wait for round 2.

Katherine Ross, President Benzie Central School Board, is in favor of this on behalf of the unserved and underserved in our district; poverty is determined by 64% of the students that qualify for free & reduced lunch in the schools; urge you to pursue this.

Eric VanDussen, why weren't these options given to you at the last regular and special meetings – they weren't even thought out; there was no mention of a loan until the meeting with Anne Damm, Mary Pitcher, Tim Maylone. In favor of this concept. You were misled by Mr. Maylone; he never mentioned loan – it was all grant. You voted to give him \$30,000 for his application; Honor State Bank would do a loan too. You need to question why it wasn't brought up; you amended the agenda to add him today; you need to consider other options.

Fred Affline, Blaine Twp, commend the county and CCC, Aspen Wireless, Wireless 20/20 for the tremendous effort, shows great leadership; lack of facts here – we don't have them – it is the

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Federal Government's fault for changing the rules; This is what Obama wants and is driving this fast to get the dollars out; risk vs reward – everyone is aware of that; we are doing things and it will benefit everyone; there are a lot of unknowns here; if we get the funds, we can say we don't want them.

Thelma Rider-Novak would like to see everyone have this; Kathy Ross said so many people need this but will they be able to afford it. Perhaps the people with big dollars can get funding from the wealthy people that want it. We have some deplorable roads in Benzie County; can't advocate broadband if we can't fix roads.

Comm Damm we need to decide on grant – loan – 50/50; she thinks a loan; we have a better chance to get it if we apply with a loan.

Chairman Tanner doesn't like being pushed on an issue; thought we were applying for a grant; didn't want to duplicate this; this can be incorporated together; want to see the end product and that go to the EDC efforts (whether we get the loan or not).

Comm Pitcher there is a ratio of points for percent of loan vs grant; had serious reservations along the way; she felt it was a grant application; impressed with the organization; understand writing grants and they have the capacity to do it; money is targeted for rural communities; chances seem good we need to make it a strong proposal.

Comm Kelley feels very uncomfortable about this; don't know where we can pull the money from; can't endorse it.

Comm Roper we have done match grants before; how did we match those funds – with interested citizens because it is a worthwhile benefit; people have the funds to do this; haven't heard that people don't want it; this would be good for the community; uncomfortable with – if this had been presented before when we approved the \$30,000 would feel better – did believe it was grant that was mentioned.

Comm Hollenbeck says it is the time thing – two days we have to do this; I would have campaigned for this in her area; she will support this.

Comm Walterhouse says this is the future for our children and businesses; we need to be able to keep our kids here we need to provide jobs for them; we have to take a chance.

Comm Damm says this is critical to our future; we can raise the funds; there is a need for it; we are overemphasizing the risk; we have spent the money on excellent report; we don't have to take this loan – we have time to think about it, but we need to act today; we should go for what we think we would qualify for in the first round; raising \$100,000 will not be difficult; a loan is less risky.

Larry Morris asks if there is a limit on time to sell the hardware on the secondary market. No, there is a transfer component that can be put into the private/public partnership agreement.

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Motion by Walterhouse, seconded by Roper, to support a Public Private Partnership between Benzie County (will own assets and application); Cherry Capital Connection, LLC as the operating, installation and maintenance company and the county further supports CCC contracting with Aspen Wireless Networks for Engineering and Wireless 20/20 for business planning, program management and reporting; together with Benzie County encourages CCC to form partnerships with at least one additional last mile delivery company; with action to be final today. Roll call. Motion carried.
Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Motion by Hollenbeck, seconded by Pitcher, to enter into good faith negotiations with Cherry Capital Connection, LLC in defining the operation environment of the Public Private Partnership prior to the application being awarded. These negotiations will be limited to the operational scope of the network as outlined by the application. The negotiation period is understood to be as short as 30 days and up to 60 days. It is further understood that the application submitted is shovel ready because it is designed to leverage the existing infrastructure that Cherry Capital Connection, LLC has brought to the table, with action to be final today. Roll call. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Motion by Pitcher, seconded by Damm, to support Cherry Capital Connection, LLC to work with Traverse Bay EDC and Benzie County EDC and other local counties in the formation of an alliance with other regional counties for submission of regional plan during rounds 2 and rounds 3. Including but not limited to Manistee, Leelanau, Grand Traverse, Antrim and Charlevoix Counties. Support of a regional plan does not commit Benzie County to any additional funding but does allow the round 2 applications to leverage the Benzie County investment, to be final today. Roll call. Motion carried.
Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Motion by Walterhouse, seconded by Roper, to apply for a 50% Grant/50% Loan for Broadband, to be final today. Roll call. Motion denied. Ayes: Walterhouse Nays: Damm, Hollenbeck, Kelley, Pitcher, Roper and Tanner

Motion by Hollenbeck, seconded by Tanner, to apply for a 100% Loan for Broadband, to be final today. Roll call. Motion carried. Ayes: Damm, Hollenbeck, Pitcher, Tanner and Walterhouse
Nays: Kelley and Roper

Comm Roper excused.

