

Jackson County Board of Commissioners Meetings Minutes
March 22, 2005 - Regular Meeting
Jackson County Commissioners Chambers: 7:00 p.m.

CALL TO ORDER:

Chairman Herl called the March 22, 2005 meeting of the Jackson County Board of Commissioners to order at 7:00 p.m.

INVOCATION:

Cmr. Reynolds

PLEDGE OF ALLEGIANCE

ROLL CALL:

(12) Present: Cmr. Lutchka, Brittain, Day, Reynolds, Videto, Shotwell, Mahoney, Berkemeier, Smith, Wilson, Gumbert, & Herl

APPROVAL OF AGENDA:

Moved by Mahoney supported by Gumbert to Approve the Agenda as published. Motion carried.

AWARDS & RECOGNITIONS:

A. Presentation by the Building Authority and Sheriff regarding the new Chanter Road Jail and Wesley Street Jail expansion and renovation. Comments by Sheriff Dan Heyns, Don Roberts-architect, Pat Burrows-O'Harrow Construction, & Treasurer Jan Rochefort. Sheriff Heyns also introduced Marv Swanson-President/CEO of O'Harrow Construction and George Kill-Foreman.

SPECIAL ORDERS/PUBLIC HEARINGS:

Environmental Remediation Strategy for the former Mechanical Products site at 1824 River Street in Blackman Township. Comments by Dave Miller from the BRA and Dr. George Carpenter, site manager.

Public Hearing concluded at 7:35 p.m.

AWARDS & RECOGNITIONS con't:

B. Certificate of Appreciation to the JXN Flight Fund Committee and Jackson Community College in support of the contributions to the Flight School at Jackson County-Reynolds Field. Presented by Herl, accepted by Dan Phelan, President, Jackson Community College. Kent Maurer, Airport Director, Steve Wellman, at large member and Chair of the Airport Board and Dee Dee Miller, Chair of the JXN Flight Fund, also offered comments.

C. Employee of the Month of March 2005-Paula Raymond, Account/Data Processing Clerk, Friend of the Court. Presented by Herl with comments by Karen Robinson, Assistant Deputy Director, Friend of the Court.

D. *Moved by Shotwell supported by Mahoney to Approve Resolution 03.05-15 honoring Detective Robert Warren Cole in the Sheriff's Department upon his retirement.* Roll call (12) Yeas. Motion carried unanimously. Presented by Herl with remarks by Sheriff Dan Heyns.

E. *Moved by Mahoney supported by Shotwell to Approve Resolution 03.05-17 Honoring maternal Services Support/FIMR Coordinator Renee Carroll of the Health Department upon her retirement.* Roll call: (12) Yeas. Motion carried unanimously. Presented by Herl with comments by Health Officer Ron Grimes and Renee Marks.

COMMUNICATIONS/PETITIONS:

Two communications regarding County Policy were received from Richard G. Todoroff and distributed by the Clerk.

Moved by Reynolds supported by Mahoney to receive the communications. Motion carried.

PUBLIC COMMENT:

Public comment began at 7:56 p.m. with Cherrie Mosher, owner of Cherry's Café regarding the restaurant-licensing fee.

Kathryn Keersmaekers requested Board support for the EDC appointment.

Shaun Christie requested Board support for the Hospital Finance Authority appointment.

Dewey Graves requested Board support for the JTA Board appointment.

Jason Sanders requested Board support for the EDC appointment.

Frank Weathers requested Board support for the LifeWays Board appointment.

Joe Brown requested Board support for the EDC appointment.

Bob McClintic requested Board support for the Veteran's Affairs appointment.

Todd Zeller spoke in support of the Falling Water's Trail and the 5-Year Recreational plan.

Teresa Ehrig spoke in favor of Dave Comiskey, Facilities Director.

Dave Miller indicated that the EDC had met last Thursday and asked Mr. Miller to convey their unanimous recommendation of Jason Sanders to the open seat on the Board.

Rick Baxter, 64 th District Representative gave a short update on what is happening in Lansing. Representative Baxter was appointed to the Urban Policy Committee.

J.C. Smith spoke regarding his concerns over Dave Comiskey, Facilities Director, and in favor of Dave Holubowicz.

