

KENT COUNTY BOARD OF COMMISSIONERS

Thursday, July 22, 2004

Administration Building - Room 310

Meeting called to order at 8:31 a.m. by Chair David J. Morren.

Present: Commissioners Agee, Bulkowski, Hiddema, Horton, Koorndyk, Kuipers, Mast, Mayhue, Morgan, Postmus, Tanis, VanderMolen, Vaughn, Vonk, Voorhees, Wahlfield, Chair Morren – 17.

Absent: Boelema, Rolls - 2 (Excused).

Invocation: Commissioner VanderMolen gave the invocation.

PUBLIC COMMENT

1. Susan Lovell, Grand Rapids Township Trustee, & Planning Commission member - here today as an Agriculture Preservation Board Member. The Agriculture Preservation Board has been working diligently and has had a very successful year and a half with 44 farmers applying and foundations contributing \$1,000,000. However, the County created the board with no funding. She encouraged the Board of Commission (“BOC”) to allocate funding to this program. Grand Rapids Township, which has no farms, has contributed money to show its support of the program. Everyday in this country, we lose 3,000 acres of land. We have lost 12% of our green space in 5 years. Kent County is the fifth most agriculturally productive county in the state yet over 15 years we have lost 17% of our total acreage. We need to protect our farmers and preserve our green space. She asked the BOC to consider supporting this program. **(Supports PDR funding)**
2. Dennis Heffron, Grattan Township Trustee – Present today to express his township’s concern regarding urban sprawl. He urged leadership to bring townships and the County together to work out the issue of funding. **(Supports PDR funding)**
3. Bill Hirsch III, Gaines Township dairy farmer and member of the Agriculture Preservation Board - thanked the BOC for his appointment to the board. Preserving farmland preserves cities and small communities. Agriculture is Michigan’s second largest industry and is a critical component of the state’s economy. We are consuming land six times faster than the population growth. Agriculture touches everyone’s life every single day and we cannot afford to lose the land. He believes in the PDR program and is disappointed in its lack of funding. He was given a job but offered no tools to work with. As a board member, he asks the BOC to fund the program. The BOC’s decision will be critical to the quality of life for future generations. **(Supports PDR funding)**

4. Jim May, Alpine Township farmer, Agriculture Preservation Board member, and President of the Kent County Farm Bureau. In spring of 2003, the Kent County Farm Bureau formed a land use committee to help deal with land issues. The Farm Bureau board was asked to put \$10,000 toward farm land preservation (with Kent County contributing \$2 for every \$1 or \$20,000 to their \$10,000). After the spring 2004 rains, they and a representative from Senator Stabenow's office flew over the County to view the damage to the agriculture areas. This fly over clearly showed the vast housing development. He thanked the BOC for his appointment to the Agriculture Preservation Board and, as President of the Kent County Farm Bureau, he looks forward to working with the County. **(Supports PDR funding)**
5. Al Berry, 8305 Cowan Lake Drive, Rockford – We need to keep farming viable by preserving farmland and initiating well-planned development. Farming is a major piece of Kent County's economy. We have a much-needed program but no funds to manage it. We could miss out on an opportunity since foundations have pledged matching funds. **(Supports PDR funding)**
6. Brian Heffron, 7724 Ashley Avenue, Grattan - An MSU Crop and Soil Science graduate, he now works on the family farm. He was encouraged when the PDR Ordinance passed. This was the first needed step to help preserve the prime farmland in Kent County. **(Supports PDR funding)**
7. Sonya McGlaun, 3830 Kenowa Street, Grandville - She reserved a shelter at **Millennium Park** but the day of her party, her guests were not allowed to park in her shelter's reserved parking spaces. Her guests were forced to walk a distance carrying their food. She was forced to show her park reservation at least five different times that day, and she feels that she and guests were not treated properly. Although she did receive a refund, she hopes that park employees will be given thorough and extensive training in treating people of all backgrounds with dignity and respect.
8. Pete Siler, Bowne Township Supervisor – Bowne Township recently passed a resolution to support the PDR program with \$5,000. Bowne is a small township and even though Bowne has no one participating in the program, its board members think that this is a very worthwhile project. Over 70% of the land in Bowne Township is agricultural, and they hope to preserve the farmland in their area, the county and state. **(Supports PDR funding)**
9. Bill Hirsch Jr. – He is the proud father of farmer Bill Hirsch III who did not come from a farming background. We must preserve this way of life and values. **(Supports PDR funding)**
10. Richa, 300 Monroe Avenue NW, Grand Rapids – As a justice advocate, believes that farms are very important to everyone. However, he questions whether this the best way to preserve farmland. Perhaps taxation and zoning routes are the better way to go.

