

CALHOUN COUNTY  
PROCEEDINGS OF THE  
BOARD OF COMMISSIONERS

September 6, 2007

The Regular Session of the Calhoun County Board of Commissioners convened at 7:07 p.m., Thursday, September 6, 2007 in the Commissioners Meeting Room, Calhoun County Building, 315 West Green Street, Marshall, Michigan.

Roll Call: Present: Comrs. Arnquist, Bolger, Moore, Rae, Segal, Solis and Todd.

INVOCATION AND PLEDGE OF ALLEGIANCE:

A Moment of Silent Prayer was observed; followed by the Pledge of Allegiance, led by Comr. Todd.

APPROVAL OF AGENDA/ADDENDUM:

“Motion by Comr. Rae, supported by Comr. Moore, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the September 6, 2007 agenda and addendum, as amended, to re-order Item No. 11.A. (2) - Clean Indoor Air Act Regulation Adoption and Item No. 11.A. (3) - Road Commission Membership Expansion to address Item Nos. 11.A. (1), (4), (5), (6) and (7) prior to Item Nos. 11.A. (2) and (3); further, to add a Resolution Regarding Tiered Cost Sharing Premiums for County Health Insurance Plans as Item No. 11.A. (2) {a}.”

Voice Vote: Motion CARRIED

APPROVAL OF MINUTES:

“Motion by Comr. Rae, supported by Comr. Moore, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the August 2, 2007 and the August 16, 2007 minutes as presented.”

Voice Vote: Motion CARRIED

CITIZENS' TIME:

Mr. Wayne Gay, Olivet resident, questioned the September 1 article within the Enquirer and News which reported that the Solid Waste Fund has a \$633,000 loan for Duck Lake. Mr. Gay advised that the Lake Association is not aware of such a loan.

**Board of Commissioners**  
**September 6, 2007**

Mrs. Helen Anderson, Marshall Township resident, voiced concern with the Road Commission's decision not to fund the Community Compost Center, that the Center's hours of operation have reduced, and that the Center is only available to Marshall City residents. Mrs. Anderson advised that it would cost \$14,200 for other county residents to use the Center; pointing out that the Road Commission has a fund balance, yet cannot find the money to keep the Center open for all county residents. Mrs. Anderson voiced concern regarding illegal dumping and presented a picture taken outside the Center's gate on September 1 showing refuse dumped at the gate opening. Mrs. Anderson requested the Board's assistance in opening the Center to all county residents.

Chairwoman Segal advised that the Board has received a number of calls regarding the Center, and has requested that the Solid Waste Management Planning Advisory Committee conduct a meeting to address this issue.

County Administrator/Controller Greg Purcell advised that there is a planning effort going on with solid waste and that Commissioner Todd has called a special meeting for next Thursday which he hopes shall provide a resolution. Mr. Purcell stated that his recommendation is that the funding be provided to keep the Center open for the balance of this year and that this issue be addressed during the 2008 budget meetings.

Students of EXPAND addressed the hazards of second-hand smoke and urged the Board to approve the proposed smoking regulation.

Mr. Joel Voight, Battle Creek resident, stated that he believes the proposed smoking regulation is an infringement upon personal liberties, and requested the county allow the free market place to regulate smoking.

Mr. Steve Koch, Battle Creek resident, supported the proposed smoking regulation.

Mr. Dick Vale, Emmett Township resident, stated that he believes the businesses should be allowed to determine whether smoking should or should not be allowed in their facility.

Mr. Benjamin Miller, Battle Creek resident, on behalf of the Grain Miller's Association, requested a two-year compliance extension of the proposed smoking regulation effective date to allow the union work shop time to bargain and set the terms for their work place.

Ms. Lauren Rocho advised that WBCK conducted a poll this morning, and 72 percent of the respondents support the proposed smoking regulation.

Mr. Patrick O'Donnell, Battle Creek resident, advised that he is a non-smoker, however questions what gives the county the right to take away the rights of smokers. Mr. O'Donnell questioned, if smoking is so bad, why the government allows the sale of cigarettes. Mr. O'Donnell advised that sale of cigarettes is still permitted because of the tax revenue collected from their sale, which assists in providing college scholarships. Mr. O'Donnell advised that Nebraska adopted a non-smoking ordinance and now businesses are not coming into

**Board of Commissioners**  
**September 6, 2007**

the state because of a number of petty operating conditions, including smoking regulation. Mr. O'Donnell stated that the proposed regulation is an encroachment upon personal rights, and questioned how the regulation shall be enforced.

A.F.L.- C.I.O. Representative Mary Esmonga advised that the Union has bargaining agreements in place in the City of Battle Creek, and requested the Board's support in the form of a time extension of the proposed smoking regulation to allow time for bargaining for more approved smoking places and smoking cessation assistance programs.

Ms. Esmonga addressed hormones in milk and PCBs in the Kalamazoo River, and requested the Board review the PCBs in the Kalamazoo River.

Board of Health Chairman Larry Anderson advised that the proposed smoking regulation was unanimously approved by the Board of Health to protect the health of non-smokers. Mr. Anderson stated that the regulation should be supported just as car seats for children.

Dr. Gregory Harrington advised that he is a lung doctor and supports the proposed smoking regulation.