Richard Todoroff read the proposals that were submitted to the Clerk and distributed under Communications /Petitions pertaining to Board Policy.

Charlie Woodruff, owner of Charlie's Pub and Grill discussed the restaurant-licensing fees.

Public comment concluded at 8:24 p.m.

CONSENT AGENDA:

Moved by Mahoney supported by Brittain to Approve Consent Agenda Items A through L as contained in the following Consent Agenda List:

- A. *Minutes of the 02/22/05 Jackson County Board of Commissioners Meeting.*
 - B. *Claims dated 02/01/05 – 02/28/05 as presented to and approved by the Standing Committees.*
 - C. *Brownfield Redevelopment Authority (BRA) By-Law Amendments.*
 - D. *Re-adoption of Support Emergency Operations Plan for the City of Jackson and the County of Jackson.*
 - E. *Authorization to submit a Justice Assistance Grant (JAG) to the Office of Justice Programs (OJB).*
 - F. *Health Department Special Summer Project for testing and monitoring swimming water quality standards at 15 swimming beaches in County parks.*
 - G. *Budget Adjustment regarding indirect Cost Allocation to the Child Care Fund for submission to the Family Independence Agency (FIA) for the State of Michigan.*
 - H. *Animal Control – Eliminate a full-time and a special part-time Kennel Attendant position and replace with two part-time Kennel Attendant positions with the anticipated savings of \$18,315.*
 - I. *Implement County Policy 1040 (Float Policy) for employee turnover contingency.*
 - J. *"Hobo Park" Well Project as part of the Cascades Park Improvement Project.*
 - K. *Public Defender Accounts*
 - L. *Drunk Driving Caseflow Assistance Fund*
- Motion carried.

STANDING COMMITTEE REPORTS:

A. County Affairs-Cmr. John Day

1) Board Appointments:

- a. *Moved by Day supported by Reynolds to recommend to the full Board the appointment of Shaun Christie*

to the Hospital Finance Authority, Board Chairman appointment for term expiring 12/31/05. Moved by Mahoney supported by Day **to close nominations and cast a unanimous ballot.** Motion carried.

b. Moved by Day supported by Reynolds **to recommend to the full Board the appointment of James E. Shotwell, Sr. and Frank L. Weathers to the LifeWays Board.** Moved by Mahoney supported by Lutchka **to close nominations and cast a unanimous ballot.** Motion carried.

c. Moved by Day supported by Reynolds **to recommend to the full Board the appointment of Joe Michalsky and Ed Eden to the Upper Grand River Watershed Council.** Moved by Mahoney supported by Wilson **to close nominations and cast a unanimous ballot.** Motion carried.

d. Moved by Day supported by Gumbert **to recommend to the full Board the appointment of Bob McClintic to the Veteran's Affairs Committee.** Moved by Mahoney supported by Shotwell **to close nominations and cast a unanimous ballot.** Motion carried.

e. Moved by Day supported by Gumbert **to recommend to the full Board the appointment of Jason Sanders to the Economic Development Corporation.** Moved by Mahoney to nominate Katheryn Keersmaekers. Moved by Brittain to nominate Joe Brown. Moved by Mahoney supported by Wilson **to close nominations and proceed to ballot.** Roll call: Sanders (5): Cmr. Videto, Shotwell, Wilson, Gumbert, & Herl. Keersmaekers (5): Cmr. Lutchka, Day, Reynolds, Mahoney, & Berkemeier. Brown (2): Cmr. Brittain & Smith. Joe Brown is removed from the vote. Sanders (8): Cmr. Brittain, Day, Videto, Shotwell, Smith, Wilson, Gumbert, & Herl. Keersmaekers (4): Cmr. Lutchka, Reynolds, Mahoney, & Berkemeier. Jason Sanders is appointed to the Economic Development Corporation.

f. Moved by Day supported by Brittain **to recommend to the full Board the appointment of Dewey Graves to the Jackson Transportation Authority.** Moved by Shotwell to nominate Robert Ross. Moved by Mahoney supported by Wilson **to close nominations and proceed to ballot.** Motion carried. Roll call: Graves (7): Cmr. Brittain, Videto, Mahoney, Berkemeier, Smith, Wilson, & Gumbert. Ross (5): Cmr. Lutchka, Day, Reynolds, Shotwell, & Herl. Dewey Graves was appointed to the Jackson Transportation Authority.

