

THE BENZIE COUNTY BOARD OF COMMISSIONERS
December 5, 2017

The Benzie County Board of Commissioners met in a regular meeting on Tuesday, December 5, 2017, 448 Court Place, Government Center, Beulah, Michigan.

The meeting was called to order by Chairman Coury Carland at 9:00 a.m.

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

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

Agenda:

Motion by Roelofs, seconded by Griner, to approve the agenda as amended, removing AES and adding 2% VA Grant Application under Action items. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

Minutes:

Motion by Walterhouse, seconded by Warsecke, to approve the regular session minutes of November 14, 2017 as presented. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

Motion by Sauer, seconded by Warsecke, to approve the closed session minutes of November 14, 2017 as presented. Ayes: Carland, Griner, Roelofs, Sauer, Walterhouse and Warsecke Nays: Jeannot Motion carried.

Motion by Sauer, seconded by Jeannot, to rescind the motion to approve the closed session minutes. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

Closed session will be held later in the meeting for correction of the minutes of November 14, 2017.

9:07 a.m. Public Input

Thelma Rider Novak spoke regarding a potential OMA violation by the BA.

9:12 a.m. Public Input Closed

9:13 a.m. Motion by Carland, seconded by Roelofs, to recess the regular meeting of the Board of Commissioners to hold the Commission on Aging Annual Meeting. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

Doug Durand, Executive Director of the Benzie Senior Resources, provided a written report; over 50,000 meals served; highest number of bus passes to seniors; personal care increased 52% in 2017; snow removal services are up 16%; lawn chore up by 50%; each month we seem to double the number of individuals coming in for foot care; collaborate with BACN for the food box program; grant received totaled over \$85,000, including the new Subaru; millage rate was increased from .66 to .85 mills.

Comm Sauer stated he would like to see a presentation regarding the Sears Estate funds to see those funds are not depleted and the history of those funds. Doug will set up a meeting.

Comm Jeannot asks if the Sears funds are limited to capital improvements. Chairman Carland says it is for senior services. He also says you do a great job and your needs are growing; the growth

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might be attributed to the merger with BHHC – Doug agrees and says with publicity and marketing; Art would like to see a 3-year budget to understand what the growing financial need is going to be. Comm Griner says thank you for the job you do. There is no one better at the state level; he would like to see senior housing where 3 or 4 can live together.

9:25 a.m. Public Input – None

Motion by Sauer, seconded by Roelofs, to adjourn the Commission on Aging Annual Meeting. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

9:26 a.m. Reconvene Regular Board of Commissioner Meeting

Comm Walterhouse requests that Mr. Figura be present for closed session and for discussion regarding OMA violations.

Motion by Griner, seconded by Walterhouse, to have the attorney be present for closed session. Comm Warsecke asks if it is for closed session or the BOC reports as well.

Comm Sauer says he has no problem with him being here.

Roll call. Ayes: Walterhouse Nays: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Motion denied.

ELECTED OFFICIALS & DEPT HEAD COMMENTS:

Amy Bissell, Register of Deeds, presented a Fiscal Year Annual Report for 2016-17 of services performed in her office.

Motion by Walterhouse, seconded by Roelofs, to accept and place on file the Register of Deeds annual report comparison for 2013, 2015 and 2017 as presented. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

David Schaffer, Recycling Coordinator, stated that the first 10 yard bins will be placed today in Inland Township; have come to an agreement with Xpert Fulfillment to store the 30 yard bins – we will enter a month to month agreement and pay rent per bin; he will be in Novi next week at a DEQ materials and waste management conference.

Comm Griner stated that the motion sensor lighting at Homestead Township needs to be better; the lighting did not come on until he was done recycling.

Comm Roelofs asked if American Waste is going to charge us to move the binds to storage. David reported no, in fact they are willing to relocate them on the site if needed.

Comm Sauer asked if the contract will be extended for a year for three years.

Frank Post, Emergency Management, presented the October and November 2017 reports; and stated they deployed CERT & the com van to the Manistee Sleigh Bell Parade; he also stated thank you to Dawn Olney for notifying him of the change in date for the deadline with the 2% tribal grants. I really appreciate that information.

