

# **BENZIE COUNTY BOARD OF COMMISSIONERS**

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448 COURT PLACE – BEULAH, MI 49617 – (231) 882-9671  
[www.benzieco.net](http://www.benzieco.net)

## **MEETING AGENDA**

**March 8, 2016**

**Commissioners Room, Governmental Center, Beulah, Michigan**

**PLEASE TURN OFF ALL ELECTRONIC DEVICES**

9:00 a.m.      CALL TO ORDER  
                    ROLL CALL  
                    INVOCATION AND PLEDGE OF ALLEGIANCE  
                    APPROVAL OF AGENDA  
                    APPROVAL OF MINUTES – 2/23/2016  
                    PUBLIC INPUT  
                    ELECTED OFFICIALS & DEPT HEAD COMMENTS  
                    COMMISSIONER REPORTS  
                    COUNTY ADMINISTRATOR'S REPORT – OMA Violation Opinion  
                    FINANCE – Approval of Bills  
                    HR and PERSONNEL – Consent Calendar  
                    COMMITTEE APPOINTMENTS – EDC  
                    ACTION ITEMS –  
                    PRESENTATION OF CORRESPONDENCE  
                    NEW BUSINESS –

10:00  
10:15  
10:30

                    Mitch Deisch – Benchmarking Phase I  
                    PUBLIC COMMENT  
                    ADJOURNMENT

### **Times Subject to Change**

THE COUNTY OF BENZIE WILL PROVIDE NECESSARY REASONABLE AUXILIARY AIDS AND SERVICES, SUCH AS SIGNERS FOR THE HEARING IMPAIRED AND AUDIO TAPES OF PRINTED MATERIALS BEING CONSIDERED AT THE MEETING, TO INDIVIDUALS WITH DISABILITIES AT THE MEETING OR HEARING UPON THIRTY (30) DAYS NOTICE TO THE COUNTY OF BENZIE. INDIVIDUALS WITH DISABILITIES REQUIRING AUXILIARY AIDS OR SERVICES SHOULD CONTACT THE COUNTY BY WRITING OR CALLING THE FOLLOWING:

BENZIE COUNTY CLERK  
448 COURT PLACE  
BEULAH MI 49617  
(231) 882-9671

This notice was posted by Dawn Olney, Benzie County Clerk, on the bulletin board in the main entrance of the Benzie County Governmental Center, Beulah, Michigan, at least 18 hours prior to the start of the meeting. This notice is to comply with Sections 4 and 5 of the Michigan Open Meetings Act (PA 267 of 1976).

## PUBLIC INPUT

**Purpose:** The Benzie County Board of Commissioners is a public policy setting body and subject to the Open Meetings Act (PA 267 of 1976). The Board also operates under a set of "Benzie County Board Rules (section 7.3)" which provides for public input during their meetings. It continually strives to receive input from the residents of the county and reserves two opportunities during the monthly scheduled meeting for you the public to voice opinions, concerns and sharing of any other items of common interest. There are however, in concert with meeting conduct certain rules to follow.

**Speaking Time:** Agenda items may be added or removed by the board but initially at least two times are devoted to Public Input. Generally, however, attendees wishing to speak will be informed how long they may speak by the chairman. All speakers are asked to give their name, residence and topic they wish to address. This and the statements/comments will be entered into the public record (minutes of the meeting). Should there be a number of speakers wishing to voice similar opinions, an option for a longer presentation may be more appropriate for the group and one or more speakers may talk within that time frame.

Group Presentations – 15 minutes  
Individual Presentations – 3 minutes

**Board Response:** Generally, as this is an "Input" option, the board will not comment or respond to presenters. Silence or non-response from the board should not be interpreted as disinterest or disagreement by the board. However, should the board individually or collectively wish to address the comments of the speaker(s) at the approval of the Chair and within a time frame previously established, responses may be made by the board. Additionally, the presenter may be in need of a more lengthy understanding of an issue or topic and may be referred to a committee appropriate to address those issues.

Public Input is very important in public policy settings and is only one means for an interchange of information or dialogue. Each commissioner represents a district within the county and he/she may be individually contacted should greater depth or understanding of an issue be sought. Personal contact is encouraged and helpful to both residents and the board.

### Commissioner Contacts:

District I --	Lisa Tucker (Almira East of Reynolds Road).....	
District II --	Vance Bates (Almira Twp West of Reynolds Road, Platte and Lake Townships).....	
District III -	Roger Griner (Crystal Lake, Frankfort).....	651-0757
District IV -	Coury Carland (Benzonia).....	231-930-7560
District V -	Frank Walterhouse (Homestead).....	325-2964
District VI -	Evan Warsecke (Colfax, Inland).....	640-2319
District VII --	Gary Sauer (Blaine, Gilmore, Joyfield, Weldon).....	651-0647

## **THE BENZIE COUNTY BOARD OF COMMISSIONERS**

**February 23, 2016**

The Benzie County Board of Commissioners met in a regular meeting on Tuesday, February 23, 2016, 448 Court Place, Government Center, Beulah, Michigan.

The meeting was called to order by Vice Chairman Frank Walterhouse at 9:00 a.m.

Present were: Commissioners Bates, Carland, Sauer, Tucker, Walterhouse and Warsecke

Absent: Excused: Chairman Griner

The invocation was given by Comm Bates and the pledge of allegiance was led by Comm Sauer.

### **Agenda:**

Motion by Bates, seconded by Sauer, to approve the agenda as amended, adding potential OMA violation at 10:15. Ayes: Bates, Carland, Sauer, Tucker, Walterhouse and Warsecke Nays: None Exc: Griner Motion carried.

### **Minutes:**

Motion by Bates, seconded by Sauer, to approve the regular session minutes of February 9, 2016 as presented. Ayes: Bates, Carland, Sauer, Tucker, Walterhouse and Warsecke Nays: None Exc: Griner Motion carried.

### **9:03 a.m. Public Input**

Ted Wood, Joyfield Township Clerk and member of Lakes to Land, stated that he supports your consideration for the AES proposal; at the Benzie Summit last October and they had very positive comments regarding AES and economic development.

Josh Mills, Frankfort Superintendent, says thank you for your dedication to this fine community that we call home; he stated he is in support the proposal of AES; this requires strong leadership; he doesn't feel we need more studies, we need to implement the strategies in place and he is confident that we will see immediate rewards.

Betsy Evans, Director of Business Development for AES has provided the board with one-page of additional information and stated that the EDC has been supportive as well.

Eric VanDussen, Benzonia, says he doesn't understand how this board does not grasp that Cohl Stoker & Toskey has an absolute conflict of interest in representing the Sheriff and the county in regard to David Tucker's grievance and the lawsuit; there was a secret HR meeting on August 31, 2015 with Mr. Tucker where you went into closed session and no minutes were taken; why wasn't Ms. Olney in that meeting or Tammy Bowers her assistant clerk to take minutes and record the open session of that meeting; where are those minutes for the August 31, 2015 HR meeting where a decision was made by that HR committee. Also, December 22, 2015 closed session which is the subject of my lawsuit where MMRMA had already assigned another attorney to represent the county -- why would you go into closed with Bonnie Toskey by phone -- she doesn't even represent the county in that threat of action; why the secrecy -- that is the biggest question here.

Mike Worden, Chair of EDC, stated that he supports the AES; it was an easy decision for EDC; if we want to have consistent economic development in the county we need this; there needs to be a commitment by the county.

Katie Osborn stated that she works for the Prosecuting Attorney and before that worked for the County Clerk; she stated she will be running for County Clerk this election.

Bev McCarthy, AES Board, we are very excited about the potential of working together. Our board is very interested.

## COMMISSIONERS

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February 23, 2016

Deb Lindgren, Joyfield Twp, spoke of her concerns about AES – you have been elected to represent the people; you need to do your research; did you post this service that you are looking at; did you give Networks Northwest the chance to bid on this. Where is the money coming from? Very concerned about this going to AES.

9:22 a.m. Public Input closed

### ELECTED OFFICIALS & DEPT HEAD COMMENTS:

Sheriff Schendel, passed out some information for the board regarding point of clarification regarding the county vehicle policy – Comm Bates was confused, it should be all elected officials not just the Sheriff Dept. The Sheriff Dept is not bound by the Personnel Policy adopted by the Board of Commissioners.