2). Moved by Day supported by Mahoney **to Approve the Nested Jurisdictions Agreement for Phase II Storm Water Permit Coverage.** Motion carried.

3). Moved by Day supported by Mahoney **to Adopt Resolution 03-05.13 to Approve the 2005-2009 Parks and Recreation Plan.** Roll call: (12) Yeas. Motion carried unanimously.

4). Moved by Day supported by Mahoney **to Approve Resolution 03.05.14 to Authorize Funding Application to the Michigan Department of Natural Resources, Recreation and Trails Section, for the Falling Waters Trail Project.** Roll call: (12) Yeas. Motion carried unanimously.

B. **County Agencies: Cmr. Judy Reynolds:** No report.

C. **Human Services: Cmr. Phil Berkemeier:** No report.

D. **Personnel and Finance: Cmr. James Videto:**

1) Moved by Videto supported by Reynolds **to Authorize Administrator/Controller to sign a contractual agreement with Pictometry International for a project cost of \$219,304 with a County contribution not to exceed \$70,000.** Herl called for a roll call. Roll call: (12) Yeas. Motion carried unanimously.

2) Moved by Videto supported by Shotwell **to Approve the purchase agreement for the Anesthesia Business Consultants/County of Jackson – Cortland Parking lot.** Videto feels that it would be in our best interest to keep that large, open area in our possession until there is a plan in place for the further development of downtown Jackson. Day asked about the size and the price of the lot. Randy answered that it would be \$207,000. Shotwell said that we have about 70 parking spots left. Wilson interjected that this company is moving to downtown Jackson and this parking lot is a big part of the deal. It will bring many more people into the downtown area. Berkemeier pointed out that this agreement has been worked on over a period of months and is a key part to the promotion of moving the Anesthesia Business Consultants downtown. We need to move forward. Roll call: (11) Yeas. Cmr. Lutchka, Brittain, Day, Reynolds, Shotwell, Mahoney, Berkemeier, Smith, Wilson Gumbert, & Herl. (1) Nay. Cmr. Videto. Motion carried.

3) *Moved by Videto supported by Mahoney to Approve the purchase agreement for the Lyle Nichols II and Cathy Nichols/County of Jackson –Vineyard Lake property, the proceeds of which will go to the park development.* Motion carried.

4) *Moved by Videto to Approve to adopt the amendment to Board Policy 4070.* Per Robert Elliott there is no action required on this until the April meeting.

5) *Moved by Videto supported by Reynolds to Adopt Resolution 03-05.16 Authorizing Refunding of the Jackson County Building Authority Building Authority Bonds, Series 2000 and Approving the Undertaking to Provide Continuing Disclosure.* Roll call: (12) Yeas. Motion carried unanimously.

UNFINISHED BUSINESS:

Moved by Herl supported by Mahoney to Appoint Jim Videto and DeAnn Gumbert to the selection committee for the sale of the Kresge Building. Motion carried.

NEW BUSINESS:

A. *Moved by Reynolds supported by Mahoney to Adopt Resolution 03-05.18 ratifying and confirming all prior Motions, Measures, and Resolutions of the Board of Commissioners requiring seven (7) official votes.* *Moved by Wilson supported by Brittain to amend the motion to remove the restaurant fee issue.*