CONSENT AGENDA

- a) Approval of the Minutes of June 24, 2004 Meeting

b) Appointment to Family & Children's Coordinating Council – Laurie Gardner

c) Resolutions:

7-22-04-66 – ACCEPT GRANT FROM THE STATE FAMILY INDEPENDENCE AGENCY (FIA) / FRIEND OF THE COURT

WHEREAS, the Family Independence Agency (FIA) Office of Child Support provides grant funding to the Friend of the Court to conduct medical support enforcement activities to reduce the use of Medicaid by children whose non-custodial parents have access to health insurance for dependents; and

WHEREAS, the grant pays 100 percent of the salary and fringes for five FTEs; and

WHEREAS, the anticipated grant period is October 1, 2004, to September 30, 2005.

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners approves the Friend of the Court's request to accept an FY 2005 Title IV-D Medical Support Grant from the State Family Independence Agency; and

BE IT FURTHER RESOLVED that in the event grant funding is eliminated or decreased, the position(s) will be eliminated unless continuation funding is approved pursuant to the Fiscal Policy on Grants; and

BE IT FURTHER RESOLVED that the Kent County Board of Commissioners authorizes the Board Chair to sign all grant documents.

7-22-04-67 – RESOLUTION AUTHORIZING EXECUTION OF A DEFEASANCE

AGREEMENT FOR CAMPAU/KETTLE LAKE SEWAGE DISPOSAL SYSTEM BONDS, SERIES 1996 / PUBLIC WORKS

WHEREAS, the County of Kent (the "County") and the Charter Township of Caledonia (the "Township") have previously entered into the Campau/Kettle Lake Sewage Disposal System Contract, dated as of October 1, 1994 (the "Contract"), pursuant to which the County agreed to finance on behalf of the Township certain sewage disposal facilities described therein (the "Project"); and

WHEREAS, pursuant to the Contract, on February 8, 1996, the County issued its Kent County Sewage Disposal Bonds – Campau/Kettle Lake Sewage Disposal System (General Obligation Limited Tax), Series 1996 in the aggregate principal amount of \$3,350,000 (the "Bonds") to finance part of the costs of the Project; and

WHEREAS, the Township is obligated under the Contract to make payments to the County at the times and in the amounts necessary to enable the County to pay principal of and interest on the Bonds when due, and to the making of such payments the Township has pledged its full faith and credit; and

WHEREAS, the Contract provides that the Contract shall terminate when the Bonds and the interest thereon are paid and fully discharged or provision has been made therefore and upon such termination, the Project and all related easements and rights-of-way shall become the property of the Township; and

WHEREAS, the Township has requested the County to enter into a Defeasance

Agreement (the "Defeasance Agreement"), setting forth the terms and conditions under which

provision shall be made for the payment of the Bonds in accordance with the Contract.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the County of Kent, as follows:

1. The Defeasance Agreement (including the Escrow Deposit Agreement attached thereto), in the form presented to this meeting, is hereby approved, and the Chairman and the Secretary of the Board of Public Works are hereby authorized and directed to execute and deliver the Defeasance Agreement (and the Escrow Deposit Agreement attached thereto) in substantially the form approved, with such changes as may be necessary or desirable and not materially adverse to the County. The Chairman and the Secretary of the Board of Public Works and the Director of the Department of Public Works are each hereby authorized to execute such other documents as may be necessary to accomplish the defeasance of the Bonds and the transfer of the Project to the Township as contemplated by the Contract and the Defeasance Agreement.

