

HUMAN SERVICES COMMITTEE
February 26, 2018
Minutes

Members Present: Banas, Nolan, Tennis, Sebolt, and Naeyaert

Members Absent: Koenig and Louney

Others Present: Commissioner Grebner, Tamekia Abercrombie, David Mittleman, Karen Weinstein, Ian Loree, Sam Bird, Matt Nordfjord, Jared Cypher, Liz Noel and others

The meeting was called to order by Chairperson Banas at 6:30 p.m. in Personnel Conference Room "D & E" of the Human Services Building, 5303 S. Cedar Street, Lansing, Michigan.

Approval of the February 5, 2018 Minutes

MOVED BY COMM. NAEYAERT, SUPPORTED BY COMM. SEBOLT, TO APPROVE THE OPEN AND CLOSED SESSION MINUTES OF THE FEBRUARY 5, 2018 HUMAN SERVICES COMMITTEE MEETING.

THE MOTION CARRIED UNANIMOUSLY. Absent: Commissioners Koenig and Louney

Additions to the Agenda –

None.

Limited Public Comment

David Mittleman, Church & Wyble, P.C. Trial Lawyer, stated in reference to the material provided with Agenda Item No. 6, he wanted to clarify that he was local and a vendor with the County. He further stated of the two vendors that had submitted bids for the request for proposal, he should be considered a local vendor and his firm was working with two other firms, the Bernstein Firm and Weitz & Luxenberg, P.C.

Mr. Mittleman stated he also wanted to clarify questions the Committee had regarding the recovery of costs, and his firm was willing to use the same language as the competitor, if it was approved by the State Bar and it was within the code of conduct. He further stated that he knew Commissioner Koenig had been concerned about the 5% higher contingency fee and the County would be an individual client and they would be treated that way, but he did not feel that it would be fair, as all other clients were at the same contingency amount.

Mr. Mittleman stated that his firm was now representing survivors of the largest university sexual assault case, and each survivor would pay the contingency fee in the event funds were recovered. He further stated the had the copy of the complaint his firm had filed on behalf of the City of Lansing, and would be happy to let members of the Committee review it.

Mr. Mittleman stated if his firm represented the County, the County could be as involved as it wanted to be in the litigation in terms of oversight. He further stated that he was also part of the team that was part of the national committee regarding opioid litigation.

MOVED BY COMM. TENNIS, SUPPORTED BY COMM. SEBOLT, TO APPROVE A CONSENT AGENDA CONSISTING OF THE FOLLOWING ACTION ITEMS:

2. Community Mental Health
 - a. Resolution Authorizing a Contract with the Community Mental Health Authority of Clinton, Eaton, and Ingham Counties (CMH) for Mental Health Screening Services in the Ingham County Jail to Include On Call Personnel for Weekends and Holidays
3. Parks Department – Resolution to Authorize the Purchase of Splash Pad Equipment for Hawk Island
4. Fair Office – Resolution to Authorize a Contract with Miller’s American Rentals dba American Rentals Inc. to Provide Sanitation Services at the Ingham County Fair and at Various Ingham County Parks
5. Health Department
 - a. Resolution to Authorize a Great Start Agreement with the Midland County Educational Services Agency
 - b. Resolution to Authorize an Amendment to Resolution #17-432
 - c. Resolution to Amend Resolution #18-024 to Authorize Amendment #1 to the 2017-2018 Comprehensive Agreement with the Michigan Department of Health and Human Services

THE MOTION CARRIED UNANIMOUSLY. Absent: Commissioners Koenig and Louney

THE MOTION TO APPROVE THE ITEMS ON THE CONSENT AGENDA CARRIED UNANIMOUSLY. Absent: Commissioners Koenig and Louney

1. Interviews – Community Health Center Board

Tamekia Abercrombie interviewed for a position on the Community Health Center Board.

MOVED BY COMM. SEBOLT, SUPPORTED BY COMM. NAEYAERT, TO RECOMMEND TAMEKIA ABERCROMBIE FOR A POSITION ON THE COMMUNITY HEALTH CENTER BOARD TO THE BOARD OF COMMISSIONERS.

