

**Jackson County Board of Commissioners Meetings Minutes**  
**October 19, 2004 - Regular Meeting**  
**Jackson County Commissioners Chambers: 7:00 p.m.**

**CALL TO ORDER:**

Chairman Herl called the October 19, 2004 Annual Board Meeting of the Jackson County Board of Commissioners to order at 7:00 p.m.

**INVOCATION:**

Cmr. Mahoney

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

(10) Present: Cmr. Brittain, Day, Baxter, Shotwell, Mahoney, Berkemeier, Lacinski, Wilson, Elwell, & Herl. (2)  
Absent: Cmr. Adams & Videto

**AWARDS & RECOGNITIONS:**

Employee of the Month of October, Jennifer Lamp, Assistant Prosecuting Attorney, Prosecutor's office. Presented by Herl with comments from Prosecutor Hank Zavislak.

**APPROVAL OF AGENDA:**

*Moved by Mahoney supported by Brittain to Approve the Agenda as Written.* Day requested to amend the Agenda by adding item 10A, County Affairs, under Standing Committee Reports.

*Moved by Mahoney supported Brittain to Approve the Amended Agenda.* Motion carried.

**COMMUNICATIONS & PETITIONS:**

None.

**SPECIAL ORDER/PUBLIC HEARINGS:**

None.

**PUBLIC COMMENT:**

Public comment began at 7:05 p.m. with Tom Hutton, county retiree and Vice President of AFSME 2098. Mr. Hutton referred to the Agenda and spoke regarding motion 12D4, raising the retiree's prescription co-pay. Mr. Hutton asked the Board not to do this; it is not right to diminish the benefits of retirees who have no access to the bargaining process. The retirees believe they have a right to what they retired with. Mr. Hutton then introduced attorney Richard G. Mack. Mr. Mack urged the Board to seek council regarding the following three items:

- Breach of Contract
- Bargaining Obligation
- Constitutional Provision

At 7:16 p.m. Al Jenson, a retiree from the Jackson County Sheriff Department spoke. He agreed with everything that had been said and also pointed out the retiree's pension never increases. They don't get a cost of living raise, although the cost of living continues to rise. Retirees have no way to make up the difference if they begin paying the higher co-pays.

Marilyn Sanderson from Accounts Payable, and also the Chapter Chair of Unit C, AFSME, read a statement from Ron Marsh, a retired deputy who said that they would be adding to the financial burden of the fixed income retirees. As costs increase, disposable income goes down. The county needs to re-examine its own luxury items.

Mrs. Sanderson also read a statement from Nancy Hudson, retired from the County Clerk's office. Ms. Hudson is a diabetic with a monthly pension of \$804. She must use three or four test strips a day, which leaves her with very little to squander on items such as food.

Mrs. Sanderson simply added, please don't do it.

Gary Hicks, retired from the Prosecutor's office retired with a contract in good faith. Pensions do not go up, but Consumers Energy has doubled in the past two years. At least employees get their standard two or three percent cost of living increase. This may force retirees to form a union.

At 7:24 p.m. Sally Griffis, Fair Manager, asked to be able to speak to an issue on the agenda, 12D3 Payback of the Fair and Retirement System Enterprise Funds, when it is addressed.

*Moved by Mahoney supported by Brittain to Allow Sally Griffis to Address the Board during Standing Committee Reports.* Motion carried.

Janet Rochefort asked for the same opportunity.

*Moved by Mahoney supported by Baxter to Allow Janet Rochefort to Address the Board during Standing Committee Reports.* Motion carried.

Cheri Mosier of Cherry's Café stated that she had turned in a proposal to the Board regarding the restaurant fees. She also invited anyone who is interested to attend a meeting at her café on Saturday at 2:00 p.m.

Jim Cook, President of Local 2098 does not support the retiree's co-pays being raised.

Public comment closed at 7:26 p.m.