Dawn Olney, County Clerk, reported that the Organizational meeting will be held on January 2, 2018 at 9:00 a.m. She will have DRAFT information to them on December 19 of the board rules.

Comm Jeannot inquired regarding review of our contract for BOC legal services during the organizational meeting.

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10:07 a.m. Recess

10:18 a.m. Reconvene

10:18 a.m. Sean Duperron, Parks & Recreation Commission

Improving access to the Point Betsie Lighthouse and beach area through application to a Coastal Zone Management Grant, ideally the Parks & Recreation and the Friends of Point Betsie would ask the County to be the grant applicant. This will be \$769,000 in total grant funds which is \$269,000 from the Friends; \$50,000 from Lake Township; \$50,000 from Road Commission; \$100,000 Coastal Zone Management Grant; \$300,000 from the MDNR Trust Fund. Benzie County Role would be cash flow/ depository of matching funds; pays for project costs; manage reporting requirements and close out of the grant.

Motion by Walterhouse, seconded by Sauer, to approve resolution 2017-035 Application for Coastal Zone Management Grant as presented, authorizing the chairman to sign. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

10:41 a.m. Matt Skeels, Benzie County Road Commission

Gave a report regarding road millage projects; there is one more year left on the millage; they have received \$3,898,210 in millage funds and have spent \$3,987,118 so far. Will meet December 19 to determine which project will be completed next year; they will seek renewal of the millage in the Spring 2018 and will not ask for an increase. They will submit the ballot wording to this board in the next couple of months.

Comm Griner says he would be interested in a policy on how the millage will be spent. Mr. Skeels stated that he assumes it will be the same as it has been; he also stated that they are considering repairs on gravel roads as well, there are people that live on gravel roads and they pay taxes too. Chairman Carland asked if there is a portfolio or a visual of all projects repaired with millage, so you can show the voters. Yes

Comm Jeannot asked about gasoline tax money; how those monies will help potentially reduce the millage request. We have seen an increase in our state funding, and have replaced four plow trucks. Comm Jeannot also asked to see how much revenue you had for 16/17 as to what you expect for 17/18. I always see more money coming in, but never a reduction in millage rate, may be better to ask for a two year millage than a five year millage and see where it goes.

Chairman Carland lets Mr. Skeels know that the MERS representative will be coming in January 2018 to discuss pension issues and the Road Commission is invited to participate.

COMMISSIONER REPORTS

Comm Roelofs reported on the VA and an organization called Project Cherry Tree that works hand in hand with veterans and the creation of a new VA ID cards.

Comm Walterhouse reported on the Homestead Twp meeting.

Comm Griner reported that he attended the MAC Ag & Tourism meeting in Lansing and they discussed the plume of algae on Lake Erie which is caused by high levels of phosphorus; he attended Northern Michigan Counties and there was discussion regarding wind farms.

11:03 a.m. Tim Smith & Mark Bernstein, Opioid Litigation

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Mr. Smith reported that there are three tiers to this project: 1) Local – Smith Johnson Firm in Traverse City; 2) Regional – The Bernstein Firm; and 3) National Experience – Weitz & Luxenberg firm. The first lawsuit was filed August 2016 in Suffolk County, New York; why is this the third tier, we have 90 states, cities and counties have filed since 2016; we want one judge to hear these cases; at the end of the week we hope to hear about a singular court to hear all cases; the suit is against the manufacturers and distributors of opioids. McKesson, the fifth largest company, a drug distributor, plead guilty two times to federal offenses and paid a fine, then did it again.

Mark Bernstein stated that Michigan is in the top 10 of opioid use. Counties need to take it into their own hands to recover – in 2016 there were 11.5 million scripts written in the state of Michigan. The plaintiffs are states, counties, cities; they already have been retained by several clients; that is just the beginning of the process of holding them accountable. First category is law enforcement and 2 is community health; this is not a class-action lawsuit, but is Multi-District Litigation. The biggest liability is Michigan FDA Immunity Law; provide immunity to drug manufactures for law suits; applies to personal injuries; this is not that. There will be injunctive relief, not just to impose a change, track these medicines differently; transparency. The goal is not to take this medication off the market, only to be reimbursement for expenses.

Comm Warsecke asked when figuring the costs, is it for just opioids or heroin too? Both Comm Walterhouse wants this to go to HR.