Mr. Mike Katz advised that he is a small business owner in Calhoun County. Mr. Katz stated that he does not like his personal rights stepped upon, pointing out that he has had the right to smoke since he was eighteen; and that as a small business owner, he respects his clients and does not smoke in their residences. Mr. Katz stated that if the Board passes the smoking regulation, he hopes their next action shall be to ban vehicles on the streets due to their exhaust smoke.

Mr. Creighton Burrows, Marshall resident, advised that he is a non-smoker. Mr. Burrows stated that not everybody that smokes contracts cancer; further, that not everybody that breathes second-hand smoke contracts cancer. Mr. Burrows voiced concern regarding vehicle exhaust, stating that he would like the vehicle manufacturers to build vehicles that emit only water.

Mr. Burrows addressed the proposed law enforcement services agreement for the Calhoun Intermediate School District (ISD), inquiring what is wrong with the teachers this year that they cannot control the students; further, pointed out that most of the students at the ISD are adults. Mr. Burrows addressed the county's hiring freeze, and questioned how another deputy shall be hired.

Mr. Carl Davidson, Marshall resident, stated that he supports the smoking regulation, especially at the Calhoun County Fairgrounds; and urged the Board to request that the Potawatomi Huron Tribe also ban smoking on their sovereign territory.

Mr. Davidson stated that he believes the county should fund the Community Compost Center; further, that he hopes the Board shall take counsel with the state legislators to pass a water bottle return deposit.

**Board of Commissioners  
September 6, 2007**

Family Health Center Nurse Mary Ellen Bensick stated that she supports the smoking regulation as drafted and advised regarding a rally which commenced at Ketchum Park.

Bedford Township Supervisor Thomas Sprau stated that he does not believe that the Road Commission Board membership should be increased, and addressed the cost of salaries for two additional Road Commissioners. Mr. Sprau addressed articles within the Enquirer and News which give the appearance that there is a vendetta between the Board and the Road Commission. Mr. Sprau pointed out that there is a forthcoming county-wide summit and those articles do not look good.

Homer Township Supervisor Todd Wildt advised that the Township Board has discussed expansion of the Road Commission Board and believe that increasing the membership is worth the money and would assist in ridding that Board of the “good ole’ buddy” system.

Mr. Peter George advised that he does not smoke and that it does not bother him that others smoke. Mr. George recommended that the county take action to put the tobacco companies out of business rather than crucifix the people that are “hooked” on smoking. Mr. George pointed out that some people are addicted to alcohol, yet he has not seen the county attempt to ban alcohol.

Ms. Maxine Smith advised that she supports the smoking regulation.

Mr. Gardy Berezonsky, Marengo Township resident, inquired whether the Sheriff Department shall be transferring a deputy to the ISD.

Mr. Berezonsky pointed out that the smoking regulation has been revised since the public hearing and urged the Board to seek legal counsel prior to its adoption.

A gentleman from Fredonia Township stated that he believes the smoking issue should be a matter of choice for business owners and individuals. The gentleman stated that he does not believe the regulation can be enforced.

The gentleman further stated that he does not believe \$13,200 is worth two extra Road Commissioners and would rather those funds be used to put some blacktop on the county’s pathetic roads.

Mr. George advised that he had four people that wanted the property at the time it was purchased by the Road Commission and that the county could have received a profit.

SPECIAL ORDER OF BUSINESS:

Special Tribute to Jill Robins

Chairwoman Segal read, and accompanied by Medical Care Facility Administrator Donna Mahoney, presented the following tribute to Ms. Robins.

Res. 120-2007

“Motion by Comr. Solis, supported by Comr. Bolger, resolved by the Calhoun County Board of Commissioners approve the following tribute:

WHEREAS, JILL ROBINS, after Eighteen (18) years of dedicated service to the Calhoun County Medical Care Facility, made the bitter-sweet decision, and retired July 5, 2007. Jill loved the Medical Care Facility and supported its mission in providing for its residents and the community, however, Jill’s husband has been retired for several years and she was yearning to spend more time with her grandchildren; and

WHEREAS, over the years Jill has been instrumental in the completion of the Adult Day Care Center, heading up the Facility’s Millage Renewal Committee, the annual Employee Awards Banquet, and was Chairperson of the Facility’s fund raising; and played a major role in assisting the new Facility Administrator with the current building project, and in many more areas.

NOW, THEREFORE, BE IT RESOLVED, that the Calhoun County Board of Commissioners wish to thank Jill Robins for her 18 years of service with the Calhoun County Medical Care Facility and offer our best wishes for a happy retirement with her family.”

Voice Vote: Motion CARRIED

Ms. Mahoney advised that Ms. Robins retired in July and that it has been a big adjustment. Ms. Mahoney stated that Ms. Robins is truly missed.

Ms. Robins stated that she has been very fortunate to have a wonderful career for 18 years, and advised Ms. Mahoney that retirement has been a big adjustment for her also. Ms. Robins stated that she is looking forward to when the building opens.

National Celebrate Recovery from Addiction Month Proclamation

Chairwoman Segal read and presented the following proclamation to Substance Abuse Council of Greater Battle Creek Director Suzanne Horsfall.