#### **SPECIAL MEETINGS OF STANDING COMMITTEES: County Affairs**

#### **CONSENT AGENDA:**

*Moved by Mahoney supported by Berkemeier to Approve the Consent Agenda items A through I as contained in the following Consent Agenda list:*

1. *Approve the Revised Minutes of the August 24, 2004 Board Meeting*
2. *Approve the Minutes of the September 28, 2004 Board Meeting*
3. *Approve the Minutes of the September 28, 2004 Closed Session*

#### **County Affairs:**

1. *Give second and final reading of revised Board Rule 4060, Voting, which allows for the use of an electrical roll call system at Board meetings.*
2. *Give first reading of revised Board Rule 4090, Appointments to Boards/Commissions, which adds a special provision for mileage reimbursement*
3. *Give first reading of revised Board Rule 4120, Relationship between the County Administrator/Controller, the Board and County Departments, pertaining to Commissioner Scope of Authority*

#### **County Agencies:**

1. *Approve the Prosecuting Attorney's General Fund budget adjustment in the amount of \$12,400*
2. *Approve the Prosecuting Attorney's CRP budget adjustment in the amount of \$19,000*
3. *Approve the District Court's budget adjustments with the other \$8,000 coming from Contingency to balance the budget adjustment*

Motion carried.

#### **STANDING COMMITTEE REPORTS:**

##### **County Affairs**

*Moved by Day supported by Mahoney to Recommend to the Full Board the Appointment of Thomas Ball to the Family Independence Agency Board for a 3-year term.*

*Moved by Mahoney supported by Berkemeier to Nominate Ron Markowski for the 3-year position on the Family Independence Agency Board.* Roll call: (9) Markowski. Cmrs. Day, Baxter, Shotwell, Mahoney,

Berkemeier, Lacinski, Wilson, Elwell, & Herl. (1) Ball. Cmr. Brittain. Ron Markowski was appointed to the Family Independence Agency Board.

*Moved by Day supported by Brittain to Adopt Resolution (10-04.40) Authorizing the County Board of Commissioners Chair, Clifford E. Herl, to Sign: MDOT Contract #M 38-01-ENV and Appropriate Sponsor Contract with DLZ, Inc. of Lansing, Michigan for Environmental investigation for Ground Water Contamination of Airport Property at the Jackson County Airport.* Roll call: (10) Yeas. Motion carried unanimously.

**County Agencies:**

No report.

**Human Services:**

No report.

**Personnel & Finance:**

*Moved by Shotwell supported by Day to Approve new Personnel Policy 3100, Department Head Selection process.* Motion carried.

*Moved by Shotwell supported by Mahoney to approve new Personnel Policy 3340, Reference/Background inquiries.* Motion carried.

*Moved by Shotwell supported by Brittain to Approve that all indirect costs from the Fair and Retirement System Enterprise Funds be paid back to the General Fund in 2005, which amounts to approximately a \$75,000 savings.*

As previously requested Sally Griffis was allowed to speak to this issue. Sally stated that the Department Heads met with Chet and Randy and were told that if they were able to give back 2 ½% of the money allocated to them, as a cut back, that was what they were looking for. Sally said that when she received the figure, she couldn't believe the amount. It is her understanding that the amount includes insurance on the buildings, over 20 buildings, administrative costs; costs incurred by the Treasurer's office, and Human Resources costs. During fair week, the costs go up dramatically, sometimes up to 200 people are added. Back when Sally was first hired in they handled that in-house. They hand wrote all of the checks. The people worked there for a week, and then they were gone. This was a service that the fair gladly provided, and didn't have to hire extra people to handle it. The books were audited every year. The county then mandated that the fair get rid of that checking account, and handle it through the other departments.