Comm Griner feels this should go to a committee.

Comm Roelofs asked about the cost to Benzie County? 30% retainer to attorney and 70% to the county – only if there is a recovery and will be deducted after reimbursement of litigation expenses.

Ad hoc committee appointed regarding Opioid use: Coury Carland; Art Jeannot; Evan Warsecke

Comm Jeannot asked why you have chosen to go after the pharmacy company and distributor – why those 2 groups? We are looking at larger companies, like CVS and Walgreens, but not the local smaller operations in this county because it is these larger corporations that should know better. But you cannot ignore the personal responsibility and accountability that became addicted, but it is not, nor should it be, the concern of the county.

You look at an investment – what percentage of the award will you spend on expenses that you have to throw at it to make a case? The larger the MDL, the more the expense of this case; the expenses will be divided by all plaintiffs; how long it lasts; we will spend every dollar it takes to get you the best result.

Comm Warsecke asks what we are out if we lose. The Federal Courts have embedded in their rules the ability to sanction plaintiff for frivolous lawsuits. There are 41 of 50 states have already been engaged in the lawsuit; we have never been sanctioned in this type of case.

11:53 a.m. Tad Peacock, Conservation District

Mr. Peacock presents the Conservation District 2017 Annual Report; he stated that they will be asking in March for the millage to go back to the voters in August 2018 on the Primary ballot.

Motion by Walterhouse, seconded by Jeannot, to accept the Conservation District 2017 Annual Report as presented and place on file. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

COMMISSIONER REPORTS continued

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Comm Jeannot commented regarding the correspondence regarding the BA and yields his time to the BA members that are present at today's meeting.

Comm Sauer commented regarding the Gilmore Township meeting and they are being approached regarding medical marijuana; there has been a Hepatitis A outbreak downstate; he reported that a vote at the health department to increase fees was voted down; attended the Health Dept in-service day which had a speaker, Jane White, who is an ex-police officer and she spoke regarding human trafficking; it would be good to have her speak to EMS, Sheriff. They have reviewed the EMS applications and will interview next week; Venture North at Xpert Fulfillment regarding opportunities.

Comm Warsecke spoke regarding awards being given out to people in Benzie County – thank you to all; inquired regarding the school liaison that was discussed a couple of months ago – Evan was appointed to Benzie Central and Roger was appointed to Frankfort.

Comm Carland stated that things have been quiet – he was at the Village of Benzonia last night and they voted to appoint him as the new zoning administrator; Michigan Airport Planning (MAP) meeting in Lansing; talked with Venture North regarding loan committee with reference to Xpert Fulfillment loan request.

Comm Sauer stated that he requested a legal opinion from Mr. Figura regarding OMA violations that covers what has happened.

Motion by Sauer, seconded by Jeannot, to waive the attorney/client privilege on the Opinion dated November 29, 2017 from Timothy J. Figura and make the opinion available to the public. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

Comm Jeannot stated that we did have a response from Ed Roy regarding the communication from Mary Hoyt and Thelma Rider, when one member of the Building Authority said they didn't see the email; it seems that he took it upon himself to respond without direction, he often acts as the Building Authority.

Comm Warsecke stated that it is not fair to call them out regarding this.

Mr. Deisch will handle copying and providing the opinion letter to Ms. Rider and the Prosecutor.

COUNTY ADMINISTRATOR'S REPORT – Mitch Deisch

- Provided a written update report dated November 30, 2017.
- Provided a December calendar of meetings.
- County Incentive Program.
- IT Right conversion is in the works.

FINANCE

Bills: Motion by Carland, seconded by Warsecke, to approve payment of the bills from November 14, 2017 to December 5, 2017 in the amount of \$524,296.67, as presented. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

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Finance Consent:

Comm Jeannot removed item 1.

Motion by Carland, seconded by Jeannot, to adopt item 2 of the November 14, 2017 Finance Consent Calendar as presented. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer, Walterhouse and Warsecke Nays: None Motion carried.

HR AND PERSONNEL

Comm Sauer removes item 1.

Comm Carland removes item 2.