Res. 121-2007

“Motion by Comr. Moore, supported by Comr. Todd, resolved by the Calhoun County Board of Commissioners approve the following proclamation:

WHEREAS, 22.2 million people in the United States have faced a substance use disorder in the past year, and all deserve to experience the many benefits of recovery; and

WHEREAS, treatment reduces reported job problems, including incomplete work and absenteeism, by an average of 75 percent; and

WHEREAS, treatment is cost effective, with some measurements showing a benefit-to-cost ratio of up to 7:1, with substance use disorder treatment costing \$1,583 per person on average and having a monetary benefit to society of nearly \$11,487 for each person treated; and

WHEREAS, we must recognize the financial savings associated with treatment services and ensure that such services are readily available to those who need assistance; and

WHEREAS, cost and insurance present obstacles to those who need access to treatment facilities and want to re-establish their place in the community; and

WHEREAS, it is critical that we educate our community members and local businesses that substance use disorders are a treatable, yet serious health care problem, and by taking steps to address it, as well as provide support for the families and children of those with these disorders, we can save both lives and dollars; and

WHEREAS, in observation of National Recovery Month the *Celebrate Recovery Committee of the Substance Abuse Council* will host these events:

- Providing Free Transportation to Michigan’s Annual Walk & Rally at Belle Isle Park, Detroit, MI on Saturday, September 8, 2007
- A Town Hall Meeting on the importance of Recovery from Addiction on September 20, 2007 from 7:00 P.M. – 9:00 P.M. at the Calhoun County Christian School located at 20 Woodrow Street, Battle Creek
- A media campaign will be conducted throughout the month, including information about the impact of addiction of families and communities and the benefits and value of treatment, prevention, and recovery.

**Board of Commissioners  
September 6, 2007**

THEREFORE, WE, the Calhoun County Board of Commissioners proclaim September 2007 National Celebrate Recovery from Addiction Month.”

Voice Vote: Motion CARRIED

CONSENT AGENDA:

Res. 122-2007

“Motion by Comr. Rae, supported by Comr. Moore, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the following September 6, 2007 Consent Agenda as presented:

A. Petitions, Communications, Reports:

- (1) Notice of a public hearing scheduled for August 21, 2007 regarding granting an Industrial Facilities Exemption Certificate to Geislinger Corporation received from Battle Creek City. (Received and placed on file, with a copy remitted to Equalization Director David Jager)
- (2) Resolution received from Allegan County opposing House Bill Nos. 4780--4788 (Township Functions Transference). (Referred to the Legislative Liaisons)
- (3) St. Joseph County Michigan Master Plan 2007 Update. (Referred to Planning Consultant Jennifer Bomba)
- (4) Resolutions received from Antrim and Ottawa Counties opposing House Bill No. 4852 (Surcharge Fee on Land and Cellular Phone Users). (Referred to the Legislative Liaisons)

B. Resolutions:

- (1) Calhoun County Youth Council Appointments (Terms Expire June 30, 2008)
  - {a} LaTwonna Childress
  - {b} David Kemp
  - {c} Tess Haadsma
  - {d} Ruth Ann Krug
  - {e} Brandon Tomlinson

{f} Peggy Korpela  
{g} Georgette Newman  
{h} Takuto Sato  
{i} Madeline Smith  
{j} Andrew Jung”

Voice Vote: Motion CARRIED

RECESS:

The meeting recessed at 8:27 p.m. until 8:38 p.m.

PETITIONS AND NEW BUSINESS:

County Administrator/Controller’s Report

Law Enforcement Services Agreement

Mr. Purcell advised that the agreement is for the ISD.

Sheriff Allen Byam introduced Mr. Chris Jenkins of the ISD, and Deputy Kevin Hirakis who shall be filling the School Liaison position.

Mr. Jenkins thanked the Board for considering the partnership, and advised that the Deputy shall be working at the Career Center.

Res. 123-2007

“Motion by Comr. Rae, supported by Comr. Solis, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the Law Enforcement Services Agreement between the Calhoun Intermediate School District and Calhoun County, effective August 1, 2007; further, authorize the Board Chairwoman to execute said Agreement on behalf of Calhoun County.”

Roll call vote: Yes - 7 Motion CARRIED Unanimously

FY 2007 Senior Millage Mid-Year Funding Reallocations Recommendation

Mr. Purcell advised that the Senior Millage Allocation Committee has presented a number of reallocations of surplus funds that were not spent as well as recommends using some of the fund balance to provide more services.

**Board of Commissioners  
September 6, 2007**

Senior Services Manager Karla Fales reported that the Department received \$184,000 in funds returned from service providers who could not spend out their original 2007 allocated budget, and received funding requests totaling \$317,288. Ms. Fales stated that each of the service providers' requests presented an appropriate justification for additional funding. Ms. Fales advised that the Committee recommends fully funding all but two of the requests. Ms. Fales advised that those two programs are new programs this year without sufficient history to demonstrate the capacity to meet the increased need in this calendar year.

Chairwoman Segal requested that the Calhoun Health Plan be considered separately, disclosing that she is President of the Calhoun Health Plan Board and shall abstain from voting when funding for the Calhoun Health Plan is considered.