THE MOTION CARRIED UNANIMOUSLY. Absent: Commissioners Koenig and Louney

Health Department

- d. Resolution to Authorize a Pharmacy Agreement with Meijer, Inc.
- e. Resolution to Authorize a Pharmacy Agreement with Walmart

MOVED BY COMM. TENNIS, SUPPORTED BY COMM. NAEYAERT, TO APPROVE THE RESOLUTIONS.

Commissioner Sebolt asked if the projected savings was \$54,000 per agreement, or if it was a combined savings of \$54,000.

Linda Vail, County Health Officer, stated each agreement had a projected agreement of \$54,000.

Commissioner Tennis stated this initiative was something Russ Kolski, former Health Department Executive Director, had started, and encouraging people to sign up with Meijer or Walmart pharmacies had saved the County a lot of money.

THE MOTION TO APPROVE BOTH RESOLUTIONS CARRIED UNANIMOUSLY. Absent: Commissioners Koenig and Louney

2. Community Mental Health

- b. Update on CMH activities

Sara Lurie, Community Mental Health (CMH) Chief Executive Officer, presented to the Committee a handout regarding CMH activities.

Chairperson Banas asked where anxiety fell in the rank of top primary diagnoses treated at CMH. She stated she had been reading that young people had been experiencing more anxiety recently than in previous years.

Ms. Lurie stated CMH did treat a lot of anxiety, but it was not in the top 5 diagnoses, because it was not the primary diagnosis and there was usually other issues combined. She further stated that anxiety was a big issue, especially with suicide prevention.

Ms. Lurie continued to present the handout to the Committee.

Chairperson Banas thanked Ms. Lurie for her presentation of a comprehensive report that encompassed how CMH was addressing the community needs assessment and the effectiveness of Narcan in the County.

Commissioner Nolan asked why CMH did not apply for the Section 298 pilot grants.

Ms. Lurie stated that the pilot projects were not grants, but would take funding from the public Prepaid Inpatient Health Plans and move it to the private Medicaid health plans in the area. She

further stated that CMH had been very involved in in the initial years of Section 298 and CMH had already put a lot of work into health care integration into the community.

Ms. Lurie stated in talking to other CMHs, it would be better to watch and learn and better position themselves for the future. She further stated there were no additional dollars, and if CMH had been involved in the pilot project and funding went to other health plans, there would be five entities that CMH would have to work with, so they wanted to learn more and set themselves up to be in a better position later by not getting involved this year.

6. Human Services Committee – Resolution Authorizing an Agreement with Miller Law Firm, P.C. to Represent Ingham County in Litigation Against Manufacturers and Wholesale Distributors of Opioids

Matt Nordfjord, County Attorney, stated he suggested the Committee go into Closed Session, to discuss a legal opinion under MCL 15.268(h).

Commissioner Nolan stated she thought that the legal opinion had been brought to the full board, as she recalled she requested it to go through the County Services Committee to make the legal opinion public.

Discussion.

MOVED BY COMM. SEBOLT, SUPPORTED BY COMM. NAEYAERT, TO ENTER INTO CLOSED SESSION TO RECEIVE CONFIDENTIAL INFORMATION FROM LEGAL COUNSEL.

THE MOTION FAILED BY A ROLL CALL VOTE. **Yeas:** Banas, Sebolt, Tennis,
Naeyaert **Nays:** Nolan **Absent:** Louney, Koenig

Commissioner Sebolt stated he was concerned because it sounded like the legal update was communicated to some members of the Committee, but not to others and he was being asked to vote on something he did not have all the information about.

MOVED BY COMM. SEBOLT TO RECONSIDER THE VOTE TO ENTER INTO CLOSED SESSION AT APPROXIMATELY 7:17 P.M. TO RECEIVE CONFIDENTIAL INFORMATION FROM LEGAL COUNSEL PURSUANT TO MCL 15.268(H).

IT WAS UNANIMOUSLY AGREED TO RECONSIDER THE VOTE TO ENTER INTO CLOSED SESSION.

THE MOTION CARRIED BY A UNANIMOUS ROLL CALL VOTE. Absent: Commissioners Koenig and Louney .

MOVED BY COMM. TENNIS, SUPPORTED BY COMM. NAEYAERT, TO RETURN TO OPEN SESSION AT APPROXIMATELY 7:23 P.M.

THE MOTION CARRIED UNANIMOUSLY. Absent: Commissioners Koenig and Louney

MOVED BY COMM. TENNIS, SUPPORTED BY COMM. NAEYAERT, TO APPROVE THE RESOLUTION.