2. All resolutions and parts of resolutions, insofar as the same may be in conflict herewith, are hereby rescinded.

Motion by Commissioner VanderMolen, supported by Commissioner Mayhue, to approve the consent agenda items.

Motion carried:

Yeas: Vonk, Wahlfield, Morgan, Horton, Tanis, Hiddema, Voorhees, Agee, Mast, VanderMolen, Postmus, Bulkowski, Mayhue, Vaughn, Koorndyk, Kuipers, Chair Morren – 17.

Nays: 0.

RESOLUTIONS

7-22-04-68 – EMPLOYMENT AGREEMENT FOR ADMINISTRATOR / CONTROLLER / BOARD OF COMMISSIONERS

WHEREAS, the Kent County Board of Commissioners, on February 25, 1999, appointed Daryl Delabbio as County Administrator/Controller; and

WHEREAS, the Legislative and Human Resources Committee, pursuant to Resolution 2-25-99-20, developed and recommended approval of the Employment Agreement by and between the Board of Commissioners and Mr. Delabbio; and

WHEREAS, the Legislative and Human Resources Committee has developed proposed changes to said Employment Agreement and is recommending that the Board of Commissioners approve those changes.

NOW, THEREFORE, BE IT RESOLVED, that the Kent County Board of Commissioners hereby approves the Employment Agreement by and between the Kent County Board of Commissioners and Daryl Delabbio effective for the period January 1, 2005, through December 31, 2007; and

BE IT FURTHER RESOLVED that the Chair of the Kent County Board of Commissioners, or Vice-Chair in his absence, is authorized to sign the Employment Agreement; and

BE IT FURTHER RESOLVED that a copy of the agreement need not be included in the minutes as a copy is on file with the County Clerk.

Motion by Commissioner Postmus, supported by Commissioner Agee, that the resolution be

adopted.

Motion carried:

Yeas: Vonk, Wahlfield, Morgan, Horton, Tanis, Hiddema, Voorhees, Agee, Mast, VanderMolen, Postmus, Bulkowski, Mayhue, Vaughn, Koorndyk, Kuipers, Chair Morren – 17.
Nays: 0.

7-22-04-69 – LAND ACQUISITION GRANT APPLICATION - CALEDONIA TOWNSHIP

/

PARKS DEPARTMENT

WHEREAS, this parcel is very unique in that it is at the confluence of the Coldwater River and the Thornapple River; and

WHEREAS, the parcel meets the 2003 Kent County Park, Recreation and Natural Areas Master Plan's priority of acquiring land in the southeast portion of the County; preserving unique property rich in natural resources and connecting to other County parks via water trail; and

WHEREAS, the estimated purchase price for the property is \$1.2 million. The final purchase price will be determined using the DNR appraisal process required by the grant process. Grant funds may be applied to purchase 74 percent of the appraised price; and

WHEREAS, Caledonia Township has traditionally appropriated funds for a portion of park property acquisition within its boundaries; and

WHEREAS, if the application is approved by the State, funds would be expended in 2005 or 2006 calendar year.

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners hereby approves the Parks Department's application to the Department of Natural Resources Trust Fund Program for a grant to purchase approximately 89 acres of property as a new county park in Caledonia Township.

Motion by Commissioner Tanis, supported by Commissioner Vonk, that the resolution be adopted.

Motion carried:

Yeas: Vonk, Wahlfield, Morgan, Horton, Tanis, Hiddema, Voorhees, Agee, Mast, VanderMolen, Postmus, Bulkowski, Mayhue, Vaughn, Koorndyk, Kuipers, Chair Morren – 17.
Nays: 0.