Res. 124-2007

“Motion by Comr. Rae, supported by Comr. Moore, adopt the following, as amended, omitting Calhoun Health Plan:

RESOLVED, that the Calhoun County Board of Commissioners approve the FY 2007 Senior Millage mid-year funding reallocations and contract awards in the amount of \$216,038, for the period effective September 9, 2007 through December 31, 2007, as recommended by the Senior Millage Allocation Committee; further, authorize the Board Chairwoman to execute the following supplemental service provider agreements on behalf of Calhoun County:

Burnham Brook Center	Hearing Services	\$22,500
Burnham Brook Center	Vision Services	\$ 5,750
Burnham Brook Center (Senior Health Partners)	Whole Person Wellness	\$ 9,100
Community Action Agency	Minor Home Repair	\$35,000
Community Action Agency	Home Heating	\$29,820
Family Health Center	Dental Services	\$24,718
Fountain Clinic	Dental Services	\$24,000
Guardian Finance and Advocacy Services	Guardian Services	\$20,000
Legal Services of South Central Michigan	Legal Services	\$ 7,500
Lifespan	PERS	\$33,650
Lifespan	Hospice Respite	<u>\$ 4,000</u>
TOTAL		\$216,038"

Roll call vote: Yes - 7 Motion CARRIED Unanimously

Res. 124-A-2007

**Board of Commissioners  
September 6, 2007**

“Motion by Comr. Solis, supported by Comr. Bolger, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the FY 2007 Senior Millage mid-year funding reallocation and contract award in the amount of \$8,000, for the period effective September 9, 2007 through December 31, 2007 to Calhoun Health Plan, as recommended by the Senior Millage Allocation Committee; further, authorize the Board Chairwoman to execute the said Supplemental Service Provider Agreement on behalf of Calhoun County.”

Roll call vote: Yes - 6 (Comrs. Bolger, Moore, Rae, Solis, Todd and Arnquist)  
Abstain - 1 (Comr. Segal)  
Motion CARRIED

FY 2008 Prosecutor’s Title IV-D Cooperative Reimbursement Program Grant Application

Mr. Purcell stated that the grant is in the amount of \$523,086 and that the county’s match is \$155,176.

Prosecutor John Hallacy advised that the application is for the Office’s yearly grant for the Cooperative Reimbursement Program Unit that is responsible for the establishment of paternity, obtaining orders for the payment of child support and confinement expenses, and felony non-support criminal prosecutions.

Res. 125-2007

“Motion by Comr. Bolger, supported by Comr. Rae, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the FY 2008 Title IV-D Cooperative Reimbursement Program Grant Application for the Calhoun County Prosecutor’s Office in the amount of \$523,086; further, authorize the Board Chairwoman to execute said Grant Application on behalf of Calhoun County for remittance to the Michigan Department of Human Services.”

Comr. Rae stated that the number of felony prosecutions has increased over the past three years and expressed concern regarding utilizing jail space that could be utilized to generate more revenue for the county through housing of out-of-county prisoners. Comr. Rae asked Prosecutor Hallacy whether he could support the concept of a tether program.

Prosecutor Hallacy responded that he has supported the tether process since the early 1990s, and in certain circumstances could support tethering if he believed that tethering would be the appropriate punishment; further, advised that he also supports work release. Prosecutor Hallacy stated that the Office works hard to get people to pay up-front to keep the number of prosecutions down.

Comr. Rae noted that the Unit is comprised of seven employees, and inquired whether the number is somewhat high. Prosecutor Hallacy responded “No, in comparison with other counties.” Comr. Rae stated that the amount

of funding for salary/benefits seems high to him and requested a breakdown of the funding.

Roll call vote: Yes - 7 Motion CARRIED Unanimously

FY 2007 Sheriff Department Budget Amendment

Mr. Purcell advised that the budget amendment in the amount of \$35,000 shall be used to purchase two more vehicles for a total of four new vehicles purchased this year. Mr. Purcell stated that the additional revenue came from jail bed rentals.

Sheriff Byam stated that he appreciates the opportunity to work with the Budget Committee and Mr. Wilcox to develop a comprehensive vehicle replacement plan. Sheriff Byam advised that currently over 50 percent of the Department's vehicles have over 100,000 miles and a quarter of the fleet has over 160,000 miles.

Res. 126-2007

“Motion by Comr. Moore, supported by Comr. Todd, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the FY 2007 Sheriff Department budget amendment in the amount of \$35,000 (ATTACHMENT A) as presented.”

Roll call vote: Yes - 7 Motion CARRIED Unanimously

Department of Human Services Office Space Lease Agreement Discussion

Mr. Purcell advised that the lease shall be placed on the September 20 Board agenda and that the Department of Human Services Director shall be present to provide the Department's annual report at that time. Mr. Purcell reminded Board members that the September 20 Board Meeting shall be conducted in Albion.

Calhoun County Smoking Regulation

Mr. Purcell advised that the regulation is a recommendation of the Board of Health. Mr. Purcell advised that in discussing the regulation with other county administrators most have a distance of 25 feet from entrances, windows and ventilation systems.

Health Officer Dottie-Kay Bowersox thanked everyone that has supported the regulation.

Health Board Chairman Anderson addressed the 2006 Attorney General's Report.

Ms. Bowersox recommended changing the distance for establishment of a no smoking area to 25 feet rather than 50 feet; further, that the Health Department be authorized to grant compliance extensions for a period of up to

**Board of Commissioners  
September 6, 2007**

12 months to businesses whereupon the regulation presents an undue hardship.

Res. 127-2007

“Motion by Comr. Arnquist, supported by Comr. Todd, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants as presented.”

Comr. Moore inquired who would be responsible for granting an extension. Ms. Bowersox responded that she would receive the request which would go before the Board of Health.

Comr. Moore stated that he likes the 25 foot distance. Comr. Moore advised that he has heard that adoption of the regulation shall “come down to party lines,” which concerns him. Comr. Moore pointed out that the number one place for smoke exposure is in the home. Comr. Moore stated that if someone believes if they walk through smoke they shall drop dead when they get home, it is not true.