There are many questions remaining pertaining to the restaurant issue. There was a legal majority vote on a second reading to go with the single fee structure in December. We would probably be violating our own policy to re-vote on an issue that already has legal standing in Jackson County. Roll call: (7) Nays. Cmsrs. Lutchka, Reynolds, Videto, Shotwell, Mahoney, Berkemeier, & Gumbert. (5) Yeas. Cmsrs. Brittain, Day, Smith, Wilson, & Herl. Motion to amend defeated. Wilson questions Randy if this will negate an official vote that was taken in December, regardless of the issue. Randy answered that the Board has received a legal opinion that the November vote stood. In order to change the November vote, it would have required one reading and a vote. There was a vote in December, but that would have required a vote in January. The vote in January was to not change the fees. Wilson requested to bring former Commissioner David Elwell forward to clarify what happened during the December vote, where there was actually a legal 7-4 vote pertaining to the restaurant fees. Gumbert asked if that was a motion to suspend the rules because the public is only to address the Board during public comment. Randy reviewed the Board rules to determine if it was appropriate to allow Mr. Elwell to address the Board. Mahoney interjected that it is only appropriate to bring forward members of the staff that have information pertaining to a situation. Berkemeier pointed out that all of the Board members had received a communication from Mr. Elwell explaining his view of the situation, so we are already in possession of that information. Randy quoted policy 4050 "when a motion is on the floor there shall be no audience participation except when requested by a member of the Board of Commissioners. Elected officials and/or staff members may be called upon to provide information and/or answer questions." Wilson asked Mr. Elwell to give a synopsis of his position. Based on his correspondence Mr. Elwell felt that the vote in December was a legitimate vote. Mr. Elwell also suggested that the Board consult with Peter Cohl, as he did not feel that Mr. Cohl had all of the information when giving his opinion the first time. The Board rules clearly state, Mr. Elwell continued, that when setting a fee schedule, the schedule must be read at one meeting, and voted on at the next meeting, and that didn't happen. There was a gap in October, so that made the November vote actually the first reading again, and the vote in December was valid. Mr. Elwell suggested that they review it again with Peter Cohl and prepare to act on it next month. Mahoney Called for the Question. Roll call on the main motion ***to Adopt Resolution 03-05.18 ratifying and confirming all prior Motions, Measures, and Resolutions of the Board of Commissioners requiring seven (7) official votes.*** Roll call: (8) Yeas. Cmsrs. Lutchka, Reynolds, Videto, Shotwell, Mahoney, Berkemeier, Gumbert & Herl. (4) Nays. Cmsrs. Brittain, Day, Smith, & Wilson. Motion carried.

B. *Moved by Reynolds supported by Wilson to terminate the Facilities Manager.* Herl asked Mr. Comiskey if he wanted to go into closed session and Mr. Comiskey declined. Roll call: (12) Yeas. Motion carried unanimously.

C. Communication from the Administrator/Controller to the Board of Commissioners pertaining to appeals of disciplinary action taken under County Policy. *Moved by Gumbert supported by supported by Mahoney to Direct the Administrator/Controller to continue to act in accordance with Board policy on the appeal process.*

Wilson stated that because of many conversations that he has had with Bob Elliott, he does not feel comfortable having him involved in the appeal process. He would like to look at the other alternatives that Mr. Elliott has provided for the Board to consider. Mahoney requested a roll call vote. Day asks if this is left the same, will the same people be involved in the appeal that were involved in the termination? Mr. Elliott answered that the two union employees have already been directed to an arbitrator. The non-union employee would be involved in a labor relations committee comprised of the Human Resources Director, who was part of the original hearing, the Department Head, who will not be involved due to his termination, and himself, Mr. Elliott. Brittain feels that we are putting the new Administrator on the spot because everything that is being dealt with happened before he

came on board. Any decision he makes is going to be wrong, because some of the Commissioners will disagree with him regardless of the decision. Also Brittain does not feel that the Human Resources Director that was involved in the termination should be a part of the appeal process. Mahoney urged the Commission to give the Administrator a vote of confidence tonight and allow him to do the job that he was hired to do. Reynolds also expressed her support for Mr. Elliott, and feels that he can make a neutral decision. She does not, however, think that the Human Resources Director should be a part of it. Neutral people are needed to decide this issue. Gumbert doesn't feel that there is a neutral person that would suit the Board. Smith feels that we are sweeping it under the rug and not facing the issue. Mahoney feels that a third party in this one instance may be in order in the event that the Administrator and the Human Resources Director don't agree on the outcome. Mr. Elliott explained that it is really not a voting situation by the panel. The decision falls to the Administrator. The other members are there to advise what was conducted at the departmental level. Wilson asked Mr. Elliott if he could honestly remain neutral and render an unbiased opinion. Shotwell interjected that Mr. Elliott does not have to answer to us like this. We are his bosses. Hopefully we are going to tell him now to make the decision. That's why we hired him. Mahoney called for the question. Roll call: (7) Yeas. Cmsrs. Lutchka, Videto, Shotwell, Mahoney, Berkemeier, Gumbert & Herl. (5) Nays. Cmsrs. Brittain, Day, Reynolds, Smith, & Wilson. Motion carried. Roll call on the main motion ***to Direct the Administrator/Controller to continue to act in accordance with Board policy on the appeal process.*** Roll call: (7) Yeas. Cmsrs. Lutchka, Videto, Shotwell, Mahoney, Berkemeier, Gumbert & Herl. (5) Nays. Cmsrs. Brittain, Day, Reynolds, Smith, & Wilson. Motion carried.