→ Comm Tucker asks if the policy language was changed to be the sole discretion of the Sheriff.

Doug Durand, Council on Aging, provides the February 2016 report; last year we saved over \$14,000 with the Feeding America Program with the purchase of dry goods and we are also now working with Food Rescue; last Thursday they met with Paul Oliver Hospital and are working on partnership collaboration on educational services – it was a great meeting; January was a good month for the agency and they continue to look forward to an early Spring.

Amy Bissell, Register of Deeds, updated the board for the last FY stating that we moved close to \$1.1 million through her office; of that \$721,000 went to the state transfer tax; \$26,430 went to the Register of Deeds Automation Fund for the upgrading of technology; \$17,970 went to the State Survey and Remonumentation Fund to reset the corners in the State of Michigan; \$237,500 went to the county General Fund – our office is a revenue generator. Revenues for this FY are up 7.69% over last year at this point; Passports -- \$4,750 last year or 190 passports with an average of 15 minutes each; they have been notified by the Dept of State to expect an increase in passport applications over the next two years. They have two search engines to use records on-line 1) Loreda – for the title companies, independent searchers, they sign up, pay a fee and can use the records 24 hours per day; and 2) Tapestry – those are for customers that are occasional users; split the fee with the software company. SB 599 is out there – this is known as the flat-fee bill and is a restructuring fee passed the senate and is now at the house. If it passes, it could bring about \$67,000 to Benzie County.

Marlene Wood, Recycling Coordinator, stated that the bins have settled from the holidays and the county has community events and education is very important and to have recycling bins available to them; she has been attending festivals already -- Water Festival, Shiver by the River and Winterfest.

Dawn Olney, County Clerk, stated that she is running for re-election for County Clerk and not retiring as some have said.

Benzie Transportation Authority January 2016 report received.

Benzie Home Health Care January 2016 report received.

### COMMISSIONER REPORTS

Comm Carland stated that he has had a quiet couple of weeks; he has met with the Village of Beulah regarding the water system.

## Dawn Olney

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**From:** Lisa Tucker <lisatuckerbenzie1@gmail.com>  
**Sent:** Tuesday, March 01, 2016 11:43 AM  
**To:** Dawn Olney  
**Subject:** RE: Vehicle Use Info

Thanks so much

On Mar 1, 2016 11:42 AM, "Dawn Olney" <DOlney@benzieco.net> wrote:

Sure I will have the board approve an amendment to the minutes.

Dawn

**From:** Lisa Tucker [mailto:lisatuckerbenzie1@gmail.com]  
**Sent:** Tuesday, March 01, 2016 11:36 AM  
**To:** Dawn Olney <DOlney@benzieco.net>  
**Subject:** RE: Vehicle Use Info

The first one please and thank you

On Mar 1, 2016 11:33 AM, "Dawn Olney" <DOlney@benzieco.net> wrote:

So on page 2 of the minutes of 2/23/2016 you would like it to read like this:?

Comm Tucker asks if the policy language was changed to be the sole discretion of the Sheriff to

... sole discretion of the elected officials.

Or

...sole discretion of the Sheriff or elected officials.

Which one is the correct one?

## COMMISSIONERS

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February 23, 2016

Comm Warsecke stated that he attended the Colfax Township and Conservation District meetings.

Comm Bates said that Platte Township meets quarterly but they did have a budget meeting.

Comm Tucker stated that she has attended the Benzie Transportation and they are negotiating Bill's contract renewal; she also attended the Council on Aging meeting; she restated that anything that is in front of the Board of Commissioners concerning her husband, she will recuse herself.

Comm Sauer stated that VCAT will have another meeting March 10 at the Elks in Traverse City from 1 -3 p.m.

Comm Walterhouse reported that he attended the Land Bank meeting; EMS millage is up for renewal; Joint Court meeting; Parks & Rec last evening and stated that the new member of the committee would like to see Benzie County having a pool.

### COUNTY ADMINISTRATOR'S REPORT – Mitch Deisch

- Information has been provided to the board regarding the revenue sharing grants – information to amend the budgets will be sent back to committee.

Comm Tucker asked that the meetings with the Jail Administrator and Sheriff that are being held start having detailed information to the Board regarding those meeting. She would like to see it at each BOC meeting.

Michelle Thompson, County Treasurer, stated that they are just gathering data at this point.

### FINANCE

Bills: Motion by Carland, seconded by Warsecke, to approve payment of the bills from February 10, 2016 to February 23, 2016 in the amount of \$392,419.19, as presented. Roll call. Ayes: Bates, Carland, Sauer, Tucker, Walterhouse and Warsecke. Nays: None Exc: Griner Motion carried.

Michelle Thompson, County Treasurer, presented the cash fund by summary report with a couple of funds in the red; she provided an update regarding the Remonumentation Program – we are about 75% redone – 15% of the remaining 25% is federal property or swamp land. She commented on SB 599 that was discussed by the Register of Deeds and stated that the County Treasurers are lobbying to get an exemption from that flat-fee.

Taxes are due to the townships in February 16 and delinquent to the county treasurer March 1.

10:05 a.m. Break

10:10 a.m. Reconvene

### Finance Consent Calendar:

Comm Bates removes items 2 and 3.

Motion by Sauer, seconded by Tucker, to approve the February 9, 2016 Finance Committee Consent Calendar items 1, 4, 5 and 6, as presented. Roll call. Ayes: Bates, Carland, Sauer, Tucker, Walterhouse and Warsecke. Nays: None Exc: Griner Motion carried.

#2: Comm Bates stated that he is not comfortable with where we are heading with item 2; this change should be done during the budget process; we are making accommodations that could come

## COMMISSIONERS

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February 23, 2016

back to bite us; don't understand why we continuing to play this revolving game; let's get the sheriff's budget in control; why do we continue to go down this road.

Comm Sauer stated that we were under the impression there was four positions there; hesitant to do this; concern is contract issues; the Sergeant without the Undersheriff being an Undersheriff, the Sergeants are run by seniority; there could be one Sergeant overseeing the Undersheriff; we had status quo during contract negotiations; still not sure of this.

Sheriff Schendel stated the reason we are in this position is because of a promotion with a reduction in benefits; one of six surrounding counties have an outside Undersheriff – not hired from within; the Undersheriff is not a union position; other counties are doing what we are asking.

Comm Tucker says you have been violating; you have the verbiage that allows you to put the U/S back in the union and he would not lose his time.

Mitch Deisch says we are stuck in this endless game of a temporary scenario; a continuous cycle of Undersheriff – Sergeant – Undersheriff. We are waiting for a decision from MERS regarding leaving the Undersheriff in the bargaining unit for retirement purposes only.

Comm Bates asks what the cost is; we have a budget and need to live within that budget; we are back to making exceptions.

Comm Warsecke says that until we get it straightened out, how will anyone want to promote, they will make less money.

Vice Chair Walterhouse says we will put this issue on hold and bring back at a later date; get all of the questions asked.

#3: Comm Bates asks how the board make-up at ASE will be. Yes, Benzie County will be added to the board, but we don't know yet how many – we will look at a total restructuring of the board. Comm Tucker stated that she hasn't been involved in a lot of the committee presentations, and doesn't fully understand it. Deb has some good questions; can you get it on an agenda for a full presentation.

Comm Bates says he concurs with the length of the contract and is happy with the 60-day out; How many will be on the board from Benzie.

Beth McCarthy indicated that they are looking at a 15 – 18 member board but we are open to what you feel is fair representation.

Vice Chair Walterhouse says EDC should be two of the people on it together with a Commissioner. Comm Sauer asks if you provide reports to the City and County of Manistee now.

Ms. McCarthy stated yes, they used to have an annual meeting and have increased it to twice per year; they also send a monthly update to them.

Comm Tucker inquired – is this a 3-year agreement; and with a 60-day out in the first year only?

Yes three year, no not only 60-day out in the first year.

Mitch Deisch says he will start finalizing the agreement.

Motion by Bates, seconded by Warsecke, to support the Alliance for Economic Success proposal in conjunction with the City of Frankfort, not to exceed \$20,000, funds to come from Fund Balance with a 60-day cancellation notice; the agreement to be brought back before the full board for approval.