The other point that Sally wanted to make is that they keep a separate set of books at the fair, she can tell you where every penny goes, and they balance it to the county books every month. Sally expressed concern over the land they recently purchase. The fair paid for the land and taxes in full, but the county purchased it. The one time the fair borrowed money for the renovation on the old roll-a-torium we paid interest on that money and paid it back faithfully. We never asked for a reduction in the amount or the interest. The fair is one of two departments in the county that receives no county funds. Sally referred to the costs on two different sheets, one that concluded the fair owed over \$61,000, and the other that showed the fair owed over \$63,000. Sally figured that 2 ½ % of the highest figure was \$1,586.23, and she would gladly give that back to the county, and that was the figure on the board when she left her meeting with Chet and Randy. She was unable to attend the Personnel and Finance meeting as she was at a conference. For 51 years the fair has been fiscally responsible and this charge is unfair. \$61,000 is too much, that amount would be equal to two people in our department.

Janet Rochefort then addressed the Board. She explained that a company called Maximus has been doing indirect costs for Jackson County for the past 10-years. This is a cost allocation; they go through departments and ask employees what they do and how much time is expended on it. Janet went on to explain that an enterprise fund stands on it's own and has all associated costs borne by the fund. If the fund has other funds paying for it, you have to pay those funds back. Janet gave the example of the Incinerator, for the past 12-years it has been paying back it's indirect costs including insurance in the amount of about \$60,000, and \$40,000 for the other costs that have accrued. Jackson County also has the Delinquent Tax Revolving fund, which became an enterprise fund in 2004, and for that year, the Treasures office is paying back \$11,000. There is also about \$8,000 being paid back for the Delinquent Personal Property Tax fund. This will continue on throughout the years. Janet feels that all funds should be equal on an enterprise fund and if there are direct funds paid from the General fund, the fund that gets the benefit should pay for it. \$37,000 of the \$63,000 is insurance on the 20+ buildings on the fair property is paid by the General fund; it's the amount that the fund pays for insurance. Make the books reflect what the true cost of a department or a fund is.

Elwell asked Sally if she was opposed to both the insurance and personnel costs. Sally said that it was a shock; this has not been a banner year for the fair. Rain was a threat every day, so yes, both are a concern. She likened her position in the county as that of a stepchild. They are treated differently when the county wants to treat us differently and the same at other times. Sally still doesn't understand how the figure was arrived at. She has requested a break down. She also pointed out that the fair owns nothing. The fair paid for the land, so should the fair step up and pay the insurance on these buildings? No, the land and the buildings belong to the county. Elwell asked Chet if the \$37,000 was an accurate figure for the insurance. Chet answered that \$27,000 is for building insurance, liability insurance, and vehicle insurance and \$13,000 for retiree benefits. That would leave another \$23,000 for administrative service costs. Elwell also pointed out that 3 of the 4 Fair Board members were at the committee meeting and seemed to support this measure.

Day said that he agreed to bring it before the full Board, that didn't necessarily mean they agree. If they need to pay, we should be able to deduct the cost of the land purchased.

Wilson wanted to know why the fair break down was not in the Board packets.

Herl indicated that Sally had the only copy.

*Moved by Mahoney supported by Baxter to Send this Issue back to Personnel and Finance for more Discussion.* Motion to table carried.

*Moved by Shotwell supported by Wilson to Approve raising the prescription co-pay on retirees' prescriptions to \$5 for generic drugs and \$20 for brand name drugs if the retiree's current prescription co-pay is less than these amounts, which amounts to approximately a \$400,000 savings.*

Elwell stated that he doesn't support making this change. It's just not the right thing to do. When people sign up for the DROP, they lock in their pay. The county can't put our current fiscal problems back on the retirees. Perhaps we should look more in terms of years of service, you don't retire with full benefits until you have given 25 years of service, but this should not be tabled.

Lacinski agreed with Elwell and does not support this. He is concerned regarding the points about their cost of living not increasing and the legal ramifications. They expect the contract that they retired under. Day also interjected that this would be a hardship on the retirees with fixed pensions and he will be voting against it. Wilson stated that he also would be voting against it, as there are not only legal issues, but also a moral obligation. Roll call: (10) Nays. Motion fails unanimously.