Commissioner Tennis stated he felt like he was back to where the Committee was a few weeks ago and nothing had changed. He further stated he respected staff's recommendations, but it mainly revolved around their concern about recovery fees.

Commissioner Tennis stated he had been swayed that he would prefer to go with Weitz & Luxenberg instead of The Miller Law firm, because of three reasons. He further stated the first reason was that Weitz & Luxenberg was better positioned nationally with the opioid litigation.

Commissioner Tennis stated the second reason to go with Weitz & Luxenberg was their partnership with The Sam Bernstein Law Firm, because Michigan had a unique law on pharmaceutical litigation and The Sam Bernstein Law Firm had experience with that. He further stated the third reason to choose Weitz & Luxenberg was that having an Ingham County firm as part of the team was vital, as Church & Wyble was not only a local firm, but the County would have someone to do the legwork and respond to them.

Commissioner Tennis stated he intended to change the language in the resolution to choose Weitz & Luxenberg, rather than The Miller Law Firm.

Commissioner Nolan stated she agreed with Commissioner Tennis, and she would also like to go with Weitz & Luxenberg. She further stated that 99% of the time the Board of Commissioners went with the County Attorney's opinions, but it was their prerogative to go against if they wanted, like in this case.

Commissioner Nolan stated she felt that Weitz & Luxenberg provided a better opportunity for the County, and she did believe that they should have gotten points for being local. She further stated she liked that Weitz & Luxenberg was on the national committee, and they were a prestigious law firm and nationally renowned in these big cases.

Commissioner Nolan stated she got the 5% difference, but she thought that the County would get that in local services from Mr. Mittleman, as he has been at every Committee meeting they had discussed the litigation. She further stated that this is one where the Board of Commissioners disagreed with the staff, and she would like to go with the other firm.

Commissioner Sebolt asked as a point of order, that he recalled that staff had recommended one plumbing firm, and Committee members were told that they could not amend the resolution to go with a different plumbing firm. He further stated the Committee was told that they could approve or reject the recommendation, and instruct staff to go back and consider other factors.

Jared Cypher, Deputy Controller, stated there were two policies that spoke to the issue. He further stated according to Section 21 of the Purchasing Procedures Policy, The Miller Law Firm would be the lowest qualified bidder because of the difference between the contingency fee.

Mr. Cypher read from page 6 and 7 of the Ethics Policy, which set limits for Commissioner involvement, and outlined circumstances in which there might be latitude for Commissioner involvement, like in the difference of quality of services provided by a vendor.

Commissioner Nolan stated she agree with Mr. Mittleman, that his firm should have been given local preference which would have allowed for the firm to lower their contingency fee 5% and make it even to The Miller Law Firm.

Commissioner Tennis stated he thought it did not work that way.

Mr. Cypher stated that Weitz & Luxenberg had submitted the bid, not Church & Wyble, and Weitz & Luxenberg was not local.

Commissioner Nolan stated Paul Novak, Weitz & Luxenberg Managing Attorney, had been a local figure in the County for years.

Commissioner Grebner stated the reason he was at the Committee meeting was because Commissioner Koenig could not attend the meeting and had asked him to be there to explain the policies. He further stated in response to Commissioner Sebolt's question, there was no set rule against amending the resolution in this way, it was a question of advisability with the Ethics Policy, but if the Board of Commissioners were to amend the resolution, there would be nothing in the rules to invalidate the action.

Commissioner Naeyaert asked Mr. Mittleman if he had been contacted by any Commissioners about the resolution.

Mr. Mittleman stated he had had conversations with Commissioners about the opioid litigation.

Commissioner Naeyaert asked if Mr. Mittleman had discussed the resolution with anyone on this Board of Commissioners.

Commissioner Tennis stated he had had conversations with Mr. Mittleman about the opioid litigation, as Mr. Mittleman had brought the issue to him and the Committee had a hearing on the opioid litigation when he was still Chairperson of the Committee.

Discussion.

Commissioner Grebner stated the County had a policy on local preference, but this proposal did not apply, and it only gave the firm the opportunity to lower their price, and Weitz & Luxenberg had already indicated that it did not want to lower their price. He further stated the policy was how the Board of Commissioners kept their fingers out of the purchasing and hiring in the County, except for hiring a few select people.