## **COMMISSIONERS**

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February 23, 2016

Roll call. Ayes: Bates, Sauer, Tucker, Walterhouse and Warsecke Nays: Carland Exc: Griner  
Motion carried.

10:41 a.m. Marlene Wood, Recycling Coordinator, presented the 2015 Annual Report.  
Motion by Bates, seconded by Carland, to accept the 2015 Annual Report from the Recycling  
Coordinator, as presented. Ayes: Bates, Carland, Sauer, Tucker, Walterhouse and Warsecke Nays:  
None Exc: Griner Motion carried.

10:50 a.m. Comm Bates discusses a possible OMA violation with regard to the closed session which  
was held on December 22, 2015 and the contents of that closed session has been compromised on  
February 18, 2016; information has been made public; what are we going to do about it. If we sit  
back as a board and do nothing, someone else will take care of the violation that we have done  
nothing about. Do the board intend to do anything about the potential violation?

Comm Walterhouse stated that Mitch brought it to his attention last week that one person gave a  
statement to the paper; it is on record.

Mitch suggested to ask legal counsel if information is provided to the paper, the information was  
discussed at the closed session; he would like to contact Mr. Figura regarding this issue to see if it is a  
violation.

Motion by Sauer, seconded by Bates, to authorize the County Administrator to contact Mr. Figura to  
investigate a potential OMA violation of the December 22, 2015 closed session meeting with the  
potential violation which happened on February 18, 2016. Roll call. Ayes: Bates, Carland, Sauer,  
Tucker, Walterhouse and Warsecke Nays: None Exc: Griner Motion carried.

### **HR AND PERSONNEL** – None

### **COMMITTEE APPOINTMENTS**

Comm Tucker inquired regarding applicants that are reapplying, do they still need to go through the  
interview process if there are not more applicants than there are positions available – yes they will,  
that is the way the policy reads.

### **ACTION ITEMS**

Recycling Surcharge Appeal: Motion by Tucker, seconded by Carland, to deny the Recycling  
Surcharge Appeal of Richard A. Barclay, as presented. Roll call. Ayes: Bates, Carland, Sauer,  
Tucker, Walterhouse and Warsecke Nays: None Exc: Griner Motion carried.

### **Buildings & Grounds Consent Calendar**:

Motion by Bates, seconded by Warsecke, to approve the February 10, 2016 Buildings and Grounds  
Consent Calendar item 1 as presented. Roll call. Ayes: Bates, Carland, Sauer, Tucker, Walterhouse  
and Warsecke Nays: None Exc: Griner Motion carried.

### **CORRESPONDENCE**

- Parks & Recreation minutes of January 25, 2016 received.
- Road Commission minutes of January 28, 2016 received.

## COMMISSIONERS

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February 23, 2016

- Letter received from the State of Michigan Dept of Health and Human Services regarding approval of the 2015-16 Child Care Fund.
- MMRMA letter received regarding training videos.
- Benzie Transportation Authority Audit report for 2015 received.
- Alger County resolution 2016-04 regarding the EPA and Waters of the US received.
- Alger County resolution 2016-05 regarding the Center for Public Integrity and Global Integrity received.
- Alger County resolution 2016-06 regarding opposition to HB 5016 regulating the use of public right of ways along road.

Comm Tucker stated that she would like a full presentation from AES regarding the proposal.

Motion by Tucker, seconded by Sauer, to schedule a Special Board of Commissioners' meeting for Wednesday, March 16, 2016 at 6:00 p.m. for an AES presentation and discussion with time allotted for Public Input. Ayes: Bates, Carland, Sauer, Tucker, Walterhouse and Warsecke Nays: None Exc: Griner Motion carried.

### NEW BUSINESS – None

11:22 a.m. Public Input

Marlene Wood informed the board of a typo in her annual report.

Michelle Thompson stated that the Land Bank Authority is working on a list of projects.

Craig Johnson inquired regarding the drawing up of the ballot wording.

Lori Hill, Planning Commission member, commented regarding AES and stated it is an excellent idea to go to the public and that any agreement that the commissioners come up with AES projects, be sure they fall within the County Master Plan.

Motion by Bates, seconded by Warsecke, to authorize the County Clerk to contact Cohl, Stoker and Toskey regarding drawing up of the EMS millage proposal. Roll call. Ayes: Bates, Carland, Sauer, Stucker, Walterhouse and Warsecke Nays: None Exc: Griner Motion carried.

Deb Lindgren, Joyfield Township, says thank you for scheduling the special meeting with AES; she asks what AES does for Joyfield Township; we are very uninformed in Joyfield Township; our County Administrator was City of Manistee manager and sat on the AES board for 13 or 14 years; be careful.

Colin Merry, Record Patriot, spoke regarding the investigation of the OMA violation; he stated that no one talked to him; the information was paraphrased by him from a different source.

11:33 a.m. Public Input Closed

Motion by Bates, seconded by Warsecke, to adjourn until the March 8, 2016 Regular meeting or the call of the chair. Ayes: Bates, Carland, Griner, Sauer, Tucker, Walterhouse and Warsecke Nays: None Nays: None Motion carried

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1. Approved the agenda as amended, adding potential OMA violation at 10:15.
2. Approved the regular session minutes of February 9, 2016 as presented.
3. Approved payment of the bills from February 10, 2016 to February 23, 2016 in the amount of \$392,419.19, as presented.
4. Approved the February 9, 2016 Finance Committee Consent Calendar items 1, 4, 5 and 6, as presented.
5. Item #2 from the Consent Calendar will be put on hold and brought back at a later date; get all of the questions asked.
6. #3: To support the Alliance for Economic Success proposal in conjunction with the City of Frankfort, not to exceed \$20,000, funds to come from Fund Balance with a 60-day cancellation notice; the agreement to be brought back before the full board for approval.
7. Accepted the 2015 Annual Report from the Recycling Coordinator, as presented.
8. Authorized the County Administrator to contact Mr. Figura to investigate a potential OMA violation of the December 22, 2015 closed session meeting with the potential violation which happened on February 18, 2016.
9. Denied the Recycling Surcharge Appeal of Richard A. Barclay, as presented.
10. Approved the February 10, 2016 Buildings and Grounds Consent Calendar item 1 as presented.
11. Scheduled a Special Board of Commissioners' meeting for Wednesday, March 16, 2016 at 6:00 p.m. for a presentation and discussions with time allotted for Public Input.
12. Authorized the County Clerk to contact Cohl Stoker and Toskey regarding drawing up of the EMS millage proposal.

Motion by Sauer, seconded by Tucker, to approve the Finance Consent Calendar items as follows:

1. To amend the snowmobile budget for 2015-16 as follows:

Revenues:

217-332-539.00	State/DNR Grant	\$5,000.00
217-332-585.00	Local Match (Twps)	<u>\$1,550.00</u>
		\$6,550.00

Expenditures:

217-332-706.00	Wages – Deputy Sheriff	\$5,300.00
217-332-748.00	Gas-Oil-Grease	\$ 600.00
217-332-749.00	Vehicle Repair	\$ 400.00
217-332-970.00	Equipment	<u>\$ 250.00</u>
		\$6,550.00

2. Removed from Consent Calendar.
3. Removed from Consent Calendar.
4. To set the mileage rate at the State mileage rate for everyone and continue to set the rate at the established rate set by the IRS policy as it changes.
5. To authorize a ballot proposal for the August 2016 Primary for EMS of .8000 for six years.
6. To accept the Classic Interiors bid of \$6,200 for flooring at the EMS station on 669 as presented.