#1: Comm Sauer stated that he is having a difficult time with this, Comm Jeannot make some good points; causing rift within the Government Center; looked at what we are paying all deputy clerks, and between the highest and the lowest is about \$6,000 but with this \$3.00 per hour increase it will wipe out the OT budget; its temporary; it is adding more work to her job, but not expertise, this is work she issued to do and that is what OT is for. Concerned about the precedence we are setting; we are projected to look at all non-union positions in January to figure some way of bring everyone up to speed; when looking at the position roster, there is a discrepancy, there is only \$1,000 budgeted in OT, looks like there would be budget adjustments to do this. We made a decision with EMS to do this, but there was a lot of responsibility with that job; we have started a process. We need to table and bring back in a different format.

Mitch says we need to do a compensation and classification study.

Comm Warsecke say we have to pay people to do their jobs.

#2: Request to create a new position in the Sheriff Office; Sheriff explains that whenever the Sheriff or U/S are gone he covers, this individual also does the IT because he has the knowledge; the sheriff chooses to do this because he does this work.

Chairman Carland says we need to have his name corrected on the documents and attorney to review – Sheriff stated that the attorney has review it.

Comm Warsecke said when you are 3rd in command, but the same rank as the other – makes it difficult to make things happen when you do not have the rank structure.

There are 3 Road Sergeants at this time and if this is approved, will take it to 2.

Comm Jeannot feels that during union negotiations, the \$1,000 increase will go away and there will be a larger amount associated with it.

12:46 p.m. Comm Walterhouse excused.

Motion by Jeannot, seconded by Warsecke, to accept the recommendation of HR and approve entering into a Letter of Understanding between Benzie County and Benzie county Sheriff and Command Officers Association of Michigan Road Command Unit regarding Lieutenant Position, contingent upon legal review and to remove one Sergeant Position from the Employee Roster. Roll call. Ayes: Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: Carland Exc: Walterhouse Motion carried.

COMMITTEE APPOINTMENTS

EMS: Motion by Jeannot, seconded by Warsecke, to accept the resignation of Catrina Stachnik from the EMS Advisory Board with regrets. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Exc: Walterhouse Motion carried.

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Recognizes the appointment of Jim Franke to the EMS Advisory Board as the Village of Thompsonville representative.

Veterans: Motion by Roelofs, seconded by Sauer, to reappoint Philip Hoyt to the Veterans Affairs committee for a three-year term. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke
Nays: None Exc: Walterhouse Motion carried.

Motion by Sauer, seconded by Roelofs, to reappoint Kirt Giddis to the Veterans Affairs Committee for a three-year term. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None
Exc: Walterhouse Motion carried.

ACTION ITEMS

CodeRED: Motion by Jeannot, seconded by Warsecke, to enter into an agreement with ONSOLVE, LLC in the amount of \$6,000, authorizing the chairman to sign. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Exc: Walterhouse Motion carried.

Mass Notification: Motion by Jeannot, seconded by Warsecke, to enter into Mass Notification System Contracts with City of Frankfort, Village of Beulah, Crystal Mountain Resort, Paul Oliver Memorial Hospital and Benzie-Leelanau Health Department for \$500.00 each for access to CodeRED operations, authorizing the Chairman to sign. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Exc: Walterhouse Motion carried.

MMRMA Grant: Motion by Carland, seconded by Griner, to approve the application to MMRMA for RAP Grant to purchase a powered Stair Chair for EMS, authorizing the County Clerk to sign as member representative. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke
Nays: None Exc: Walterhouse Motion carried.

2% Tribal Grants – Emergency Management: Motion by Jeannot, seconded by Warsecke, to acknowledge and accept application of four 2% grants to the Grand Traverse Band. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Exc: Walterhouse Motion carried.

2% Tribal Grant – Veterans: Motion by Roelofs, seconded by Sauer, to approve application to the Grand Traverse Band in the amount of \$77,063.57 for Veterans Affairs, authorizing the chairman to sign. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Exc: Walterhouse Motion carried.

1:08 p.m. Motion by Carland, seconded by Jeannot, to enter closed session in accordance with the Open Meetings Act MCL 15.267, the Benzie County Board of Commissioners will go into closed session to discuss the draft closed session minutes dated November 14, 2017, as permitted by MCL 15.268(h) to consider material exempt from discussion or disclosure by state or federal statute. Roll call. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None Exc: Walterhouse Motion carried.