Commissioner Grebner stated he thought the Committee should ask staff, given all of these considerations, to reconsider the proposals, as that was the proper way to do it, but it was likely staff would come back with the same recommendation.

Commissioner Nolan stated she thought the County did a fabulous job of being ethical. She further stated this contract happened to be one that possibly had no money attached, so there was no money that she or the County could pursue an ethics violation on, as far as she could see.

Commissioner Nolan stated this law firm that had personal relationships that she thought would better respond to the County, and they were better positioned on the national scene.

Commissioner Tennis asked if the County had ever done a purchasing contract to hire an attorney for litigation, on a contingency fee.

Discussion.

Mr. Nordfjord stated there had been a case with the Register of Deeds Office.

Commissioner Grebner stated there had been litigation regarding the false signing of deeds.

Discussion.

Commissioner Tennis stated he understood the purchasing and ethics policies, but there was no dollar figure and it was not like the County was buying police cars, where they could examine the quality of materials or construction that they normally looked at. He further stated he did believe strongly that the County had a better chance of getting a larger award with Weitz & Luxenberg, because of their history and experience.

Commissioner Tennis stated he was not sure if the Committee should send the recommendation back to staff where he hoped they would consider those points more strongly. He further stated there was a local element with Weitz & Luxenberg, and Michigan had a unique pharmaceutical liability law, and The Sam Bernstein Firm had experience with dealing with it and litigation on the national level.

Commissioner Tennis stated he believed it was in the County's best interest in recovering the settlement to go with Weitz & Luxenberg. He further stated he did not know where to go from here, because he had not realized what precedent would be set.

Chairperson Banas asked Mr. Nordfjord his reasons for choosing The Miller Law Firm, as he was on the panel that made the decision.

Mr. Nordfjord stated the panel had chosen the lowest bidder, but the situation was unique because it was based on a contingency fee percentage rather than a set dollar amount. He further stated that the panel had discussed the nature of the clients represented by the firms, and had discussed the pros and cons of having the same representation as the largest municipality in the County.

Mr. Nordfjord stated the issue of recovery costs had been mostly resolved in Committee. He further stated the County purchasing policy dictated their choice for the lowest bidder.

Mr. Nordfjord stated the second concern of having the same representation as the City of Lansing was interesting, because he generally did not have experience with representing municipalities within the same County and he saw it as a disadvantage from his personal opinion. He further stated it was not difficult, once the panel had seen the contingency fee cost upfront, to recommend The Miller Law Firm.

Commissioner Nolan stated due to the unique nature of this contract, she would not expect the Purchasing Department to look into each firm's experience with national litigation and class-action lawsuits and how the firms had done with those over the years. She further stated that Weitz & Luxenberg had experience with that, and Paul Novak had done that as an attorney and the firm had a reputation for those types of litigation, which was drawing her into advocating for them.

Commissioner Sebolt asked Mr. Nordfjord to share the pros and cons of having the same representation as the City of Lansing.

Mr. Nordfjord stated a pro of having the same law firm represent the County that represented the City of Lansing would be the economy of scales, as there might be an overlap in costs to the municipalities in dealing with the opioid problem that could benefit from being represented by the same law firm. He further stated that a con for having the same representation was that if funds were recovered, the County would be competing with the City of Lansing for the same dollars, and the thought of the County might not be the same as Lansing's on financial remuneration.

Commissioner Grebner stated the focus should not be on the percentage of the contingency fee, but rather what was in the overall best interest of the County and who would do the best job. He further stated now that the other question of responsibility for cost had been resolved, the proposal should be sent back to staff to rethink it.

Commissioner Grebner stated there would always be unique circumstances, such as the County was not paying the vendor money, which was why the Ethics Policy said to apply the principles broadly and not get hung up on technicalities.

Discussion.

Commissioner Tennis stated based on Commissioner Grebner's points, he would be inclined to vote to reject the proposal and send it back to staff with many of the same caveats that Commissioner Grebner said, to look at what yields in the best interest for the County. He further stated there were three main issues of the contingency fee, having the same representation as the City of Lansing, and the responsibility of costs that had been dealt with.

Commissioner Tennis stated disagreed with the panel's assessment because if there was a dispute between the City of Lansing and the County, and they were represented by two different law firms, then two different law firms would fight about which client would get a better deal rather than having the same representation that had a duty to both clients to do what was in the best interest of both clients. He further stated he thought that argument was a wash.