## **BUILDINGS & GROUNDS**

**February 10, 2016**

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Motion by Bates seconded by Warsecke, to approve the Buildings and Grounds Consent Calendar as follows:

1. To move forward and purchase the carpet for the DHS office and store it until Spring for installation at that time.

# Elected Officials and Department Head Comments

Animal Control Report				
2/1/2016 - 2/29/2016				
	Dogs	Cats	Cal YTD	Cal YTD
			Dogs	Cats
Admitted	11	13	24	20
Released	4	0	11	0
Euthanized	0	1	1	3
Adopted	7	8	19	11
Rescue/Foster	0	1	2	2
Animal in shelter	4	11		
Other animals admitted	0			
Calls for Service			6	
Total Number of After Hours Calls			3	
Total Number of Miles Driven			573	
Total Gallons of Gas			55 gals	
Current Truck Mileage			31,773	
Phone Calls			173	
Visitors			166	
Cleaning Time			139 hrs	

Report Written by: Jaime Croel  
Please call (231) 882-9505 or stop by if you have any questions

**RECEIVED**

MAR 03 2016

DAWN OLNEY  
BENZIE COUNTY CLERK  
BEULAH, MI 49617

# Commissioner Report

# County Administrator's Report

## Dawn Olney

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**From:** Mitch Deisch  
**Sent:** Thursday, March 03, 2016 10:04 AM  
**To:** batesbenziedist2@gmail.com; Lisa Tucker; garysauer53@yahoo.com; Coury Carland; Evan Warsecke; frankwalterhouse@yahoo.com  
**Cc:** Dawn Olney; Ted Schendel; Dick Figura  
**Subject:** FW: OMA opinion  
**Attachments:** Figura OMA opinion 2-25-16.pdf

Commission,

Attached is the attorney opinion from County Legal Counsel Dick Figura regarding the potential OMA violation regarding the 12/22/16 Closed Session. This research was requested by the County Commission at their 2/23/16 meeting.

Attached is also the e-mail chain with Dick Figura regarding releasing this opinion in the 3/8/16 Commission packet. Both Dick and I felt it would be appropriate for the opinion to be included in the packet so that it was available for the general public to review.

Please contact me with any questions.

Mitch Deisch, Benzie County Administrator

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**From:** Dick Figura [mailto:rfigura@figuralaw.com]  
**Sent:** Monday, February 29, 2016 11:53 AM  
**To:** Mitch Deisch <MDeisch@benzieco.net>  
**Cc:** Dawn Olney <DOlney@benzieco.net>; Traci <traci@figuralaw.com>  
**Subject:** Re: OMA opinion

Mitch,

Sorry for not getting back to you earlier today. Based on your description of the BOC's wishes, I do not see any reason why my opinion can't go to the BOC members by email as part of the information portion of their meeting packet.

Dick

**RICHARD J. FIGURA, PC**  
*Richard J. Figura, Esq.*  
Attorney, Mediator and Arbitrator  
11470 S. Leelanau Hwy, Ste. 105  
PO Box 447  
Empire, MI 49630  
231-326-2072  
[rfigura@figuralaw.com](mailto:rfigura@figuralaw.com)

*Working for a better community through law*

*Of counsel to Simen, Figura & Parker, PLC, Flint, MI*

**RECEIVED**

**MAR 03 2016**

**DAWN OLNEY  
BENZIE COUNTY CLERK  
BEULAH, MI 49617**

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**From:** Mitch Deisch <MDeisch@benzieco.net>  
**Date:** Monday, February 29, 2016 at 7:13 AM

**To:** Dick Figura <[rfigura@figuralaw.com](mailto:rfigura@figuralaw.com)>

**Cc:** Dawn Olney <[dolney@benzieco.net](mailto:dolney@benzieco.net)>

**Subject:** OMA opinion

Dick,

Is there any issue releasing your opinion to the Commission via e-mail? I would simply be releasing it as information. I also believe it was discussed in open meeting, that it should be included in next week's commission packet as information only.

What are your thoughts?

Mitch Deisch, County Administrator

LAW OFFICES  
OF  
**RICHARD J. FIGURA, P.C.**

RICHARD J. FIGURA  
Attorney, Mediator &  
Arbitrator

EMPIRE COMMERCE CENTER  
11470 S. LEELANAU HWY., STE. 105  
PO BOX 447  
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Of Counsel to:  
SIMEN, FIGURA & PARKER, P.L.C.  
FLINT, MICHIGAN

TELEPHONE: (231) 326-2072 FACSIMILE: (231) 326-2074  
Email: rfigura@figuralaw.com

February 26, 2016

Mr. Roger Griner and  
Members of the Benzie County Board of Commissioners  
Government Center  
448 Court Place  
Beulah, MI 49617

RE: Alleged Violation of the Open Meetings Act

Dear Chairperson Griner and Board members:

You have asked for my opinion as to whether or not Sheriff Schendel has violated the Michigan Open Meetings Act (OMA) as a result of statements he made publicly about discussions that occurred during a closed meeting of the Board of County Commissioners (BOC) on December 22, 2015. This letter is in response to that request.

By way of background, at its December 22, 2015 meeting the BOC unanimously voted (with Commissioner Tucker abstaining) to conduct a closed session for the stated purpose of "discussions regarding attorney opinion with Bonnie Toskey by telephone, to include County Clerk Dawn Olney, Sheriff Ted Schendel and County Administrator Mitch Deisch."<sup>1</sup> The motion to go into the closed session for the stated purpose was made sometime after 5:15 p.m. (The minutes do not state the exact time the motion was made or when the closed session began.) The minutes then indicate that the BOC went back into the open meeting at 6:17 p.m.

Subsequent thereto, a citizen, Eric VanDussen, filed a request under the Freedom of Information Act (FOIA) for copies of any public records discussed in the closed session. That request was denied. Mr. VanDussen then filed an appeal of that denial to the BOC. The BOC upheld that denial and Mr. VanDussen subsequently filed a lawsuit in the Benzie County Circuit Court seeking disclosure of the requested information under the FOIA.

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<sup>1</sup> See minutes of December 22, 2015 BOC meeting.

**RECEIVED**

FEB 26 2016

DAWN OLNEY  
BENZIE COUNTY CLERK  
BEULAH, MI 49617

Mr. Roger Griner, Chairman and  
Members of the Benzie County Board of Commissioners\  
February 26, 2016

An article in the February 18 edition of the Traverse City Record Eagle reported that a federal lawsuit had been filed against the Sheriff by former Under- Sheriff David Tucker. That article also reported that Sheriff Schendel acknowledged that the December 22 closed session related to a potential civil lawsuit threatened by Mr. Tucker. Sheriff Schendel is quoted as saying, "That's what this is all about." As a result, certain members of the BOC feel that Sheriff Schendel may have violated the OMA by disclosing what transpired in a closed session. You have referred that issue to me and have asked for my opinion as to whether or not the OMA has been violated and, if so, what the BOC's remedy is.

Section 8 of the OMA [MCL 15.268] sets forth the permissible purposes for which a public body such as the BOC may meet in a closed session. One of those purposes is found at subsection (h) which authorizes a closed session "To consider material exempt from discussion or disclosure by state or federal statute." Pursuant to subsection (g) of section 13 of the FOIA [MCL 15.243(g)], "Information or records subject to the attorney-client privilege" is exempt from disclosure under FOIA. Therefore, pursuant to subsection (h) of section 8 of the OMA [MCL 15.268(h)], the BOC was authorized to meet in a closed session to discuss a written opinion from legal counsel submitted pursuant to the attorney-client privilege. *Booth Newspapers, Inc., v. Wyoming City Council*, 168 Mich. App. 459; 425 N.W.2d 695; 1988 Mich. App. LEXIS 239.

Accordingly, the closed session held at the December 22, 2015 BOC meeting was properly authorized for the stated purpose of discussing with counsel a legal opinion written by said counsel.<sup>2</sup> Once a public body goes into a closed session for the purpose of discussing an opinion subject to the attorney-client privilege, the scope of that discussion in the closed session is not defined by the amount of detail contained in the written legal opinion but, instead, by the legal matter raised and addressed in the writing. *Booth Newspapers*, p.469.

It would appear from Sheriff Schendel's statement in the Record Eagle that he spoke of the matters discussed in the closed session and that, by doing so, he disclosed information which would be in the minutes of that closed session. Pursuant to subsection 2 of section 7 of the OMA [MCL 15.267(2)], the minutes of a closed session "are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13." The OMA goes on to provide that those minutes "may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved."

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<sup>2</sup> It should be pointed out that, while Sheriff Schendel is quoted as saying that the closed session was about a threatened lawsuit, the OMA does not permit a closed session for the purpose of discussing threatened litigation. It only permits a closed session to discuss trial or settlement strategy in connection with "specific pending litigation." The closed session was not called for the purpose of discussing threatened litigation, however. It was called for the purposes of discussing with its attorney a written legal opinion. While that written legal opinion may have concerned a threatened lawsuit, that fact did not, in my opinion, prevent the BOC from meeting in a closed session to discuss that written opinion from legal counsel.