*Moved by Shotwell supported by Brittain to Approve freezing all upgrades for a one-year period (2005), which amounts to approximately a \$35,026 savings.*

Mahoney is firmly opposed to this as people have already been through the process and have been delayed a year. They have to perform the new functions for a year before they are even considered for the upgrade. Elwell concurred; the employees have already been through the process.

Roll call: (8) Nays. Cmr. Brittain, Day, Baxter, Mahoney, Berkemeier, Lacinski, Elwell, & Herl. (2) Yeas. Cmr. Shotwell and Wilson. Motion fails.

#### **UNFINISHED BUSINESS:**

None.

#### **NEW BUSINESS:**

*Moved by Wilson supported by Lacinski to Establish an Ad-Hoc Committee to Study the Restaurant Licensing Fee Prior to the Next Meeting and include Cheri Mosier as part of the Committee to offer Input from the Restaurant Side.*

Elwell suggested a Committee of the Whole meeting and receive input from everyone and have all of the Commission involved in the final decision.

Berkemeier feels that the Board needs to make the preliminary decision that the General Fund no longer subsidizes the licenses and fees.

Mahoney expressed concern that the constituency of the county has been subsidizing one portion of the community, restaurants, by paying for their fees. Last year the county subsidized restaurant fees by \$16,464. We talk about hiring Maximus to determine what each department is paying for, and expect each department to carry their load. This department was included in the study and yet we are still subsidizing it. Should we eliminate all the other fees, such as tipping, dog licenses, and all the other fees that have been costed out by Maximus? We need to get that information in front of the entire Commission to make an informed decision.

Brittain said that he would be in favor of getting rid of all of the other fees as fees are nothing but taxes imposed on us by the government. The state has made it mandatory that they have two inspections, but the state only pays for one third of the costs.

Day is concerned that the six-month operators and small restaurants have to pay as much or more than the larger restaurants. We need to make the fees for each division of restaurants fair.

Elwell feels that the Board can accomplish what Berkemeier wanted in the form of either a special meeting or a committee of the whole.

All of the Commissioners received a proposal from Cheri Mosier that is in the amount that we put into it last year. This may be the fair resolution for everyone.

*Moved by Mahoney supported Lacinski to Amend the Ad Hoc Committee to a Committee of the Whole.*

Wilson accepted that as a friendly amendment. Motion carried.

Main motion carried.

Wilson suggested that the meeting be scheduled as late in the day so that the restaurateurs can attend.

Herl suggested that the Commissioners attend the meeting at Cherry's restaurant on Saturday to obtain input on the fees and what their willing to pay.

Lacinski had a letter from the Michigan Association of Counties that was sent to Wilson. Lacinski doesn't understand the reason for the postscript that was directed back to Mr. McGuire. Elwell doesn't feel we need to discuss that now, we can take it up with Wilson.

*Moved by Elwell supported by Brittain to Withdraw the Soil erosion and Sedimentation Control Resolution Adopted March 18, 2003.*

Berkemeier states that he is troubled by how quickly this is being handled. He feels that it should go through committee, and the Board should at least hear from Geoff Snyder.

Mahoney indicated that there is a 30-day deadline.

Berkemeier clarifies that is just to request a hearing.

Elwell said that a contractual employee was scheduled to have this meeting with the DEQ, and that responsibility really rests with the Board of Commissioners. If our soil erosion program is found to not be adequate, the DEQ has the authority to take it over and mandate costs that we are not prepared to pay. This is the third time the program has been reviewed and not passed. The Board needs to appeal this, not some other employee. The simple solution is to withdraw the motion.

Berkemeier expressed that he is still troubled, and that he sees a hand written note that Geoff has an appointment on October 27, and asks if this is the meeting with the DEQ?

Elwell said that after a 20-minute conversation with Mr. Mikula of the DEQ it is important to act on this immediately.

Herl said that in 2002 Chairman Rice gave him the project of bringing this together, getting forms made, schedules and fees. Then this was turned back over to the Drain office, and now we are right back in the same position of violations that are not being handled appropriately. We talked to the state today and they are in concurrence with us. If the state comes in and takes over, we can only imagine the costs we will bear. They will bring in their own consultants.