PUBLIC COMMENT:

Public comment began at 9:12 p.m. with Cherry Mosher. Ms. Mosher wants to know why the 5-4 vote in November is going to be valid, but the 7-4 vote in December needs two months for the vote.

J.C. Smith said that the Board should have an independent person decide the Facilities issue. He feels that Randy Treacher and the Human Resources Director are influencing Mr. Elliot. He encouraged the Board to do the right thing and bring back a good employee.

Dewey Graves thanked the Board for his appointment to the Jackson Transportation Authority.

Jason Sanders thanked the Board for his appointment to the Economic Development Corporation.

Ed Eden thanked the Board for his appointment to the Upper Grand River Watershed Council.

Public comment closed at 9:16 p.m.

COMMISSIONER COMMENT:

Lutchka said that today was Rural Education Days at the fair grounds and we had about 1,000 third graders learning about agriculture.

Wilson has two issues of concern. Our county buildings are being held up in terms of care and maintenance because of three facilities employees that are not working. The court building has a project on hold to renovate the third floor for file storage because the interim Facilities Manager doesn't want to take the project on as he is due to retire soon. The Friend of the Court building is not going to be ready for the original move date of April or May. It may be late fall before they are prepared for the move to the Lansing Avenue facility. ***Moved by Wilson supported by Brittain to recommend that the County Administrator reinstate Dave Holubowicz, James Nichols, and Dennis Spittler immediately with full back pay and benefits pending the outcome of their individual appeals.*** Herl stated that this is out of order, but he will send it on to legal council. Gumbert expresses concern about continuing to send issues to legal council. We have processes and policies that should be allowed to work without paying \$200 per hour. Elliott opposes this motion as contrary to County policy. Mahoney agrees that we do not need to send this to legal council. Videto expresses concern about voting on a motion that is inappropriate; the Chair ruled that it is unacceptable. Lutchka said that we have a process in place that is being followed, so we don't need to send it to council and we don't need to vote. The union is representing two and the other has an appeal process. Wilson stated that the County needs to get these men back to work, get the FOC moved, and sell that building. Shotwell said that the sale of that building is not contingent upon having it vacated. We could sell the building and lease it until we are able to move. The courthouse situation did not come to fruition because the building would not sustain the plans for the file room. The final point that Shotwell made is that the Board does not have authority over these men anyway. The vote is out of order. Herl asked Randy, as the parliamentarian, if this motion is out of order. Randy quoted from part of the Resolution passed in August that states, "It also includes responsibility in hiring and firing of persons who are not Department Heads and/or Directors of Departments." This is a change in item number one of the job description of the Administrator/Controller. Herl's decision that the motion is out of order stands. There will be no vote.

Moved by Wilson to request that the Chair requests an opinion from the Attorney General pertaining to the meeting that took place on February 21, 2005 that is in question in regard to the Open Meetings Act. Motion dies from lack of support.

CLOSED SESSION:

Moved by Lutchka supported by Gumbert to go into Closed Session as allowed under the Open Meetings Act to discuss contract negotiation. Roll call: (11) Yeas. Cmsrs. Lutchka, Day, Reynolds, Videto, Shotwell, Mahoney, Berkemeier, Smith, Wilson, Gumbert, & Herl. (1) Nay. Cmr. Brittain. Motion carried.

The Jackson County Board of Commissioners went into Closed Session at 9:30 p.m.

*Moved by Reynolds supported by Shotwell **to return to Open Session.*** Motion carried.

ADJOURNMENT:

*Moved by Mahoney supported by Reynolds **to Adjourn to the Call of the Chair.*** Motion carried. The Jackson County Board of Commissioners March 22, 2005 meeting was adjourned at 9:44 p.m.

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