I spoke with Sheriff Schendel who indicated that when he made the statement he assumed the matter was then public knowledge and he had no idea that his statement might be construed as a violation of the OMA. Regardless, assuming that Sheriff Schendel, by his comments, disclosed information that was discussed in the closed session and contained in the minutes of that closed session, the question is whether or not those comments constitute a violation of the OMA and, if so, what is the penalty for that violation?

The OMA has two sections which address OMA violations. Section 12 of the OMA [MCL 15.272] provides for a criminal penalty and section 13 [MCL 15.273] provides for civil liability.

Section 12 [MCL 15.272] provides as follows:

Sec. 12. (1) A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$ 1,000.00.

(2) A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$ 2,000.00, or imprisoned for not more than 1 year, or both.

Section 13 [MCL 15.273] provides as follows:

Sec. 13. (1) A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$ 500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

(2) Not more than 1 action under this section shall be brought against a public official for a single meeting. An action under this section shall be commenced within 180 days after the date of the violation which gives rise to the cause of action.

(3) An action for damages under this section may be joined with an action for injunctive or exemplary relief under section 11.

With respect to the criminal liability imposed by MCL 15.272, that is a matter outside of my jurisdiction as that is something wholly within the jurisdiction of the county prosecutor. I would, however, point out that guilt under MCL 15.272 is based on someone **intentionally** violating the act, and a specific intent can be difficult to prove.

With respect to civil liability under MCL 15.273, there is the same requirement of showing that the violation was intentional. Intent can be just as difficult to prove in a civil case as in the criminal liability context.

What is most significant, however, is that there may not be a punishable violation of the OMA at all. While the OMA gives the BOC the right to meet in a closed session for certain purposes set forth in the statute, I am unaware of any provision of the OMA which specifically prohibits anyone who participates in such a closed session from publicly disclosing what was said in that closed session. The BOC could at any time, for example, publicly release information

Mr. Roger Griner, Chairman and  
Members of the Benzie County Board of Commissioners\  
February 26, 2016

discussed in a closed session if it chooses to do so by a majority vote of its members. Absent such a vote to make public that information, the confidentiality of which is protected by the OMA, all members of the public body and other persons who participate in such a closed session have, at a minimum, a moral and ethical, as well as a fiduciary, duty to honor that confidentiality and to refrain from disclosing what was said in the closed session.

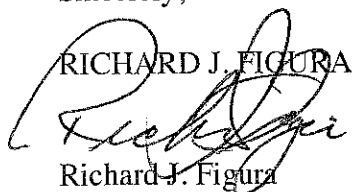
While the OMA itself does not provide a penalty for such conduct, if the person who violates that duty is an employee of the public body, he or she could be disciplined for their action. If, however, the person who violates that duty is an elected official, there is no penalty which can be imposed on said individual. Instead, he or she is answerable to the voters. It is the power of the ballot box either in a regular or a recall election which decides if the elected official's actions deserve the ultimate penalty of removal from office.

Therefore, except for the disciplinary action it could impose against an employee, there is no action the BOC can take against an elected official who discloses information discussed in a closed session. All the BOC can do, at most, is adopt a resolution of public censure or rebuke, an action which carries no penalty and is mostly taken for the sake of public appearance only.

I trust this answers the question presented. Please advise if I can be of any further assistance.

Sincerely,

RICHARD J. FIGURA, PC

  
Richard J. Figura

cc: Ted Schendel, Benzie County Sheriff  
Dawn Olney, Benzie County Clerk  
Mitch Deisch, County Administrator

## TEHNOLOGY COMMITTEE

February 23, 2016

2:00 p.m.

Members present: Coury Carland, Lisa Tucker and Frank Walterhouse (appearing from Evan Warsecke)

Others Present: Dawn Olney, Mitch Deisch, Maridee Cutler, Troy Lamerson, Tom Longanbach

Meeting called to order by Commissioner Coury Carland 2:00 p.m.

Pledge of allegiance was given.

Motion by Walterhouse, seconded by Carland, to approve the agenda as presented. Ayes: All  
Nays: None Motion carried.

Public Input – None

Telephone Bid: Maridee stated that no one was available to help review bids; no one is educated enough to help us; We have Wyant draw up the bid and put a bid in as well; Centra wellness says to throw out the bid from Wayne – that is a conflict of interest since they are our technology person – they should be the one reviewing them and help decide which bid we should accept. Eric Seely, Imperic Solutions, does telephone work for counties and the 911 system, he could help us – he is a consultant.

We have the bids, but don't know what to do with them.

Mitch stated that we hoped that Centra Wellness would be able to help, but they couldn't. In fact they hired a consultant to do it. They used SBS through the State bid. We need the technical expertise to assist in reviewing the contract in order to make a recommendation to the BOC for long-term. We didn't budget for funds for someone to assist us in evaluating the phones. We could ask Wyant to pull your bid and help us evaluate the bids for Benzie County. Mitch feels we have a conflict of interest with Wyant – has felt that since coming to Benzie County.

Maridee doesn't know what you want her to do now --

Comm Tucker asks that we check with Manistee about their new system.

Comm Walterhouse also suggests you talk with SBS.

Maridee also to contact Imperic Solutions.

New Server: Wyant has informed us that our servers are on the critical list and the funds have not been incorporated in the budget; Mitch feels this is more critical than the phone system.

Quote: new service = \$25,000; Next year a SAN at \$30,000 plus another \$25,000 for another server.

Maridee is looking a different areas in the budget where we can get funds from to make it happen. Then still be able to do the phone system too – we have \$20,000 set aside for that. We need to hone down on the quotes for the servers and come back with a package to the full board.

Tom Longanbach said they talked about sending a memo to the department heads to see if there are funds that they have spoken for or not, could those funds be used for these expenses.

Mitch will ask Wyant to come to the Board of Commissioners meeting on March 8 with a presentation; then to the finance committee with a recommendation to the full board.

Broadband Discussion: Comm Carland stated that April 5 there will be a meeting at the Garden Theater to discuss broadband options for BC; there is a new Planner at the Council of Governments to work on broadband too. He and Mitch will be meeting with Elmer's about digging a trench when doing the M-115 work to allow us to have the broadband cables ran.

Other: None

Public Input – None

Motion by Tucker, seconded by Walterhouse, to adjourn at 2:42 p.m. Ayes: All Nays: None  
Motion carried.

Dawn Olney  
Benzie County Clerk

DRAFT

# FINANCE REPORT

# Human Resources (HR) Report

**HR Committee  
Meeting Notes  
February 23, 2016**

The meeting was called to order by Commissioner Gary Sauer at 1:00 pm

Present: Coury Carland, Gary Sauer and Frank Walterhouse  
Absent: Evan Warsecke  
Others Present: Mitch Deisch, Maridee Cutler, Dawn Olney, Marlene Wood, Craig Johnson, Amy Bissell, Michelle Thompson

The pledge of allegiance was given.

Agenda: Motion by Walterhouse, seconded by Carland, to approve the agenda as presented. Ayes: All Nays: None Motion carried.

Minutes: Motion by Carland, seconded by Walterhouse, to approve the January 26, 2016 minutes as presented. Ayes: All Nays: None Motion carried.

Public Input - None

Marlene Wood Retirement Position Posting: Mitch stated that he feels that they followed the procedures and protocol right to the T and he will follow up with the commissioner that inquired; 3 resumes have been received; no deadline put on the ad; April 29 is Marlene's last day; Mitch says that having an overlap would be best, but not sure that can happen. He suggested the **interview committee be: Chairman of SWAC, Maridee, Mitch, Evan and Roger.** Coury stated that he will recuse himself from the whole process – his sister-in-law is one of the applicants. Marlene has stated that a couple of people have ridden with her to see what the job entails; she has let them know that there could be a Saturday where the sites need attention too.