Berkemeier said that we only have one side of this situation, and to create better working relations in this county we owe it to Geoff to allow him to give us some information. Who would handle soil erosion if not the Drain office?

Herl answered that they would bring someone on and provide him or her with the training needed and get this program going in the right direction.

Shotwell asked for clarification that we wouldn't be issuing any permits for a certain amount of time? He's been in contact with Supervisors who are concerned about that issue.

Elwell answered that Geoff said that he would continue to do the inspections and take applications for the interim period. Wilson supports Berkemeier's request to send this issue back to committee, and points out that on page 2 of 2 it says that we won't lose control of this program within the 30-day time frame. You must go through the informal meeting that is scheduled for October 27th and then a probationary period.

Wilson spoke with Geoff this morning and to hire on additional people is going to be very expensive for the county, and in light of the budget cuts at this point, it's not a good idea to add additional labor in the county's budget. The proper way to do this is to run it through the committee process and allow Geoff to answer the questions that are asked of him.

Elwell pointed out that this is the third time the same department has been through the same process and it hasn't worked. "Three strikes and you're out." The document from the DEQ speaks for itself.

Herl suggested that if there are any questions to read part 91 of the code.

Day expresses surprise that the county would allow the Drain office to continue with this process if they are doing such an unsatisfactory job.

Mahoney agreed with the "Three strikes and you're out" approach. She feels it is time for the Board to step up to the plate and take action. We have a letter from the state that says what they are going to do. We have been playing with this for two or three years and it's time for the Commission to take the authority to make sure this happens properly.

Brittain said that when we began this process, Geoff came to the Board and asked for a small raise for his staff to do this. We had other bids and one of them was over \$100,000. That's a lot more than the Drain office was asking for.

Shotwell pointed out that the Board put two employees in his budget, one to run the program and an engineer to assist him in that office, and he has not filled either of those positions, or even posted them. He has not taken an interest in running this properly.

Elwell thinks it is totally unfair for a Department Head or an Elected Official to hold a program hostage in order to obtain a raise for their employee. We have a process to upgrade employees, and that employee has been through it. The additional personnel to run this program have already been authorized.

*Moved by Mahoney supported by Lacinski to Call for the Question.* Motion carried. Roll call on the main motion **to Withdraw the Soil Erosion and Sedimentation Control Resolution Adopted March 18, 2003.** . (6) Yeas. Cmr. Baxter, Shotwell, Mahoney, Lacinski, Elwell, & Herl. (4) Nays. Cmr. Brittain, Day, Berkemeier, and Wilson. Motion carried.

*Moved by Elwell supported by Mahoney to Adopt Resolution (10-04.41) Designating the Board of Commissioners as the Jackson County Enforcing Agency Responsible for Soil Erosion and Sedimentation Control.*

Day hopes that the Board will look at all of their options before creating a new department.

Mahoney reminded the Board that there is already money in the Drain office budget that needs to be moved for these positions.

Lacinski felt that the money should be reallocated through the committee process.

Wilson asked for an outline of the Boards responsibilities.

Herl answered that the Drain Commissioner would continue to work with this until we have someone on board.

Wilson asked about cost, and Herl said there is no cost projection at this time.

Elwell said that we do have an idea; the positions are in the Drain Commissioner's budget. Berkemeier states that he is still troubled by this, it's a brand new matter to him, and he doesn't think this is the way to do business. Geoff has a meeting scheduled and there is a probationary period. That would seem to be a more appropriate time to take this drastic of a measure.

Mahoney appreciated Berkemeier's comments, but this Board has passed resolutions that they didn't even have in front of them. This is not a new problem, and now it will have a place on the agenda. The Chair did a good job of informing us and putting the resolution before us. Now it's time for us to make a decision.

Herl said that he would get copies of all of the DEQ information for him to help him better understand the situation.