Commissioner Tennis stated that the decision came down to the contingency fee argument, and he hoped that staff agreed that the quality of the experience of the firms involved outweighed the potential difference of 5% in contingency fees.

Chairperson Banas asked Mr. Mittleman how involved he would be in the team if the County accepted Weitz & Luxenberg's bid.

Mr. Mittleman stated he had been offered to be part of two different groups of law firms on the issues and had had a handshake deal with another team, when he had been offered the opportunity to work with Weitz & Luxenberg and The Sam Bernstein Law Firm, he took it because he had worked with them before. He further stated his involvement would primarily be to be the local liaison and point of contact, and he would not be involved in Ohio in any way where Weitz & Luxenberg had a place at the table because of their reputation, and he was part of the strategy for litigation.

Mr. Mittleman stated he usually represented injured people, and did not represent municipalities, but it was the same principle, where the County had been wronged by Big Pharma and national distributors and the County should hold them accountable for things the County had to pay for because they committed a fraud. He further stated that he would not feel comfortable trying the case on his own based on his experience, but the bulk of the work would be done by Weitz & Luxenberg and The Same Bernstein Law Firm had national experience in this field.

Mr. Mittleman stated his team of law firms expected to represent about four dozen municipalities in the litigation, which was a good way for the County to share the costs. He further stated he had a passion for Ingham County and had lived there for over thirty years.

Discussion.

Commissioner Nolan stated she would like to refer the resolution back to Purchasing, specifically for Weitz & Luxenberg and The Miller Law Firm to indicate over the past ten or fifteen years what kind of national class-action lawsuits they had been successful in moving forward. She stated she thought it would make the Committee's decision easier once those cases were laid out.

Discussion.

COMMISSIONER TENNIS WITHDREW HIS MOTION TO APPROVE THE RESOLUTION.

Discussion.

MOVED BY COMM. NOLAN, SUPPORTED BY COMM. TENNIS, TO REJECT THE STAFF'S RECOMMENDATION AND ASK THE PURCHASING DEPARTMENT TO RECONSIDER THE PROPOSALS IN LIGHT OF REVIEWING THE FIRMS' HISTORY OVER THE PAST TEN YEARS OF THEIR EXPERIENCE WITH NATIONAL CLASS ACTION LAWSUITS AND THEIR SUCCESS, THE QUESTION OF RESPONSIBILITY OF COSTS HAD BEEN EQUALIZED BETWEEN THE TWO FIRMS, AND THE PERCENTAGE SHOULD NOT BE A MAJOR CONSIDERATION, BUT THE MAJOR CONSIDERATION SHOULD BE THE OVERALL BEST INTEREST TO THE COUNTY IN THE LITIGATION; AND TO ASK THE STAFF TO RECONSIDER THEIR RECOMMENDATION.

Discussion.

Chairperson Banas asked if the panel had looked at past success records of the law firms in coming up with their decision.

Mr. Nordfjord stated the panel did not review the law firms' records with that specificity, as the panel had only reviewed what had been included in the request for proposal.

Discussion.

THE MOTION WAS AMENDED TO REFER THE PROPOSAL TO THE ORIGINAL PANEL OF JARED CYPHER, LINDA VAIL, AND MATT NORDFJORD.

This was considered a friendly amendment.

THE MOTION CARRIED UNANIMOUSLY BY ROLL CALL VOTE. Absent: Commissioners Koenig and Louney

7. Discussion – Youth Commission

Chairperson Banas provided background on the reason for the discussion on the Youth Commission. She stated she wanted to hear the Youth Commission's thoughts on how the next Youth Commission could be fashioned so it could follow its original mission of advising the Board of Commissioners on issues they were acting on.

Karen Weinstein, Youth Commission Volunteer Coordinator, stated she did not have a curriculum to follow, but she was trying to teach the Youth Commissioners about County government and community service.

Ian Loree, Youth Commission Treasurer, introduced himself to the Committee. He stated he was currently the Treasurer, but the Youth Commission did not have money, but he hoped that would change if they were able to start fundraising.

Sam Bird, Youth Commission Photographer, introduced herself to the Committee. She stated she took pictures, because the Youth Commission wanted to show people what they were doing.

Discussion.

Chairperson Banas asked how many members there were on the Youth Commission.

