

THE BENZIE COUNTY BOARD OF COMMISSIONERS
February 3, 2010

The Benzie County Board of Commissioners met in a special meeting on Wednesday, February 3, 2010, at 9:00 a.m. in the Commissioners Room, Government Center, Beulah, Michigan, 49617.

Present were: Commissioners Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse
Absent: None
Others: David Stoker, Attorney for Employer; Patrick Spidell, TPOAM Union Representative

An invocation was given by Commissioner Kelley together with the pledge of allegiance.

Motion by Roper, seconded by Pitcher, to approve the agenda as amended, adding administrator's job description discussions. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Dave Stoker, Attorney for Employer, dealing with grievances and union negotiations and lay offs, probably something that could be better addressed in closed session; any resolution of the grievance would need to be dealt with the whole board; grievances are considered an extension of union negotiations and eligible to go into closed session.

Pat Spidell, Union Representative, in concurrence with counsel; should be handled in a closed session.

Comm Pitcher we could all have questions and would like to sit in.

Comm Damm feels should be the whole board.

Comm Hollenbeck agrees.

10:10 a.m. PUBLIC INPUT

Norma Eason, President of the Animal Welfare League, questions we have are regarding Ed Carter; never signed anything to be in the union so it is a violation of the contract to lay him off; violation of page 10 section d – seniority and qualifications to do the job, Carol had none of those, Ed does.

Margaret Chalmers, Animal Welfare League, Ed does meet the qualification; ACO does have 100 hours and a certification from the State of Michigan that says so, so he meets the job description AWL paid to for his training and a lot of experience; started out part time and now full time and he probably puts in 80 hours per week and gets paid for 40 – very glad to have him.

Eric VanDussen agenda says TPOAM union discussions; not grievances; OMA says you can meet in closed session for strategy and negotiations for a bargaining agreement if either part requests closed session – what authority you are utilizing to go into closed session; you should consider if you lawfully can do that and should you enter closed session. You have huge implications here; everything should be in open session because your attorney is paid with public money; the union has voted to not reopen their contract.

Marsha LaTour asks if a grievance has been filed. Yes

10:16 a.m. Public Input Closed

Dave Stoker responds, typically labor negotiations and sessions are not handled in open session; it is an unfair labor practice to by-pass anything – Mr. Spidell is their representative; grievance exception

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is under pending litigation; commissioners are asking to review the entire lay off process; Mr. Spidell has to be the one to say we don't want to talk, not individual members.

Pat Spidell, one grievance has filed for arbitration so we could leave now; agree with Mr. Stoker, regardless of the parties positions, always good to keep talking; regardless of contractual obligations, we still need to be open -- makes sense to talk. Prefers closed session.

Eric VanDussen wants discussions in open session.

Dave Stoker says the letter is attorney/client privilege. If you discuss it in open session, you are then waiving attorney/client privilege and it is then available to the public.

Comm Walterhouse says the board has concerns and all want to be involved and a part of it.

Dave Stoker says if you go into closed session, then you have to re-enter open session; if send to a committee, you can ask the committee when to return with a response.

Margaret Chalmers says she would prefer not to be in closed session; she turned down work today to be here. All taxpayers want a decision.

Pat at a grievance hearing will want to have representative and grievant. Will not do in an open public forum; that is not how the union contract spells it out.

Motion by Pitcher, seconded by Walterhouse, to enter closed session to discuss union grievances and labor contract issues and negotiations, to include Dave Stoker, Pat Spidell, union representatives and Board of Commissioners.

Dave Stoker through this was to be a committee meeting.

Comm Hollenbeck says there is no need for everyone to be here.

Dave Stoker recommends this go to committee and then the full board.

Roll call. Motion denied. Ayes: Damm, Pitcher and Tanner Nays: Hollenbeck, Kelley, Roper and Walterhouse

Motion by Walterhouse, seconded by Hollenbeck, to send this issue to the labor contract committee. Motion carried. Ayes: Hollenbeck, Kelley, Roper, Tanner and Walterhouse Nays: Damm and Pitcher

Motion by Roper, seconded by Hollenbeck, to reconvene the regular meeting of the board of commissioners at 3:00 p.m. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Meeting with John Amrhein regarding the county administrator's job description; John suggests we assign two BOC, two Elected, two Non-Elected to form a committee and work up a job description; Commissioners will be Tanner and Damm with Hollenbeck as the alternate; further appointments will be made by Chairman Tanner.

Labor committee is Kelley & Walterhouse, Tanner to participate too.

10:50 a.m. PUBLIC INPUT

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Marsha LaTour, she asked if this could be an open session; as a taxpayer would definitely complain that you had poor advice from the attorney; people have walked away from jobs and other commitments; need better communication with the public; we are all concerned about what is happening here; this is unfair to those of us here today.

Eric VanDussen, letter dated 2/2/2010 from Dept of Ag as to whether or not Mr. Carter is certified or not; how was Mr. Carter never in the union and you should figure it out; liability of having an unqualified person as an Animal Control Officer – Carol Merrill was not certified, was there a liability there; closed session with these grievances will there be separate closed sessions to deal with these?

10:55 a.m. Public Input Closed

Motion by Roper, seconded by Kelley, to recess until 3:00 p.m. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

10:55 a.m. Recess

Motion by Kelley, seconded by Walterhouse, to re-enter open session. Motion carried. Ayes: Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None Abs: Damm

Motion by Kelley, seconded by Walterhouse, upon recommendation of the labor sub-committee, to accept a Letter of Understanding between the County of Benzie and TPOAM in reference to the seniority lay off provisions as provided in the present TPOAM contract. Motion carried. Ayes: Kelley and Walterhouse Nays: None

3:00 p.m. Reconvene

Dave Stoker recaps the Letter of Understanding: 1. No cross department bumping; 2. Lay offs will be clearly authorized for only lateral within departments, seniority is with the county, not the department; 3. Asst Zoning Admin will be assigned to new vacant position effect Monday; 4. Field Appraiser will be assigned to her prior position; 5. Asst ACO will be recalled to his position; 6. Asst ACO job description will be revised to have that the person must be state certified prior to hire; 7. All grievances will be dismissed; no retroactive compensation.

Motion by Kelley, seconded by Walterhouse, to accept the Letter of Understanding as presented by Dave Stoker and Pat Spidell. Roll call. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

3:15 p.m. PUBLIC INPUT

Dave Stoker discussed the attorney/client privileged letter; you can release it or not – it is up to you.

Eric VanDussen commends the board for the outcome here.

3:16 p.m. Public Input Closed

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Motion by Kelley, seconded by Walterhouse, to release the letter from Dave Stoker under Attorney/Client Privilege to the public as requested. Motion carried. Ayes: Damm, Hollenbeck, Kelley, Pitcher, Roper, Tanner and Walterhouse Nays: None

Motion by Walterhouse, seconded by Pitcher, to adjourn until February 16, 2010, 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 – Benzie County Clerk

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1. To send this issue to the labor contract committee.
2. To reconvene the regular meeting of the board of commissioners at 3:00 p.m.
3. To recess until 3:00 p.m.; and re-entered open session.
4. Upon recommendation of the labor sub-committee, to accept a Letter of Understanding between the County of Benzie and TPOAM in reference to the seniority lay off provisions as provided in the present TPOAM contract. Motion carried.
5. To accept the Letter of Understanding as presented by Dave Stoker and Pat Spidell.