REPORTS

NACO Conference

Commissioner Mast attended the July NACO Conference, as a MAC board member, at which discussions were held on preserving green space and handling continuing sprawl. This is a major issue throughout the country.

Education Renewal Zone Act Subcommittee

Commissioner Koorndyk reported that the Education Renewal Zone Act Subcommittee held its third meeting on June 29, 2004, with the Mayor of Grand Rapids and the superintendent of the Grand Rapids Public Schools attending. They plan to meet at least once more, and then will bring a recommendation to this Board.

CLOSED SESSION

At 9:16 a.m., Commissioner Morgan, supported by Commissioner Agee, moved to meet in closed session pursuant to Section 8e of the Open Meetings Act to consult with legal counsel regarding litigation or settlement strategy in connection with the Bank One condemnation lawsuit, as an open meeting would have a detrimental financial effect on the litigation or settlement position of the County.

Motion carried:

Yeas: Vonk, Wahlfield, Morgan, Horton, Tanis, Hiddema, Voorhees, Agee, Mast, VanderMolen, Postmus, Bulkowski, Mayhue, Vaughn, Koorndyk, Kuipers, Chair Morren – 17.

Nays: 0.

At 9:46 a.m., Commissioner Morgan, supported by Commissioner Horton, to go back into open session.

Motion carried:

Yeas: Vonk, Wahlfield, Morgan, Horton, Tanis, Hiddema, Voorhees, Agee, Mast, VanderMolen, Postmus, Bulkowski, Mayhue, Vaughn, Koorndyk, Kuipers, Chair Morren – 17.

Nays: 0.

RESOLUTION

7-22-04-70 – KENT COUNTY JUSTICE CENTER CONDEMNATION SETTLEMENT

WHEREAS, in early 1998, the Kent County Board of Commissioners selected a site at the northeast corner of Ottawa Avenue, N.W. and Lyon Street, N.W. as the location for the new Kent County Justice Center; and

WHEREAS, the County hired an appraisal company to determine the fair market value of each of the three parcels that made up the site; and

WHEREAS, the County offered to purchase each of the three parcels from their respective owners, Empire Equities, LTD, National Bank of Detroit ("NBD"), and the City of Grand Rapids, for the full amount of the appraisals; and

WHEREAS, the City of Grand Rapids agreed to sell its parcel for the amount of the appraisal (\$498,600.00 for 0.357 acres) but the other two owners rejected the offers to purchase and refused to make counteroffers; and

WHEREAS, in order to obtain the parcels in a timely manner so as to allow construction of the Justice Center to commence in accordance with the construction schedule that had been established, the County, Deep Creek Holdings, LLC (which had purchased Empire Equities' interest in one of the parcels), and NBD signed an agreement on December 31, 1998 transferring title of the two remaining parcels to Kent County. The agreement required the parties to negotiate a sales price for the parcels during 1999 and provided for resolution of the issue of fair market value through an eminent domain proceeding should the parties be unable to agree on a sales price; and

WHEREAS, the owners of the remaining parcels did not negotiate the sales price for the parcels. Rather, attorneys for the owners in late December 1999 suggested an alternative

dispute resolution process for determining fair market value, indicating that in their opinion fair market value for the parcels exceeded \$5 million; and

WHEREAS, in early 2000, the County proposed to compromise the fair market value of the two parcels at an amount between the County's appraisals and the appraisal obtained by the property owners. The property owners refused to engage in further negotiations and instructed the County to initiate eminent domain proceedings in Kent County Circuit Court; and

WHEREAS, following the initiation of an eminent domain proceeding in Kent County Circuit Court and discovery, the parties agreed to determine the fair market value of the parcels through a binding arbitration process with the arbitration panel comprised of three attorneys; and