Comr. Moore stated that he will not question the integrity or the sincerity of those supporting the regulation, however, that he believes in promoting change government should use the least restrictions in doing so. Comr. Moore stated that he would prefer the county channel its efforts into assisting those people who smoke to quit smoking through smoking cessation programs. Comr. Moore stated that he has heard no employees come forward to request assistance because there is smoking at their place of employment, and does not believe the heavy hand of government should be regulating smoking. Comr. Moore advised that he cannot support the proposed regulation because he believes there are alternatives which have not been considered.

Chairwoman Segal offered the following proposed amendments to the regulation:

Res. 127-A-2007

“Motion by Comr. Bolger, supported by Comr. Moore, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the following amendments to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants:

1. Section 1007. Prohibition of Smoking near Entrances, Windows, and Ventilation Systems

Smoking shall be prohibited near entrances, windows, and ventilation systems of all work sites and public places where smoking is prohibited by this regulation. Any individual who owns, manages, operates, or otherwise controls the use of any premises subject to jurisdiction under this regulation shall establish a no smoking area which extends **twenty-five (25)** feet from any

**Board of Commissioners  
September 6, 2007**

entrances, windows, and ventilation systems to any enclosed areas where smoking is prohibited; such distance shall be sufficient to insure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to insure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems, or any other means. All smoking trash receptacles shall be placed outside the no smoking area in order to discourage smoking in these areas.

2. Section 1016. Effective Date

A. This regulation shall be effective **January 1, 2008.**

**B. Any business as a whole with more than 750 employees that has separate, enclosed smoking rooms as of August 1, 2007 and has written policies in place to restrict certain employees from exiting the building during working hours, shall comply with this regulation no later than December 31, 2009.”**

Comr. Rae stated that health, safety and welfare is a fundamental function of government. Comr. Rae stated that when the “little” person cannot protect his/herself, he/she needs government protection. Comr. Rae addressed the high infant mortality rate in Calhoun County and its connection with smoking. Comr. Rae advised that he shall be supporting the regulation.

Comr. Bolger advised that he has no issue with the 25 foot distance; however, does have an issue with the amendment to change the effective date for implementation and the “back room” deals. Comr. Bolger questioned what gives the Health Officer the right to grant extensions to some businesses and not others. Comr. Bolger stated that he has heard no employee come in and say “Help me. Save me.” Comr. Bolger continued that has also been advised from people supporting the proposed regulation that separated, ventilated smoking rooms do not exist; however that in talking with businesses, smoking rooms do exist. Comr. Bolger stated that those employers should be applauded, however instead, now government is going to come in with a mandate. Comr. Bolger stated that the amendment is a special interests amendment.

Comr. Todd stated that he supports the concept that the county is headed in the right direction as some employers have taken the initiative to provide for their smoking employees. Comr. Todd pointed out that a year ago the Board took action to allow alcohol sales within the county parks and thus in doing so Board members did not mind that people would be drinking and driving, which appalled him, and that he could not support. Comr. Todd stated that individuals should be granted the same grace period as employers. Comr. Todd advised that he can support the regulation as he knows it is a light at the end of the tunnel.

Chairwoman Segal apologized for not having an opportunity to share the proposed amendments with her colleagues, and assured them that there was no back room deal. Chairwoman Segal advised that the

**Board of Commissioners**  
**September 6, 2007**

amendments proposed are a result of a number of telephone calls she received, and that she is only attempting to find a solution.

Comr. Moore questioned whether the regulation would apply to all smoking areas or only to outside smoking areas; stating that if the regulation is meant to apply to all smoking areas, then he believes it “runs” counter to the entire intent of the regulation.

Chairwoman Segal advised that she stated enclosed smoking areas within the amendment, because “enclosed” was stated within the proposed regulation. Chairwoman Segal stated that she has not heard from small businesses, however, has heard that some employees are not allowed to go outside on their breaks.

Comr. Moore questioned how employees in downtown Marshall can comply with the 25 foot restriction. Ms. Bowersox pointed out that the distance restriction covers the opening of the buildings so if the employees are walking on the sidewalks, that is okay, or the employees could go out the back of the buildings to smoke.

Comr. Bolger stated that he does not believe there is reference differentiating between the front of a building versus the rear of a building within the regulation.

Ms. Bowersox responded that if the individual is standing still, the restriction is 25 feet away from the building; and if the individual is moving, it is okay.

Comr. Bolger inquired how anyone can get 25 feet away from the buildings in downtown Marshall. Chairwoman Segal pointed out that the Health Officer is proposing that individuals may smoke if they go behind the buildings. Comr. Bolger stated that the regulation should be enforced as written.

Comr. Arnquist advised that she discussed this issue with an attorney for Smoke-Free Michigan who advised that if an individual is walking, the regulation does not cover that; however if the individual is standing, then the 25 foot restriction applies.

Comr. Bolger pointed out that if there is only the proprietor, he/she is not going to walk away to smoke and leave their business unattended.

Comr. Moore addressed the effective date, stating that the county has an obligation to treat everyone fairly, and recommended the effective date be January 31, 2009 as proposed for businesses.

Comr. Solis stated that he believes everyone is missing the point, pointing out that a private business owner can close their business and walk to smoke, which is different than an employee that cannot go outside the business.

**Board of Commissioners  
September 6, 2007**

Comr. Moore stated that he finds it interesting that his colleague feels that a business can just shut down.