12:55 p.m. Break

1:06 p.m. Reconvene

Drug Court – Judge Kida: Judge Kida provides information to the board regarding the drug court programs with District and Circuit Courts; she introduces Rachel Wittliff, Jessica Rissel, Mike Rice and Michelle Steffen; received \$50,000 = \$30,000 for Circuit Court and \$20,000 for District Court; she says we have come along way since the first meeting of April 21, 2008; the Benzie Recovery Court Foundation has been formed under a 501C3.

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Rachel states that she is the coordinator for the district court recovery court – they have a capacity for five people of which they serve three now; have submitted the grant to the State; management of the grant is a lot of work; reporting is quarterly and two of three billing payment have been reimbursed; this is a challenge and a good program; we have participation with CMH and Catholic Human Services.

Jessica works with the adult family and youth court program; family dependency court does not have any that meet the criteria; work closely with DHS; youth recovery court current have two active participants with four referrals; pretty intensive; grant for next year have asked for \$62,000 from SOM for family court & \$38,000 for youth court.

Michelle Steffen, Asst Prosecuting Attorney, is glad to see the process after sentencing; it makes us better prosecutors to see what happens after sentencing.

Mike Rice, Director of Youth Services, very pleased with how it has come together; have a strong team and everyone works well together; participation is great.

Budget Issues:

2010 Tentative Budget: Chuck presents Wage, Personnel and Other requests for the 2010 budget from departments – these items are not in the budget; he also presents seven major funds proposed budgets – general fund is not balanced at this time; committee will continue to respond and will either recommend cuts or requests same from departments and should happen in the next couple of weeks or so; you can digest this over the next couple of weeks.

Comm Pitcher – web site – that request is to have equalization records available on the web site and a portion of that could be used with excess funds from this year.

Comm Hollenbeck says the Sheriff, Under sheriff & Prosecutor has requested no wage increase – they do a lot.

Spending Issues: None

Reports:

Treasurer's Report: Cash fund balance report is presented; four funds are in a deficit; presents a letter from Standard & Poor's regarding the bond rating.

Motion by Walterhouse, seconded by Hollenbeck, to recommend to the Board of Commissioners to allow the county Treasurer to inter-fund borrow up to \$1,000,000 to balance all funds for FY 2009.

Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Tanner and Walterhouse Nays: None
Exc: Roper

Controller's Report: Did some premature transfer from one department to another to balance that department; he informs the board that Arms & Coles has filed Chapter 11 Bankruptcy so you may see Hurst trucks around here – they are buying Arms & Coles out.

Motion by Walterhouse, seconded by Damm, to recommend to the Board of Commissioners to allow the County Controller to inter-fund borrow to balance the budget for 2009. Motion carried. Ayes: Damm, Kelley, Pitcher, Tanner and Walterhouse Nays: Hollenbeck Exc: Roper

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1:50 p.m. Break for Lunch

2:20 a.m. Reconvene

PERSONNEL

General Personnel Issues:

Planning Commission Interviews: Interviews scheduled for tomorrow with five of them; others will be scheduled another day

Committee Assignments: An ad has been completed for all open positions for the rest of 2009.

H.R. Study Committee Report: Comm Hollenbeck reports that an employee has contacted her that they will not attend further HR meetings due to being confronted following the second meeting; they thought the comments made would be confidential and wouldn't affect their job; Email from SWAC and they would love to have a consultant to deal with personnel issues; they would like to have a consultant (employees at the meeting); meetings are scheduled for Wednesday before the Committee of the Whole meeting at 12:00 noon; we need someone more than her to carry this out.

Status of Union Contracts: Mr. Clarke states that there is a tentative agreement with TPOAM just need to ratify it; should present next month.

Bixler-Carter-Platte Waste Water: Comm Damm states that they are getting enough information and will schedule a meeting.

Other General Topics Requiring Discussion and Potential Board Action: We have received letters from Thelma Rider-Novak and Frankfort City-County Airport Authority; sent letter requesting discussion about the County separating from the Authority; Mr. Figura states that the other entities would have to let us out – he attended the meeting of the Authority and they prefer that we stay in; Mr. Figura and the Authority attorney are in concurrence that a hearing for removal should be done. Chairman Tanner will contact Mr. Figura reference this item, prior to the August 21 meeting.

We have received a letter to have Larry Morris removed, that is an ongoing process; also a complaint to have the administrator disciplined and removed from office or to have the office closed. Comm Kelley requests Mr. Clarke be present – fair to him.