Ms. Weinstein stated there were currently eight members of the Youth Commission.

Chairperson Banas asked how many members of the Youth Commission there could be.

Discussion.

Ms. Weinstein stated she thought there were about 13 to 15 seats on the Youth Commission.

Chairperson Banas stated there had been a resolution drafted to allow the Youth Commission to fundraise and the Committee would be acting on that at their next meeting.

Commissioner Sebolt asked what thoughts and feedback the members of the Youth Commission had after seeing lively discussion take place about the opioid litigation.

Ms. Bird stated she did like being able to see the discussion, because most other meetings she had attended had not had a lively discussion like that. She further stated she thought all of the Commissioners had brought valid points to the discussion.

Commissioner Naeyaert asked what the Youth Commissioners thought could be done to better improve the communication with the Board of Commissioners and the Committee, or what ideas they had to interact with the Board of Commissioners more.

Ms. Weinstein asked if the Committee was looking for a plan from students, or a general plan overall.

Chairperson Banas stated the Committee was looking for suggestions, as she and Commissioner Crenshaw had been discussing some ways to change the Youth Commission, and she wanted to present something to the Board of Commissioners. She further stated she wanted to hear from thoughts from the Youth Commission on not just activities, but other ways they could provide feedback to the Board of Commissioners.

Ms. Weinstein stated in doing research about the Youth Commission, it seemed like there had been different coordinators dedicated to the Youth Commission under 4-H. She further stated that some of those coordinators had a curriculum, but she had never seen something like that.

Discussion.

Mr. Cypher asked what the Youth Commissioners thought if the Committee were to re-task the Youth Commission to look at County programs to make them better and more receptive to youth, like the Trails and Parks programs or the Ingham County Fair, and have them report back to the Board of Commissioners on their experience.

Chairperson Banas suggested each Committee could come up with different tasks for the Youth Commission throughout the year.

Ms. Bird stated she would love that idea.

Commissioner Sebolt stated he did not want to see the Youth Commission take on fun issues, as the youth was leading serious conversations in the nation, and youth had to see mental health issues as well. He asked the Youth Commissioners what issues they would be interested in investigating and making a recommendation on.

Discussion.

Chairperson Banas stated she had also explored having someone on staff to be the Youth Commission mentor.

Commissioner Sebolt asked what resources the Youth Commission needed from the Board of Commissioners to be able to make decisions on ideas for their curriculum.

Ms. Bird stated she appreciated and agreed with everything the Committee had said, and she liked having closer mentor to lead and move the Youth Commission in a positive direction. She further stated she liked having a mentor or ideas for them to work with, as well as keeping their community service aspects of the program.

Commissioner Sebolt offered to have Commissioner Naeyaert and him come to one of their Youth Commission meetings to present on how government worked, as he and Commissioner Naeyaert also worked in the State Legislature.

Discussion.

Commissioner Nolan stated she hoped the Youth Commissioners would be encouraged to run for office in the future.

Chairperson Banas suggested the Youth Commission make a list of things they were curious about to be topics of conversation going forward.

Announcements

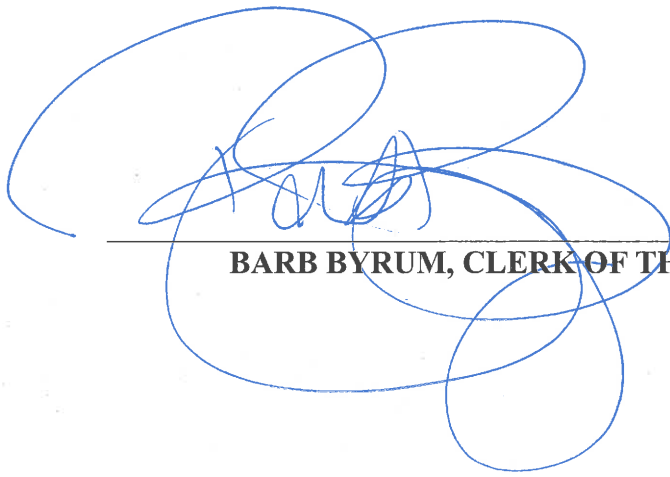
None.

Public Comment

None.

Adjournment

The meeting was adjourned at 8:27 p.m.



BARB BYRUM, CLERK OF THE BOARD