Comr. Rae called for the question to be voted upon.

Roll call vote on Resolution 127-A-2007: Yes - 6 (Comrs. Segal, Solis, Todd, Arnquist, Bolger and  
Rae)

No - 1 (Comr. Moore)

Motion CARRIED

Res. 127-B-2007

“Motion by Comr. Solis, supported by Comr. Rae, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the amended Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants.”

Comr. Bolger stated that so many businesses have gone to great lengths to become smoke-free without the regulation. Comr. Bolger again questioned where within the regulation is front door versus back door defined. Comr. Bolger advised that while he agrees with the concept of the regulation, he cannot agree with the infringement upon personal liberties.

Res. 127-C-2007

“Motion by Comr. Arnquist, supported by Comr. Solis, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the following amendment to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants:

Section 1008. Where Smoking is Not Regulated

4. Notwithstanding any other provision of this regulation, any owner, operator, manager, or other person who controls any establishment or facility described in this section may, but is not required to, provide outdoor smoking areas, including enclosed areas, provided such areas meet the requirements of Section 1007 of this regulation. These outdoor smoking areas shall not be worksites or public places; they shall only be utilized as smoking areas. No employee shall be required to work in any manner in these smoking areas.”

Roll call vote on Resolution 127-C-2007: Yes - 6 (Comrs. Solis, Todd, Arnquist, Bolger, Moore and Segal)

**Board of Commissioners  
September 6, 2007**

No - 1 (Comr. Rae)  
Motion CARRIED

Res. 127-D-2007

“Motion by Comr. Moore, supported by Comr. Rae, adopt the following: Resolved by the Calhoun County Board of Commissioners withdraw Resolution 127-B-2007 to approve the amended Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants due to further amendment via Resolution 127-C-2007.”

Voice Vote: Motion CARRIED

Res. 127-E-2007

“Motion by Comr. Moore, supported by Comr. Rae, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the following amendment to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants:

Section 1010. Enforcement

D. The Calhoun County Public Health Department ~~or the Fire Department~~ shall require, while an establishment is undergoing otherwise mandated inspections, a “self-certification” from the owner, manager, operator, or other person having control of such establishment that all requirements of this regulation have been complied with.”

Roll call vote: Yes - 7 Motion CARRIED Unanimously

Res. 127-F-2007

“Motion by Comr. Moore, supported by Comr. Bolger, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the following amendment to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants:

Section 1005. Prohibition of Smoking in Public and Private Worksites and Public Places

A. 16. ~~Eighty percent (80%)~~ **One Hundred percent (100%)** of hotel and motel rooms rented to guests.”

**Board of Commissioners  
September 6, 2007**

Comr. Arnquist advised regarding no smoking rooms within hotels/motels, that the rationale of other counties with similar smoking prohibition regulations is that if 100 percent of the rooms are designated as non-smoking, people will simply smoke inside the rooms anyway.

Ms. Bowersox advised that the 80 percent mirrors the percentage of smokers versus non-smokers.

Mr. Purcell stated that there are some potential economic issues involved in regulating hotels/motels, and addressed impact upon tourism; further, stated that he believes state law provides that regulation.

Comr. Bolger stated that this is simply another example of the inconsistency of the regulation, which he believes should be applied fairly to all.

Roll call vote: Yes - 1 (Comr. Moore)  
No - 6 (Comrs. Arnquist, Bolger, Rae, Segal, Solis and Todd)  
Motion DEFEATED

Res. 127-G-2007

“Motion by Comr. Moore, supported by Comr. Bolger, adopt the following: Resolved by the Calhoun County Board of Commissioners approve amendment to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants, **striking Provision 3. - Tobacco specialty stores** from Section 1008. A. - Where Smoking is Not Regulated.”

Ms. Bowersox advised that the stores were exempted based on similar regulations of other counties.

Chairwoman Segal inquired whether the tobacco specialty stores are regulated differently within those counties. Ms. Bowersox responded that she conducted no survey to determine why those counties provide that exemption.

Roll call vote: Yes - 1 (Comr. Moore)  
No - 6 (Comrs. Bolger, Rae, Segal, Solis, Todd and Arnquist)  
Motion DEFEATED

Comr. Moore inquired regarding Section 1012. Violations and Penalties, should a business owner violate both provisions, whether that individual would be fined twice. Ms. Bowersox responded “Once.”

Comr. Moore inquired whether a home business is considered a work site and subject to regulation. Corporation Counsel Nancy Mullett advised that it is her understanding that some counties do include home businesses within their regulations if a portion of their residence is identified as a business on their taxes. Atty. Mullett

**Board of Commissioners  
September 6, 2007**

stated that she expressed her belief regarding the impossibility of enforcing the regulation in this instance as the Health Officer would have to acquire the business owner's tax statements to determine, and the second problem is if there is a work site in a private residence, the owner could simply go out into the hallway and open the door and smoke. Atty. Mullett advised that if the Board wishes to exempt home businesses, there needs to be language clarifying such within the regulation.

Res. 127-H-2007

“Motion by Comr. Moore, supported by Comr. Bolger, adopt the following: Resolved by the Calhoun County Board of Commissioners approve amendment to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants, adding the following language to Section 1004. Definitions, Provision A. 14:

14. “Worksite” means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, and hallways. A private residence **or a home-based business** is not a “worksite” unless it is used as a child care, adult day care, or health care facility and is exempt from this regulation.”

