

## THE BENZIE COUNTY BOARD OF COMMISSIONERS

September 29, 2017

The Benzie County Board of Commissioners met in a special meeting on Friday, September 29, 2017, 448 Court Place, Government Center, Beulah, Michigan.

The meeting was called to order by Chairman Coury Carland at 3:00 p.m. who appeared via telephone.

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

Excused: Commissioner Warsecke

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

### Agenda:

Motion by Griner, seconded by Sauer, to approve the agenda as presented. Ayes: Carland, Griner, Jeannot, Roelofs, Sauer and Walterhouse Nays: None Exc: Warsecke Motion carried.

### Public Input

Eric VanDussen asked why call a special meeting to address this issue in haste; 10.1 of your Board Rules says that services of legal counsel shall be discussed by the BOC in open session prior to services being performed. He believes the purpose of going from 3 to 5 members is to stack the deck against Ed Roy – why are you doing it hastily. He then speaks regarding the Committee Appointment Policy.

Deb Lindgren spoke regarding suspension of the board rules – you keep doing it. This board has done things that aren't according to protocol. Is this an emergency for two times in a month; this is a very uncomfortable thing to do.

Thelma Novak commented regarding Eric's comment regarding an emergency – this has been going on since 2005.

3:12 p.m. Public Input Closed

Discussion and potential action to amend the Building Authority Articles of Incorporation to increase the number of members from 3 to 5, together with staggering terms:

Comm Sauer questions the County Clerk regarding whether this meeting is in compliance with OMA. Gary stated that there are conspiracy rumors out there, he stated that this came to light the night that Coury left for vacation – it was brought to his attention that the Articles of Incorporation could be amended to change the number of members and he felt it was a chance to squelch the rumors and felt they could save money. There is no conspiracy – he would like to adhere to the policy and procedures of the Board for committee appointments and advertise for two weeks in the Record Patriot for more applicants. Legal counsel is here and he will agree that we can do this. Comm Sauer feels it would be beneficial to have two more members.

Comm Griner stated that he has been absent and on county business —~~he was noticed by Gary.~~

Mr. Figura stated that he was asked to prepare a proposed Amendment to the Articles. Incorrect copies of the proposed Articles was distributed – Mr. Figura provided a correct copy and copies are being distributed to all board members. He reads Article V Section 2 where the change would be.

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If this is approved creating two positions, then all terms would expire 12/31/17. Then the appointments would be two to expire on 12/31/18; 2 to expire on 12/31/19; and one on 12/31/20. County Clerk reads the statement prepared and submitted by Comm Warsecke in his absence. Comm Sauer says Comm Warsecke cannot get per diem for this meeting – you can only get mileage for special meetings and feels he has a preconceived statement. Comm Roelofs – concerned about Comm Warsecke's statement about short notice of this meeting. I was notified on Friday of the special meeting scheduled for September 25. Also his statement about whether this is an emergency. Chairman Carland statement regarding the special meeting last Monday, we had potentially pending litigation on behalf of the BOC. That was the reason for scheduling the special meeting. Mr. Figura – suggest members ending 12/31/17 as well as those being appointed to fill the vacancy created by the increase in membership. Chairman Carland stated that he also doesn't see the urgency of this, this board didn't even have an accurate copy in front of them. Comm Sauer said he is set back by the word circumvent – didn't look it as a way of avoiding the procedure, this is an opportunity to correct an action without costing the board more money. Did not do this to circumvent anything.

Comm Sauer says this is well thought out, but since the chair would rather go through the financial obligation, I will not make a motion.

Motion by Carland, seconded by Walterhouse, to table this issue to the next regularly scheduled board meeting. Roll call. Ayes: Carland and Walterhouse Nays: Griner, Jeannot, Roelofs and Sauer Exc: Warsecke Motion failed.

Comm Jeannot said to Comm Sauer you have gone to a lot of effort to determine if this can be lawfully done. I am confused on your reluctance to move forward; there has been points made by both ends; up until a moment ago, you seemed strongly about this and called a special meeting. I appreciate what you are saying with regard to the chairman's comment regarding circumventing the process; Mr. Roy has repeatedly said he would pursue me personally, and that will never influence my decision with him. Now it is the political willpower to move forward.

Motion by Sauer, seconded by Griner, to amend the Articles of Incorporation with the language recommended by attorney Richard Figura to change the number of membership and the terms of the membership of the Building Authority.

Comm Jeannot stated that the letter dated 9/28/17 to the BOC by Mr. Roy listed a few items he would pursue based on our action, because it is my intention to remove the ammunition that will influence how to move forward with this that will influence how to move forward with this.

Comm Roelofs asks Mr. Figura what are we doing that is unlawful efforts?

Mr. Figural believes he is suggesting there is ulterior motive. I know you do have the authority to amend the Articles of the Authority.

Comm Jeannot asks of Mr. Figura that in the letter, #7 says he should abstain from voting – is it your opinion that just because I had shown an interest to improve the BA, would it be a conflict.

Mr. Figura – remember that your board rules do not allow you to abstain without approval of the chair.

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Chairman Carland stated that he finds the timing suspicious, the day I leave the county, first time in 5 years, then a special meeting gets scheduled, this is very rushed and do not see the urgency; I am embarrassed to be a part of this; I will vote no.

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

3:49 p.m. Public Input

Thelma Novak stated that she talked with Tom Longanbach in the spring and she stated that people wouldn't apply to the Building Authority because of Tom and Marcia and be the lone vote against them; you cannot stop the process of removal just because you increased the number to 5.

Eric VanDussen is concerned about the violation of attorney use without prior attorney, who will be sure it won't happen again; it irks him that he did this without the proper process; agrees with Thelma on the makeup of the board being five members.

Deb Lindgren says you did it again, changed the rules. Is this going to be a weekly thing?

Thelma Novak stated that when you removed the two members from the BA, that dissolved the BA so the restraining order was necessary.

3:58 p.m. Public Input Closed

Comm Sauer asks that Ed Roy's letter will be put on file from September 28, 2017.

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

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Custer C. Carland – Chair

Dawn Olney, Benzie County Clerk

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1. Denied motion to table this issue to the next regularly scheduled board meeting.
2. Amended the Articles of Incorporation with the language recommended by attorney Richard Figura with the wording, to change the membership and the terms of the membership of the Building Authority.