WHEREAS, following the completion of an approximately two-week long arbitration hearing, the arbitration panel determined that fair market value for the two parcels is \$3,102,866.00; and

WHEREAS, the Uniform Condemnation Procedures Act requires a condemning authority to pay interest on the amount by which a determination of just compensation exceeds the condemning authority's original estimate of just compensation at the IRS penalty rate, plus payment of the property owner's expert witness fees and attorneys fees at a maximum of 1/3 of the difference between the estimated just compensation and the ultimate award plus interest; and

WHEREAS, both Kent County and the property owners filed appeals of the arbitration decision to the Kent County Circuit Court alleging that the arbitration panel made several errors of law; and

WHEREAS, if Kent County would be successful in its appeal, the matter would either be returned to the arbitration panel for a new determination in light of the corrected errors of law or the arbitration process would have to be repeated; and

WHEREAS, if the property owners were successful in their appeal, the ultimate fair market value would exceed the arbitration panel's award; and

WHEREAS, the parties have negotiated a settlement that would eliminate the uncertainties of appeal, would save the expense of the appeal and subsequent proceedings in front of the arbitration panel, and would completely resolve the case; and

WHEREAS, the County staff has analyzed the proposed settlement and believes it to be in the best interests of the County.

NOW, THEREFORE, BE IT RESOLVED that the Kent County Board of Commissioners authorizes the County Administrator and legal counsel to settle the case of *Kent County v Bank One, et al.*, Kent County Circuit Court Case No. 00-05112-CC, by appropriating

the sum of \$3,271,662.08 in the 2004 CIP Budget with funds taken from the Unreserved/Undesignated General Fund Balance and making a payment of same in exchange for a dismissal of the appeals and a complete resolution of the action.

Motion by Commissioner Morgan, supported by Commissioner VanderMolen, that the resolution be adopted.

Motion carried:

Yeas: Vonk, Wahlfield, Morgan, Horton, Tanis, Hiddema, Voorhees, Agee, Mast, VanderMolen, Postmus, Bulkowski, Mayhue, Vaughn, Koorndyk, Kuipers, Chair Morren – 17.

Nays: 0.

MISCELLANEOUS

Millennium Park

Commissioner Mayhue stated, with regard to Ms. McGlaun and her Millennium Park situation,

that he feels that a diverse multicultural staff at the Park should be considered. Chair Morren said that a report from the Parks Department would be requested with regard to this incident.

Agricultural Preservation

Commissioner Bulkowski, who served on the subcommittee that interviewed individuals for appointment to the Agricultural Preservation Board, appreciated the testimony given during public comment this morning. The BOC heard the importance of putting County dollars on the table to preserve agricultural space in our community and he is hopeful that the BOC will have an opportunity to address the need to support this program financially.

Commissioner Postmus stated that the BOC should provide funding for this program. Rather than a subcommittee, he would prefer to have the discussion in front of the whole Board and where everyone can voice their concerns and ideas. He would also like to see the townships indicate where they are at on this subject.

Chair Morren stated that we have a due process and any commissioner can approach a standing committee chair to work on a proposal. He suggested that if the group wants money, they should approach Vice Chair Morgan and the Finance Committee to get it on that agenda.

Commissioner Voorhees is concerned about future generations having affordable housing, and wants, as we move forward with discussions, an opportunity for all views to be brought forward.

911 Central Dispatch

Commissioner Bulkowski asked what the timeline is on the 911 Central Dispatch issue. Chair Morren said that, after receiving the report and talking with County Administrator, county staff will put together an analysis of the project. This Board will have more than one opportunity to revisit the issue.

ADJOURNMENT

At 10:00 a.m., Commissioner VanderMolen moved to adjourn, subject to the call of the Chair, and to Thursday, August 12, 2004, Room 310, County Administration Building, at 8:30 a.m., for an Official Meeting. Seconded by Commissioner Vonk. Motion carried.

David J. Morren, Chair

Mary Hollinrake, County Clerk