Chet said that about a year ago, before the ad-hoc committee, Geoff came in and said that he was no longer going to do the soil erosion permits. His credentials had expired and there was no one in the county that had authorization to do the permitting. We had to hire someone from a local firm to take that over until we could solve our problem. At that same time we accepted bids from the Health Department, Soil Conservation, and the Drain Commissioner. It was Chet's recommendation to let the Health Department take the program over. In the meantime, Geoff renewed his certification and the ad-hoc committee added a person to administer the program. Then earlier this year Geoff asked if he could hire a consultant to do the work for him rather than someone in his office, which he was allowed to do. Now the audit comes out from the state and you can see the results. The Soil Conservation District and the Health Department are no longer interested in running this program. It was left with the Drain Commissioner to carry out the program, and it's not being carried out so where do we go now?

Brittain asked what the bids were from the Soil Conservation District and the Health Department. Chet did not have those with him tonight. Mahoney said that it's time to take a stand. We don't want the state to come in and take over as if we are not competent. Elwell said that in his conversation with Mr. Mikula today, they talked specifically about the program itself. The ad-hoc committee worked with the Drain Commissioner and the Administrator and developed a plan and the forms and Mr. Mikula finds no fault with that part of it. He has a problem with the administration of the program, we have a program that works, and we just need to administer it. Wilson answered Brittain's question regarding the other bids. The Health Department was about \$100,000 and the Soil Conservation was about \$65,000.

Wilson's concern is that this is more of a relationship problem between some of the Commissioners and the Drain Commissioner. We are setting ourselves up for many additional fees with this new department. This is going to be a very explosive issue.

Roll call: (7) Yeas. Cmrs. Day, Baxter, Shotwell, Mahoney, Lacinski, Elwell, & Herl. (3) Nays. Cmrs. Brittain, Berkemeier, & Wilson. Motion carried.

Wilson wanted to explain the reason for his absence at the Special Meeting of October 14, 2004. He stated that he had informed the Chair that he had a planned business trip to Arizona, and also some personal time with an ailing relative. Wilson expressed his pleasure with the choice of Mr. Elliott.

Herl announced that contract negotiations with Mr. Elliott would begin next Tuesday.

**CONSIDERATION & ALLOWANCE OR CLAIMS:**

*Moved by Lacinski supported by Shotwell to Allow the Claims.* Motion carried.

**PUBLIC COMMENT:**

Public Comment began at 8:39 with Marilyn Sanderson asking for a round of applause for Ed Dulemba. He's 84

years old, had heart surgery last year, and came out just for the issue of the retiree's benefits. Marilyn also thanked the Board on her behalf.

Tom Hutton thanked the Board and said that he hoped to see them Thursday night.

Dwight Iverson discussed the Pleasant Lake sewers and his problem with the Drain Commissioner getting significant financial rewards for bringing sewer projects in. He doesn't understand how the Commissioners could allow the Drain Commissioner to hold townships hostage. Mr. Iverson went on to say that he had a very pleasant experience with the Health Department and their organized flu shot program.

Public comment closed at 8:43 p.m.

**CLOSED SESSION:**

*Moved by Shotwell supported by Baxter to go into Closed Session in order to Discuss Labor Negotiation in Accordance with the Open Meetings Act.* Roll call: (10) Yeas. Motion carried unanimously.

*Moved by Mahoney supported by Baxter to return to Open Session.* Motion carried. The Jackson County Board of Commissioners returned to Open Session at 9:02 p.m.

*Moved by Elwell supported by Lacinski to Approve the Collective Bargaining Agreement between the County and the District Court Probation Officers Association.* Motion carried.

**ADJOURN TO THE CALL OF THE CHAIR:**

*Moved by Lacinski supported by Mahoney to Adjourn to the Call of the Chair.* Motion carried. The Jackson County Board of Commissioners was adjourned at 9:05 p.m.

Cliff Herl-Chairman, Jackson County Board of Commissioners  
Sandy Crowley, Jackson County Clerk  
Respectfully submitted by Erin Foster, Chief Deputy County Clerk