Ms. Bowersox requested the Board not adopt the amendment. Commissioners Arnquist and Rae both advised that they shall not support the amendment.

Comr. Rae called for the question to be voted upon.

Roll call vote: Yes - 2 (Comrs. Moore and Bolger)  
No - 5 (Comrs. Rae, Segal, Solis, Todd and Arnquist)  
Motion DEFEATED

Res. 127-I-2007

“Motion by Comr. Arnquist, supported by Comr. Segal, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the following amendment to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants:

Section 1004. Definitions, Provision A. 1:

1. “Business” means any ~~sole proprietorship~~, partnership, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods

**Board of Commissioners  
September 6, 2007**

or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered. **Home-based businesses with no employees other than the owner shall be exempt from this regulation.**

RECESS:

Res. 128-2007

“Motion by Comr. Bolger, supported by Comr. Moore, adopt the following: Resolved by the Calhoun County Board of Commissioners recess the September 6, 2007 Board Meeting at 11:02 p.m. until 11:17 p.m.”

Voice Vote: Motion CARRIED

Comr. Arnquist withdrew her motion.

Res. 127-J-2007

“Motion by Comr. Arnquist, supported by Comr. Moore, adopt the following: Resolved by the Calhoun County Board of Commissioners approve amendment to the proposed Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants, adding the following language to Section 1008. Where Smoking is Not Regulated, as Provision No. 4:

- 4. A worksite in a private residence used by a single individual which does not ordinarily have public or employee interactions at the site.”**

Roll call vote: Yes - 3 (Comrs. Segal, Arnquist and Bolger)  
No - 4 (Comrs. Rae, Solis, Todd and Moore)  
Motion DEFEATED

Res. 127-K-2007

“Motion by Comr. Rae, supported by Comr. Moore, adopt the following: Resolved by the Calhoun County Board of Commissioners withdraw Resolution 127-2007.”

Voice Vote: Motion CARRIED

Res. 127-L-2007

**Board of Commissioners  
September 6, 2007**

“Motion by Comr. Rae, supported by Comr. Solis, adopt the following: Resolved by the Calhoun County Board of Commissioners approve the amended Calhoun County Regulation Eliminating Smoking in Public and Private Work Sites and Public Places, Not Including Bars and Restaurants.” (ATTACHMENT B)

Roll call vote: Yes - 5 (Comrs. Segal, Solis, Todd, Arnquist and Rae)  
No - 2 (Comrs. Bolger and Moore)  
Motion CARRIED

Tiered Cost Sharing Premium for County Health Insurance Plans

Chairwoman Segal inquired who authored the resolution presented. Comr. Moore advised that he drafted the resolution. Chairwoman Segal questioned to which committee the resolution should be referred; i.e., the Budget Committee or the Wellness Committee.

Mr. Purcell stated that he believes a tiered cost sharing premium is a good idea and advised that Administration has been considering a similar plan which McGraw Wentworth is working on.

Chairwoman Segal referred the resolution to the Budget Committee for review and to report back to the Board of Commissioners prior to approval of the 2008 county budget.

Road Commission Membership Expansion

Res. 129-2007

“Motion by Comr. Solis, supported by Comr. Todd, resolved by the Calhoun County Board of Commissioners adopt the following:

WHEREAS, the Calhoun County Board of Road Commissioners currently has three (3) Road Commissioners as provided for by MCL 224.6; and

WHEREAS, effective January 3, 2007, MCL 224.6 grants the Calhoun County Board of Commissioners the discretion and authority to increase the number of Road Commissioners to a total of five (5) Road Commissioners; and

WHEREAS, the Calhoun County Board of Commissioners authorized the Chairperson to appoint an ad hoc committee to determine the need to increase the number of Road Commissioners to a total of five Road Commissioners; and

**Board of Commissioners  
September 6, 2007**

WHEREAS, on August 2, 2007, the Calhoun County Board of Commissioners held a Public Hearing on whether to increase the number of Road Commissioners from three (3) to five (5), a Notice of the Public Hearing having been properly published/posted at least 28 days before the Public Hearing and also posted on the Calhoun County Website; and

WHEREAS, as a result of the committee's recommendation and the public hearing, the Calhoun County Board of Commissioners has determined that increasing the number of Road Commissioners from three (3) to (5) will benefit the public by permitting the Calhoun County Road Commissioners to be more responsive to citizen concerns and to foster professional development, expertise and experience, which are made difficult or inconvenient with a three (3) person board because of the restraints imposed by the Michigan Open Meetings Act, MCL 15. 261 et seq.; and

WHEREAS, MCL 224.6 allows the County Board of Commissioners to provide staggered terms so that no more than two Road Commissioners' terms of office expire in the same year.

NOW, BE IT RESOLVED, that the Calhoun County Board of Commissioners does hereby increase the number of Road Commissioners on the Calhoun County Board of Road Commissioners from three (3) to five (5); and

BE IT FURTHER RESOLVED, that each of the two (2) additional Road Commissioners' terms of office shall begin on January 1, 2008, and shall last six (6) years. Provided, however, the first additional Road Commissioner shall be appointed for a term of four (4) years and the second Road Commissioner shall be appointed for a term of six (6) years; and

BE IT FURTHER RESOLVED, that current Road Commissioners may continue to participate in the County sponsored health, dental and life insurance programs until the last date of their current appointment. New Road Commissioners appointed after this date shall not be eligible to participate in the health, dental and life insurance programs as provided by Calhoun County; and

BE IT FINALLY RESOLVED, that all other terms and conditions of current Road Commissioners' appointments apply to the new Road Commissioners."