Al Blattner Carry-Over of Vacation Time: **Motion by Walterhouse, seconded by Carland, to recommend to the Board of Commissioners to authorize Al Blattner to carry over 40 hours of vacation time for 90 days. Ayes: All Nays: None Motion carried.**

Staff Policy Manual:

- a. Mileage Rate: **Motion by Sauer, seconded by Walterhouse, to recommend to the Board of Commissioners to change to: Benzie County will reimburse employees for actual mileage at a rate that complies with the State of Michigan mandated rates. See: <http://www.michigan.gov/wca/> Ayes: All Nays: None Motion carried.**
- b. Vehicle Use Policy: Leave as is.
- c. Sick Leave: **Motion by Walterhouse, seconded by Carland, to recommend to the Board of Commissioners to change 11.2 (1) as follows: Eligible regular full time employees currently are eligible to accrue sick leave at the rate of two-thirds (2/3) of one (1) day for each full month of employment for a maximum of 64 hours earned a year. Employees with more than one hundred twenty-eight (128) hours of sick time to their credit may not accumulate more sick time. Eligible regular full time employees may elect annually to cash in at their then effective rate of up to eighty (80) hours of sick leave providing that a minimum balance of sixty-four (64) accumulated sick hours are maintained. The election shall be made each December 1<sup>st</sup> and shall be paid that month. Ayes: All Nays: None Motion carried.**

- d. **Personal Leave:** Motion by Sauer, seconded by Walterhouse, to recommend to the Board of Commissioners to change 11.4 as follows: Non-exempt regular full time employees currently are eligible for two (2) days personal leave each year. Personal days shall be scheduled as far in advance as possible and approved by the department head. Employees are eligible on January 1 of each. Non-exempt regular full time employees will be paid for personal time not used in the calendar year in January of the following year. Ayes: All Nays: None Motion carried.
- e. **Funeral Leave:** Motion by Walterhouse, seconded by Sauer, to recommend to the Board of Commissioners to change 11.6(4) as follows: If the funeral is held five hundred miles or more away from Beulah, Michigan one (1) additional day will be granted. Ayes: All Nays: None Motion carried.
- f. **Disability Leave: 12.4(5):** Motion by Sauer, seconded by Carland, to recommend to the Board of Commissioners to change to: Continuation of Benefits: The employee will continue to receive all benefits while on short-term disability (90 days) the same as if the employee were still working, including, but not limited to, sick time, vacation time and retirement contributions. Ayes: All Nays: None Motion carried.
- g. **Building Closure:** Motion by Walterhouse, seconded by Sauer, to recommend to the Board of Commissioners to change: By action of the Board of Commissioners, wages shall be paid for assigned hours missed due to building closure. Ayes: All Nays: None Motion carried.

We will need to be sure to look at post-retirement benefits.

Craig stated regarding the Vehicle Use Policy, his department have two policies: one of non-emergent and one is emergent.

Contract Negotiations: Mitch stated that the HRC will be very important board; he has been working with Shelley and Tom and will start with a May time frame; what do we really know about where we will be financially before we work on contracts. Contracts seems to revolve around three things and all being financial: 1) wages; 2) health insurance; and 3) retirement. HRC is a very important tool for negotiating contracts. Comm Sauer asks that he has the current contracts in front of him to review. Mitch will provide them electronically to him.

Other: None

Public Input: None

Motion by Carland, seconded by Sauer, to adjourn at 1:41 p.m. Ayes: Carland, Sauer and Warsecke Nays: None Motion carried.

Dawn Olney  
Benzie County Clerk

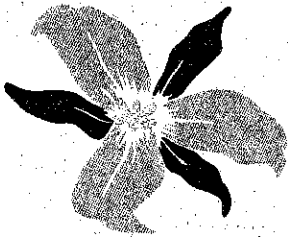
Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to adopt the HR Consent Calendar are follows:

1. To authorize Al Blattner to carry over 40 hours of vacation time for 90 days.
2. To change to: Benzie County will reimburse employees for actual mileage at a rate that complies with the State of Michigan mandated rates. See: <http://www.michigan.gov/wca/>
3. To change 11.2 (1) as follows: Eligible regular full time employees currently are eligible to accrue sick leave at the rate of two-thirds (2/3) of one (1) day for each full month of employment for a maximum of 64 hours earned a year. Employees with more than one hundred twenty-eight (128) hours of sick time to their credit may not accumulate more sick time. Eligible regular full time employees may elect annually to cash in at their then effective rate of up to eighty (80) hours of sick leave providing that a minimum balance of sixty-four (64) accumulated sick hours are maintained. The election shall be made each December 1st and shall be paid that month.
4. To change 11.4 as follows: Non-exempt regular full time employees currently are eligible for two (2) days personal leave each year. Personal days shall be scheduled as far in advance as possible and approved by the department head. Employees are eligible on January 1 of each. Non-exempt regular full time employees will be paid for personal time not used in the calendar year in January of the following year.
5. To change 11.6(4) as follows: If the funeral is held five hundred miles or more away from Beulah, Michigan one (1) additional day will be granted.
6. To change to: Continuation of Benefits: The employee will continue to receive all benefits while on short-term disability (90) days the same as if the employee were still working, including, but not limited to, sick time, vacation time and retirement contributions.
7. To change: By action of the Board of Commissioners, wages shall be paid for assigned hours missed due to building closure.

# Committee Appointments

# ACTION ITEMS

# CORRESPONDENCE



①

**ANTRIM COUNTY  
BOARD OF COMMISSIONERS**  
P.O. Box 520  
Bellaire, Michigan 49615  
Phone (231) 533-6353  
Fax (231) 533-6935  
Chairman: **Michael Crawford**

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February 17, 2016

At the February 11, 2016 meeting of the Antrim County Board of Commissioners, the following Resolution was offered:

**RESOLUTION #09-2016** By Ed Boettcher, seconded Laura Stanek

**WE, the LEGISLATIVE COMMITTEE**, respectfully beg leave to submit the following resolution for your consideration:

**WHEREAS**, in 2015, the Center of Public Integrity and Global Integrity conducted a national study of state ethics and transparency laws and safeguards, in which the State of Michigan was ranked last; and

**WHEREAS**, some of the reasons cited for the State's poor ranking was weak public records laws and the absence of laws requiring personal financial disclosures by lawmakers and top state officials; and

**WHEREAS**, another glaring issue cited was the exemption of the governor and the legislature from state open records laws; and

**WHEREAS**, the State has required transparency from local municipalities through EVIP and CIP, yet the State has chosen to not take the opportunity to lead by example; and

**WHEREAS**, this Board feels it is time that State lawmakers and top officials stop exempting themselves from the laws that they expect others to follow; now

**THEREFORE, BE IT RESOLVED** that the Antrim County Board of Commissioners urges State lawmakers and top officials to stop the hypocrisy of exempting themselves from the laws that they enact for the governance of the State of Michigan, of which they are included; and

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FEB 22 2016

RECEIVED  
FEB 22 2016

**RESOLUTION #09-2016 continued.**

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to all Michigan counties, Senator Wayne Schmidt, Representative Triston Cole, Governor Rick Snyder, and the Michigan Association of Counties.

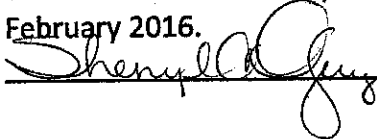
Yes – David Heeres, Bob Wilson, Karen Bargy, Ed Boettcher, Bryan Smith, Michael Crawford, Laura Stanek, Chuck Johnson, Christian Marcus;

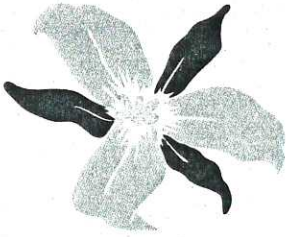
No – None;

Absent – None.

**RESOLUTION #09-2016 DECLARED ADOPTED.**

ANTRIM COUNTY CLERK, BELLAIRE MI  
STATE OF MICHIGAN, COUNTY OF ANTRIM,ss  
I, Sheryl A. Guy, Clerk of Antrim, do certify  
the above is a true and exact copy of the  
original record now remaining in this office.  
IN TESTIMONY WHEREOF, I have set my hand and  
official seal of the County of Antrim this 18<sup>th</sup> day of  
February 2016.