2:50 p.m. Mr. Clarke is present

Chairman Tanner says we are currently looking at the structure and we need to look at the big picture. Many concerns addressed in the letter from Ms. Novak are being discussed.

Comm Kelley says he has thought about this a lot; we are spending a lot of time on the concerns of the Administrator's Office; this is extremely difficult for him; consider him a friend; he will not consider me a friend after my next motion; hands out motion; cannot allow us anymore time by floundering; reads motion and requests it be off the consent calendar and to take immediate effect.

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Motion by Kelley, seconded by Hollenbeck, pursuant to Section 4 and Section 4.A., Charles J. Clarke, being an "at will" employee is to be terminated immediately, upon a 3/5's majority vote of the Benzie County Board of Commissioners

Mr. Clarke requests his attorney be present.

Comm Pitcher asks who will take over all duties.

Comm Kelley says he is an at-will employee.

Comm Pitcher states that we need to table this.

Comm Tanner and Walterhouse agree.

Comm Kelley says this board has waffled about this; my constituents require us to do our job.

Comm Hollenbeck says none of this is easy.

3:05 p.m. Break

3:21 p.m. Reconvene

Chairman Tanner talked with Mr. Figura and he will be here in 35 minutes too.

Motion by Kelley, seconded by Hollenbeck, to set motion aside until the attorneys are present.

Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Tanner, Walterhouse Nays: None

Exc: Roper

Other Business:

Rose Coleman, Director at The Maples, asks this board to consider a joint special meeting for them to present potential renovations and/or construction; September 29, 2009 at 1:00 p.m. in the DHS Conference Room in the lower level of the Government Center.

3:25 p.m. Public Input

Thelma Rider-Novak asks if you will have more public input following the closed session.

Public Input Closed

3:26 p.m. Break

4:09 p.m. Reconvene

Motion by Kelley, seconded by Walterhouse, to bring motion off the table. Motion carried. Ayes:

Damm, Hollenbeck, Kelley, Pitcher, Tanner and Walterhouse Nays: None Exc: Roper

Motion by Walterhouse, seconded by Kelley, to enter closed session at the request of Charles Clarke,

to include Mr. Clarke, Mr. Swain and Mr. Figura. Roll call. Motion carried. Ayes: Damm,

Hollenbeck, Kelley, Pitcher, Tanner and Walterhouse Nays: None Exc: Roper

4:12 p.m. Enter closed session

4:20 p.m. Re-enter open session

Motion by Kelley, seconded by Hollenbeck, to amend the original motion by adding ...immediately giving 90 days notice in accordance with Section 4A of the contract upon 3/5's ...

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Vote on amendment: Roll call. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Tanner and Walterhouse Nays: None Exc: Roper

Vote on original motion as amended: Ayes: Damm, Hollenbeck, Kelley, Tanner and Walterhouse Nays: Pitcher Exc: Roper

Mr. Clarke says he waives the closed session

Comm Pitcher states that there is process and would like to see us complete the process; no plan in place to take over his duties; not in the best interest of the county

Motion by Kelley, seconded by Hollenbeck, that the Benzie County Controller's Office temporarily come under the supervision of the County Clerk's Office for the day to day operations and at the direction of the Chairman of the Board of Commissioners and in the absence of the chair, the Vice-Chair. I further recommend that the Deputy Clerk, Tammy Bowers be temporarily assigned to oversee the immediate operations of the controller's Office. Roll call. Ayes: Damm, Hollenbeck, Kelley, Tanner and Walterhouse Nays: Pitcher Exc: Roper

Motion by Kelley, seconded by Walterhouse, to the Animal Control office return under his jurisdiction, effective immediately.

Sheriff Heckman agrees to an interim basis and will give direction.

Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Tanner and Walterhouse Nays: None Exc: Roper

Motion by Walterhouse, seconded by Kelley, to have Sheriff Heckman to secure the County Administrator's office and make sure nothing goes out and keys to be turned over to the Sheriff. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Tanner and Walterhouse Nays: None Exc: Roper

Public Input:

Thelma Rider-Novak, sincerely thank you to this Board it has not been easy and thank you for standing up to the FOIA statute; look forward to bright sun shining days.

Douglas Holmes, 718 Forrest, Frankfort, registers his applaud; thank you..

4:35 p.m. Public Input Closed

Next Meeting: Tuesday, September 8, 2009 at 9:00 a.m.

Motion by Kelley, seconded by Walterhouse, to adjourn until September 8, 2009, or the call of the chair. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Tanner and Walterhouse Nays: None Exc: Roper

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

1. To accept the additional \$20,000 tire grant from the State of Michigan DEQ for tire removal at the 669 Property.
2. To allow the county Treasurer to inter-fund borrow up to \$1,000,000 to balance all funds.
3. Removed from Consent Calendar.

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

None