Road Commission Workshop Chairman Solis advised that the Workshop recommends the membership on the Road Commission Board be expanded to address a lack of accountability and illegal expenditures at the Road Commission. Comr. Solis further stated that it is his opinion that three Road Commissioners do not represent the county.

**Board of Commissioners  
September 6, 2007**

Comr. Solis stated that he has heard that the proposed expansion is an attempt to circumvent the Open Meetings Act. Comr. Solis stated that nothing is further from the truth. Comr. Solis advised that he has also heard that the cost of the new Road Commissioners would be taking money away from the roads, however, pointed out that the amount is minuscule.

Comr. Solis pointed out that \$630,000 of road funding was diverted to the Board of Public Works in violation of Public Act 451; further, addressed the Ott Preserve land purchase which has resulted in more than a \$324,000 debt. Comr. Solis stated that Road Commission Administration continues to take the position that they have done nothing wrong despite what the auditors say, which is why the Board has lost confidence in the three-person structure. Comr. Solis stated that it is critical that the Board get oversight of the Road Commission now.

Comr. Bolger stated that he still fails to see the compelling reason to expand the Road Commission membership, pointing out that the Board of Commissioners already has that oversight; therefore, he cannot understand how adding two more paid employees shall add to that oversight. Comr. Bolger stated that the Board continues to say that the county does not have enough money, however, is willing to spend more and more to add employees.

Comr. Moore stated that he does not believe this is an issue which the Board needs to spend time on, pointing out that the \$13,000 is matched by the townships. Comr. Moore advised that he agrees regarding the questionable decisions made by the Road Commission, however, pointed out that the issue of oversight lies with the Board who controls the Board of Public Works who serves the Board of Commissioners. Comr. Moore further pointed out that the issues in the audit are not new issues, that they are issues which have gone on for a number of years while the Board was aware of it.

Comr. Moore continued that he does not believe this is an issue of oversight, pointing out that the Board has recognized the Road Commission issues for the past three or four years. Comr. Moore stated regarding townships needing more representation, that he has heard that the townships are taking pretty good care of themselves. Comr. Moore stated that clearly something else is going on. Comr. Moore stated that he believes expansion of the membership is a waste of taxpayers' money, therefore, he cannot support the resolution.

Comr. Rae stated that the state passed the amendment to the statute to address the restraints imposed by the Michigan Open Meetings Act, pointing out that with three person boards even when two members talk together, it is a quorum. Comr. Rae advised that he shall support the resolution.

Comr. Arnquist advised that she shall support the resolution.

Roll call vote: Yes - 5 (Comrs. Solis, Todd, Arnquist, Rae and Segal)  
No - 2 (Comrs. Bolger and Moore)  
Motion CARRIED

**Board of Commissioners  
September 6, 2007**

CITIZENS' TIME:

Mr. George again addressed the Road Commission property, stating that the county should have stayed by the buyer to get a fair deal.

Mr. George objected to parents bringing their children to the Board meeting and using them to advocate adult problems.

Prosecutor Hallacy reported that the annual golf outing raised \$10,400 for the Child Advocacy Center in Battle Creek and thanked everyone that attended.

Prosecutor Hallacy advised that he shall be swimming in the Corporate Cup next week.

Prosecutor Hallacy advised that in October he shall come before the Board for Domestic Abuse Awareness Month, and that the Office shall be conducting an informational forum at the Lakeview Square Mall on October 22.

Mr. Burrows stated regarding the law enforcement services agreement with the ISD, that if the ISD has the money to hire an officer, then ISD has some excess money and should be giving those funds back to the taxpayers.

Mr. Berezonsky advised that are only four participants in the Roads/Parks Work Pilot Program.

Mr. Berezonsky noted on the July 24, 2007 claims listings a \$426 payment for repair to a 1964 Chrysler. Mr. Berezonsky inquired whether the vehicle is Roger Dean's old vehicle, and if so, advised that he objects to county funds being used to pay for vehicle restoration.

Mr. Berezonsky questioned whether the water is unsafe in all the drinking fountains within all the county buildings, as he also noted on the claims listings a number of payments for bottled water.

Road Commission Asst. Director Joanna Johnson advised that the Ott Preserve property has been sold and the funding used to maintain the parks and canoe launches.

CLAIMS PAYABLE LISTINGS:

Res. 130-2007

“Motion by Comr. Rae, supported by Comr. Bolger, adopt the following: Resolved by the Calhoun County Board of Commissioners approve payment of the list of claims against the county in the total amount of \$594,839.34 for the week of August 15, 2007; further, approve

**Board of Commissioners  
September 6, 2007**

payment of the list of claims against the county in the total amount of \$602,037.80 for the week of August 21, 2007; and finally, approve payment of the list of claims against the county in the total amount of \$1,090,959.85 for the week of August 28, 2007.”

Roll call vote: Yes - 7 Motion CARRIED Unanimously

ANNOUNCEMENTS:

Chairperson Segal announced that the September 20 Board Meeting shall be conducted at the Albion City Council Chambers.

Mr. Purcell announced that September 13 is a Special Session, if still required.

ADJOURNMENT:

The meeting adjourned at 12:26 a.m. at the call of the Chair.

mlb