1:13 p.m. Re-enter Open Session

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Motion by Jeannot, seconded by Warsecke, to approve the closed session minutes of November 14, 2017 as corrected. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Warsecke Nays: None
Exc: Walterhouse Motion carried.

CORRESPONDENCE

- Letter from MMRMA regarding receipt of RAP funds in the amount of \$3,779.45 for the Jail Security Project.
- Health Dept minutes of November 16, 2017 received.
- Road Commission minutes of October 26, 2017 received.
- Veterans Affairs minutes of October 2, 2017 received.
- Gratiot County resolution regarding Great Lakes Restoration Initiative received.

UNFINISHED BUSINESS – None

NEW BUSINESS – None

1:14 p.m. Public Input – None

All items on the agenda having been taken care of, the chairman declared this meeting adjourned

Custer C. Carland – Chair

Dawn Olney, Benzie County Clerk

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1. Approved the regular session minutes of November 14, 2017 as presented.
2. Approved the closed session minutes of November 14, 2017 as presented.
3. Rescinded the motion to approve the closed session minutes. Closed session will be held later in the meeting for correction of the minutes of November 14, 2017.
4. Recessed the regular meeting of the Board of Commissioners to hold the Commission on Aging Annual Meeting.
5. Denied motion to have the attorney be present for closed session.
6. Approved resolution 2017-035 Application for Coastal Zone Management Grant as presented, authorizing the chairman to sign.
7. Presentation from Matt Skeels with the Road Commission on road projects completed with millage funds.
8. Presentation from Tim Smith & Mark Bernstein, regarding Opioid Litigation.
9. Ad hoc committee appointed to further discuss Opioid use issues: Coury Carland; Art Jeannot; Evan Warsecke
10. Presentation from Tad Peacock, Conservation District, 2017 Annual Report.
11. Accepted the Conservation District 2017 Annual Report as presented and place on file.
12. Approved to waive the attorney/client privilege on the Opinion dated November 29, 2017 from Timothy J. Figura and make the opinion available to the public.
13. Approved payment of the bills from November 14, 2017 to December 5, 2017 in the amount of \$524,296.67, as presented.

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14. Adopted item 2 of the November 14, 2017 Finance Consent Calendar as presented.
15. Accepted the recommendation of HR and approve entering into a Letter of Understanding between Benzie County and Benzie county Sheriff and Command Officers Association of Michigan Road Command Unit regarding Lieutenant Position, contingent upon legal review and to remove one Sergeant Position from the Employee Roster.
16. Accepted the resignation of Catrina Stachnik from the EMS Advisory Board with regrets.
17. Recognizes the appointment of Jim Franke to the EMS Advisory Board as the Village of Thompsonville representative.
18. Reappointed Philip Hoyt to the Veterans Affairs committee for a three-year term.
19. Reappointed Kirt Giddis to the Veterans Affairs Committee for a three-year term.
20. Approved to enter into an agreement with ONSOLVE, LLC in the amount of \$6,000, authorizing the chairman to sign.
21. Approved to enter into Mass Notification System Contracts with City of Frankfort, Village of Beulah, Crystal Mountain Resort, Paul Oliver Memorial Hospital and Benzie-Leelanau Health Department for \$500.00 each for access to CodeRED operations, authorizing the chairman to sign.
22. Approved the application to MMRMA for RAP Grant to purchase a powered Stair Chair for EMS, authorizing the County Clerk to sign as member representative.
23. Acknowledged and accepted application of four 2% grants to the Grand Traverse Band.
24. Approved application to the Grand Traverse Band in the amount of \$77,063.57 for Veterans Affairs.
25. Entered closed session in accordance with the OMA to discuss the draft closed session minutes dated November 14, 2017.
26. Approved the closed session minutes of November 14, 2017 as corrected.

Motion by _____, seconded by _____, to adopt the HR Consent Calendar as follows:

1. Removed from Consent Calendar.
2. Removed from Consent Calendar.

Motion by Carland, seconded by Jeannot, to approve the Finance Consent Calendar items as follows:

1. Removed from Consent Calendar.
2. To approve entering into 11 Copier Maintenance Agreements with NetLink Business Solutions for the period October 3, 2017 to October 2, 2018, as presented, authorizing the chairman to sign.