 County Clerk



2

**ANTRIM COUNTY  
BOARD OF COMMISSIONERS**  
P.O. Box 520  
Bellaire, Michigan 49615  
Phone (231) 533-6353  
Fax (231) 533-6935  
Chairman: **Michael Crawford**

February 18, 2016

At the February 11, 2016 meeting of the Antrim County Board of Commissioners, the following Resolution was offered:

**RESOLUTION #10-2016** By Ed Boettcher, seconded by David Heeres

**WHEREAS**, SB 703 would amend 1976 PA 388, entitled "Michigan campaign finance act" by amending section 57 (MCL 169.257), as amended by 2015 PA 269; and

**WHEREAS**, the proposed amendment would remove the unreasonable restriction that was included in 2015 PA 269, that being the inability to discuss ballot questions during the period of 60 days before the election in which the ballot question will appear; and

**WHEREAS**, SB 571 as it was presented to Governor Snyder, which included that a public body shall not discuss local ballot issues during the period 60 days prior to the election in which the issue appears on the ballot; and

**WHEREAS**, in signing the bill, Governor Snyder called for a "trailer" measure to clarify what is proper and improper communications; now

**THEREFORE, BE IT RESOLVED** that the Antrim County Board of Commissioners support SB 703 to remove this restriction on how County officials communicate with their constituents about local ballot questions; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to all Michigan Counties, Representative Triston Cole, Senator Wayne Schmidt, Governor Snyder, and the Michigan Association of Counties.

Yes – David Heeres, Bob Wilson, Karen Bargy, Ed Boettcher, Bryan Smith, Michael Crawford, Laura Stanek, Chuck Johnson, Christian Marcus;

No – None;

Absent – None.

**RESOLUTION #10-2016 DECLARED ADOPTED.**

**ANTRIM COUNTY CLERK, BELLAIRE MI STATE OF MICHIGAN, COUNTY OF ANTRIM, ss**

I, Sheryl A. Guy, Clerk of Antrim, do certify the above is a true and exact copy of the original record now remaining in this office. IN TESTIMONY WHEREOF, I have set my hand and official seal of the County of Antrim this 18<sup>th</sup> day of February 2016.

*Sheryl A. Guy*  
County Clerk

**RECEIVED**

FEB 22 2016

DAWN OLNEY  
BENZIE COUNTY CLERK  
BEULAH, MI 49617

3

**BENZIE COUNTY  
PARKS AND RECREATION COMMISSION**

**Cathy Demitroff - CHAIR  
Sean Duperron - VICE CHAIR  
Frank Walterhouse - SECRETARY  
Marjorie Pearsall-Groenwald  
Walter Roch Von Rochsburg**

**Barb Skurdall  
Christy Andersen  
Ann Bourne  
Tad Peacock  
Ted Mick**

**Regular Meeting  
January 25, 2016  
Benzie County Government Center**

Vice-Chair, Duperron welcomed new member, Marjorie Pearsall-Groenwald, to the commission. She acquainted herself with the members and they, in turn, introduced themselves to her.

Vice-Chair, Duperron called the meeting of Parks and Recreation Commission to order at 5:15 p.m.

Present: Sean Duperron, Frank Walterhouse, Walter Roch Von Rochsburg, Barbara Skurdall, Ann Bourne, Christy Andersen, Tad Peacock and Marjorie Pearsall-Groenwald

Absent: Ted Mick, Cathy Demitroff,

Others Present: Marlene Wood, Recording Secretary  
Roger Dewey, F.O.P.B.L. Secretary  
Barb Ikens, public citizen

Guests: None

Vice-Chair, Duperron announced the first order of business being election of officers. Motion by Bourne, seconded by Roch Von Rochsburg, to nominate the same slate of current officers for all positions: Chairman, Cathy Demitroff, Vice-Chairman, Sean Duperron, Secretary, Frank Walterhouse. Vice-Chair, Duperron called for nominations three times. Hearing none, he called for a vote of the above listed people and positions. A unanimous vote of All Ayes was given. Motion Carried.

Motion by Peacock, seconded by Andersen to approve the agenda with additions. All Aye. Motion Carried.

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**FEB 23 2016**

DAWN OLNEY  
BENZIE COUNTY CLERK  
BEULAH, MI 49617

- Motion by Bourne, seconded by Walterhouse to approve the minutes of December 14, 2015 Meeting. All Aye. Motion Carried.

Public Input: Roger Dewey, Secretary of Friends of Point Betsie Lighthouse, reported this has been a very successful season showing 756 hours of operation with over 8,000 paying visitors and additional children & school tours at no charge.

### **Committee Reports:**

Railroad Point: Bourne reported that the Wortleboer property has been purchased by the Grand Traverse Regional Land Conservancy and is now part of the Railroad Point property. The FEMA grant has been changed to show new ownership.

Point Betsie Light House: Bourne reported that Douglas Burden turned in all Point Betsie records.

Trail Report: Duperron reported on the meeting with local DNR representatives to explore corridor work on the trail from Thompsonville to Mesick. He stated the DNR will manage that corridor. He reported some of the Thompsonville to Bendon trail is a seasonal road authorized for snowmobile use. He discussed possible single track motorcycle only trail in Benzie.

Recreational facilities & Access: Bourne reported the Platte River property swap out involving the DNR is moving forward. Bourne reported making headway to bring forward a water trail plan. Discussion clarified the need of getting a cost proposal in order to move forward with money needs. Motion by Bourne, seconded by Walterhouse that the Benzie County Parks and Recreation Commission, working in cooperation with the Michigan Department of Natural Resources, requests Networks Northwest provide a cost proposal for development of a Betsie River Water Trail Plan as part of the Benzie County Recreation and Cultural Plan. All Aye. Motion Carried.

Zada Price Property: No Report

Recreational Programs: Skurdall reported the ice rink is in full swing for the winter season. Three elementary schools have possession of 2 dozen nerf balls at each school. She stated the Beulah streetscape and new pickle ball court ~~will be included~~ in the Village of Beulah Master Plan. *is hoping to include a*

Master Plan: Bourne reported slow progress moving forward with the Master Plan at the DNR level due to change of duties in that department but all is still on track.

Old Business: Vice-Chair, Duperron addressed the letter P & R was to send to Bill Olsen acknowledging his retirement from the B.V. Trail Management Council. It was decided to revise the letter thanking Mr. Olsen for his commitment and service.

New Business:

Platte River Mouth Maintenance: Parks and Recreation Commission members discussed this topic in length. Motion by Duperron, seconded by Skurdall to recommend to the full County Board of Commissioners and to the Benzie County Road Commission an appropriate course of action stated in Alternative #1: Recreational boat access via the Platte River by continuing or allowing dredging and placement of the spoils on the eastern riverbank. All Aye. Motion Carried. It is determined to restate by letter from the Benzie County Commissioners, Road Commission and Parks & Recreation Commission to the National Park Service to continue keeping the mouth of the Platte River open as committed in their original agreement to maintain road end river mouth access.

Meeting Schedule for 2016: Motion by Andersen, seconded by Pearsall-Groenwald to set the meeting schedule for 2016 to be the fourth Monday of every month, with the exceptions of no meeting in November and December's meeting will be on the second Monday. All Aye. Motion Carried. All meetings will be at 5:00 pm in the Board of Commissioners room of the government center.

Public Input: None

Correspondence: Confidential letter from Attorney, Richard Figura regarding the Cole Case vs Benzie County was distributed to P & R Commission members.

Request for review and comments on the Manistee County Recreation Plan received from Peg Minster, Chair of the Benzie County Planning Commission.

Other Business to come before the Board: Review of sub-committees will be addressed at next month's meeting.

Vice-Chair, Duperron declared the meeting adjourned at 6:25 p.m.

The next meeting is scheduled for Monday, February 22, 2016, at 5:00 p.m.

Minutes were respectfully submitted by Marlene Wood, Recording Secretary



Frank Walterhouse, Secretary

## BAY COUNTY BOARD OF COMMISSIONERS

FEBRUARY 16, 2016

RESOLUTION TO OPPOSE SECTION 298 OF THE EXECUTIVE BUDGET  
PROPOSAL FOR FISCAL YEAR 2017

- BY: BAY COUNTY BOARD OF COMMISSIONERS
- WHEREAS, Bay-Arenac Behavioral Health has served for more than 45 years as the public mental health and developmental disabilities services provider for this community, serving nearly 5,000 residents of Bay and Arenac Counties each year; and
- WHEREAS, Bay-Arenac Behavioral Health was created by the Bay and Arenac County Boards of Commissioners as duly authorized under 330.1205 of the Michigan Mental Health Code; and
- WHEREAS, Bay-Arenac Behavioral Health and 11 other community mental health service programs representing 21 counties created a regional entity to manage Medicaid specialty services as duly authorized under 330.1204b of the Michigan Mental Health Code; and
- WHEREAS, Bay-Arenac Behavioral Health includes persons and family members of persons receiving mental health and disability services on the Board of Directors as required under 330.1222 of the Michigan Mental Health Code; and
- WHEREAS, Bay-Arenac Behavioral Health and 11 other community mental health service programs representing 21 counties have required representation from local communities and persons and/or family members of persons receiving mental health and disability services be included on the regional entity Board of Directors managing Medicaid specialty services; and
- WHEREAS, Section 298 of the Executive Budget recommendation for 2017 effectively nullifies the duly authorized actions taken by Bay-Arenac Behavioral Health and the 11 other community mental health service programs to create a regional entity under section 330.204b of the Michigan Mental Health Code; and
- WHEREAS, Section 298 of the Executive Budget recommendation for 2017 transfers all Medicaid and Healthy Michigan funding for specialty services to private entities with no accountability to the Bay and Arenac County Boards of Commissioners; and
- WHEREAS, Section 298 of the Executive Budget recommendation for 2017 transfers all Medicaid and Healthy Michigan funding for specialty services to private entities with no accountability to persons and/or family members of persons receiving mental health and disability services from Bay-Arenac Behavioral Health; and
- WHEREAS, Section 298 of the Executive Budget recommendation for 2017 will result in the elimination of specialty mental health services that are accountable to the communities of persons residing in Bay and Arenac Counties; Therefore, Be It
- RESOLVED, That the Bay County Board of Commissioners opposes Section 298 of the Executive Budget recommendation for 2017 and encourages the Governor, State Senate, and State House of Representatives to prevent it from becoming law.

ERNIE KRYGIER, CHAIR

AND BOARD

BABHA - Opposition to Section 298 of Executive Budget Proposal for FY 2017

MOVED BY COMM. LUTZSUPPORTED BY COMM. TILLEY

COMMISSIONER	Y	N	E	COMMISSIONER	Y	N	E	COMMISSIONER	Y	N	E
MICHAEL J. DURANCZYK	X			KIM J. COONAN	X			MICHAEL E. LUTZ	X		
ERNIE KRYGIER	X			THOMAS M. HEREK	X						
VAUGHN J. BEGICK	X			DOHALD J. TILLEY	X						

VOTE TOTALS:

ROLL CALL: YEAS 7 NAYS 0 EXCUSED 0

VOICE: YEAS \_\_\_\_\_ NAYS \_\_\_\_\_ EXCUSED \_\_\_\_\_

DISPOSITION: ADOPTED X DEFEATED \_\_\_\_\_ WITHDRAWN \_\_\_\_\_

AMENDED \_\_\_\_\_ CORRECTED \_\_\_\_\_ REFERRED \_\_\_\_\_

RECEIVED

FEB 24 2016

DAWN OLNEY  
BENZIE COUNTY CLERK  
BEULAH, MI 49617

The regular meeting of the Board of County Road Commissioners of Benzie County was called to order by Chairman Rosa at their offices in Honor, Michigan on Thursday, February 11, 2016 at 9:30 AM.

Present: Chairman Rosa  
Vice Chairman Nuske  
Comm Mick  
Manager Skeels  
Superintendent Schaub  
Clerk Jordan

Motion by Comm Nuske and supported by Comm Mick to accept the agenda as amended, adding a check to Skiver Const for \$5,053.19 and hiring full time crew members. Ayes: Rosa, Nuske and Mick. Motion carried.

Motion by Comm Nuske and supported by Comm Rosa to accept the minutes of 1/26/16 as amended. Ayes: Rosa, Nuske and Mick. Motion carried.

Motion by Comm Mick and supported by Comm Nuske to pay bills # 42697 to # 42737 for the amount of \$ 218,268.28 and Payroll #3-16 for \$ 53,485.91. Ayes: Rosa, Nuske and Mick. Motion carried.

Motion by Comm Nuske and supported by Comm Mick to pay the EFT for Brenner Oil for \$ 14,175.83. Ayes: Rosa, Nuske and Mick. Motion carried.

Motion by Comm Nuske and supported by Comm Mick to pay the EFT for MERS for \$ 32,922.52. Ayes: Rosa, Nuske and Mick. Motion carried.

**Superintendent's report:** Collaborate with Benzonia and Crystal Lk Townships on local road projects funded by their townships.

**Public Input:** Ron Evitts - Would like a copy of the agreement signed with the Vlg of Thompsonville; John Schor - Logging practices in other counties.

**Standing Guest:** Gary Sauer - County Commissioner Liaison-Brought the Commissioners up to date on the county business.

**New Business:**

**Memorandum of Agreement** - Motion by Comm Nuske and supported by Comm Mick to approve the resolution of agreement with the Grand Traverse Band of Ottawa & Chippewa Indians for Haze Rd/Red Creek crossing improvement. Ayes: Rosa, Nuske and Mick. Motion carried.

**Recommendation for Engineer of Record** - We received 8 RFQs but have not had adequate time for review.

**Road Projects for 2016** - Ingleston Drive was damaged by our snowplow. We will need to patch it this year. Brad has talked to Benzonia Twp and asked if they will participate in the overlay of the entire road. If they agree, we'll split the cost with them and do the entire 1,200 ft instead of just a 50' patch.

RECEIVED

FEB 25 2016

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DAWN OLNEY  
BENZIE COUNTY CLERK  
BEULAH, MI 49617

**Page 2. Benzie CRC mtg 02/11/16**

The board previously approved county-funded primary road improvements. They were presented a list of projects with county-funded primary road improvements estimated to be about \$370,620.00 for 2016. Motion by Comm Mick and supported by Comm Nuske to put the county-funded primary road improvements out for bids. Ayes: Rosa, Nuske and Mick. Motion carried.

**Crystal Lake Township** - They have submitted a list of road improvements for 2016 to be paid for from the township's road millage. Their millage will bring in about \$158,000 this year. The estimates have been completed and the estimated cost is about \$188,000 depending on bid prices. The township would like the Road Commission to pay for the difference between their millage and the actual costs. Because these are local roads, the Road Commission Local Road Policy does not allow Road Commission participation.

In keeping within the guidelines of the Local Road Policy a motion was made by Comm Rosa and supported by Comm Nuske that the BCRC agrees to provide additional funds for 2016 Crystal Lake Township millage projects with the understanding that the BCRC's funds be reimbursed by Crystal Lake Township in the next fiscal year. BCRC will waive the normal 10% administrative charge, perform necessary preparatory work, and restore shoulders after the 2016 project paving is completed at no cost to Crystal Lake Township. Ayes: Rosa, Nuske and Mick. Motion carried.

**New Employees** - We can hire 2 full-time employees for the crew.

**Correspondence/Information/Discussion:**

**Local Road Committee** meeting update-the Local Road Committee met on 2/2. The Committee approved the millage local road list presented. Also, they voted to establish a contingency fund of 10% of the local road half of the millage not to exceed \$50,000 for emergency use.

**Inland Township projects** - Inland Township would like to clear and improve Fewins Rd between Lake Ann Rd and Reynolds Rd and Miller Rd from Cinder Rd to Aylsworth. We are getting the roads surveyed.

**Building Improvements** - Skiver Construction just finished up putting a steel ceiling in the Tire Room. Some electrical, plumbing and restorative corrections were necessary.

**Fuel System**- We would like to get the fuel tanks replaced in the fall.

**Forest Funds** - An explanation was handed out regarding Category E- Forest Road funding - Which counties receive it, how much they receive and how much they receive.

**Cole vs Benzie County** - The judgment from the State Court of Appeals came in.

Public Input: - Ron Evitts and John Schor.

Meeting adjourned at 11:40 AM

Minutes approved 2/25/16

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Robert Rosa, Chairman

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Kathleen A, Jordan, Clerk