

CALHOUN COUNTY
PROCEEDINGS OF THE
BOARD OF COMMISSIONERS

March 3, 2009

The Special Session of the Calhoun County Board of Commissioners convened at 5:00 p.m., Tuesday, March 3, 2009 in Administrative Conference Room 3-700, Calhoun County Building, 315 West Green Street, Marshall, Michigan.

Roll Call: Present: Comrs. Camp, Gerow, Haadsma, Lee, Rae, Rocho and Todd.

County Staff Present: Asst. County Administrator Bradley Wilcox, County Administrator/Controller Kelli Sproule, Human Resources Manager Kim Archambault and Deputy Clerk/Board Executive Secretary Mary Lou Barrett.

SPECIAL ORDER OF BUSINESS:

Corporation Counsel Finalist Interviews

Chairman Rae reviewed the interview procedure. Both finalists were asked the same questions, as follows:

- 1) Describe your experience with County Government.
- 2) What will be your commitment to this county and how do you plan to operate on our behalf?
- 3) What avenues of legal research do you most often pursue?
- 4) How does your experience and education best qualify you for the position of Corporation Counsel?
- 5) Describe your experience/knowledge regarding employment law.
- 6) What experience do you have in reviewing and negotiating the following contracts?
 - Labor
 - Professional Services
 - Property
 - Purchasing
- 7) The County frequently has to deal with the issue of mandated versus non-mandated services. How would you approach researching this issue and advising the Board of Commissioners and County Administration regarding it?

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- 8) Based on your knowledge of county government, what changes do you see in the next five years that will have the greatest legal impact?
- 9) How would you rate your technological skills? Beginning, Developing, Advanced
- 10) What kinds of hearings are those in which you most frequently participated in your most recent or present job? In what venue(s)? How frequently do you typically do such hearings?
- 11) What arguments if any have you undertaken before the Michigan Court of Appeals?; Michigan Supreme Court?; Federal District Court(s)?; Sixth District Court of Appeals? How did the court decide the case?
- 12) Describe your knowledge and/or experience working with Co-Employer entities, such as the relationship that exists between the courts and the county government?
- 13) Please describe from your experience an example of a challenge you have faced relating to the Open Meetings Act and Freedom of Information Act.
- 14) Understanding Calhoun County is home to both a reservation and tribal owned casino, share your perspective on the legal issues pertaining to Sovereign Nations.
- 15) What is the biggest mistake that you've made in your legal career? What did you learn from that mistake?
- 16) Give an example of your ability to work under pressure and deal with deadlines in the legal environment.
- 17) What professional and/or community organizations do you belong? How do those memberships, if any, assist you in your daily practice of law? What kinds of organizations would you anticipate joining if offered this job?
- 18) Have you ever been subject to sanctions by any court?; a respondent to the Attorney Grievance Commission?; a defendant in any legal malpractice suit? If yes, please explain.
- 19) What if any relationship have you had or do you have with any member of the present or the 2007-08 Calhoun County Board of Commissioners?
- 20) Would you say that your strength is in drafting or in the substantive review of documents? Provide examples of this strength.

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- 21) What was the last appellate briefing you did? When? In what venue? What was the result of the appellate activity? Would you please share with us either that brief, or another recent writing sample.
- 22) Describe what methods you would use to communicate well with county employees, the Board of Commissioners, and the community.
- 23) This position often deals with issues that result in compromise and settlement agreements. When was the last time you successfully negotiated your stance?
- 24) Please provide us an example of a time that you were challenged legally and what were the results of your response to the situation?

Responses by Finalist David E. Gilbert:

- 1) I was an Assistant Prosecutor and a Chief Assistant Prosecutor in Barry County for five years. In my work with Barry County part of my job was I was assigned to assist the Board of Commissioners if they had legal questions, and I also assisted primarily the Zoning Board if they had zoning questions, and the Zoning Board of Appeals.
- 2) Well first of all, I need to know what you are going to want me to do. The position was for Corporate Counsel for Calhoun County. Now I am aware that you've got a county prosecutor, so I imagine that Corporate Counsel is dealing with the issues of the county itself, not the criminal part. As far as dedication to the community, I live in the community and have been here for about eight years or so and I've got an office in the community, so I know the community fairly well. I don't know it completely well. I haven't been every where, but I've been around enough to know Calhoun County.
- 3) I have a membership to what's called West Law. It is an on-line legal research tool; and basically I research everything, almost everything, on West Law now. I used to have books. I still do have some books from the group called I.C.L.E.; e.g., Institute for Continuing Legal Education; and I.C.L.E. books actually break things down easier so when you are an attorney it "nutshells" things and you can actually go from the I.C.L.E. book then to the West Law area and actually look up things you need to know.
- 4) I have been practicing law for twenty years. At least five of those years I was working for a county. Education-wise, well, I have been to law school. I don't mean to sound glib about it. I have been through law school. I have been a practicing lawyer for twenty years and have practical experience. I have had cases where I represented the county. I have had some cases opposing the county.
- 5) I would consider it to be limited. I have only done maybe two or three cases regarding employment law. Basically, I get phone calls on unemployment law. I have the books, but I've not had the opportunity to use them too much. I have done, like I said, maybe two or three cases in twenty years regarding

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employment law. Most of the work I do with employment law is advising people on it, and I have not done an employment law case in some time, other than a wrongful termination action with the administrative agency.

- 6) I have a lot of experience with property contracts. I average at least two a year. I have no experience in labor contracts. Professional services, I do incorporations for people and smaller companies. I have never done a large company; but I've done incorporations up to five people involved. Purchasing, none.
- 7) Well, as far as mandated and non-mandated issues, I would first of all be asking the Board exactly what they are looking for from me as far as what they want researched. As far as... Could you be more specific on your question?

Comr. Lee responded "No, that's just how it's worded."

Attorney Gilbert responded, "Mandated versus non-mandated. First of all I would determine what is mandated. I'd check out the statutes. If the Board had certain rules that require certain things, I don't know. Different Boards, different companies. I guess as far as mandated things, it would come down to the state, you know, first of all making sure what's mandated. How do you want the break down? I mean as far as non-mandated is concerned, basically, that depends on what your budget is. If you can afford it, then fine; but I don't exactly know what you want as far as the question is concerned. First of all I would research what is mandated; and as far as non-mandated services, I would first of all try to determine whether or not you can offer those services."

- 8) In this county, or any county?

Comr. Rocho responded, "Particularly, this county."

Attorney Gilbert responded, "The biggest legal impact I expect is going to be property taxes. Michigan's property values are going down and property taxes are still going up. I suspect you, the counties and the cities, will be hearing a lot from tax payers who are very unhappy that they can't get a loan on their home, but their property taxes are still going up. I really...if anything, that's what you will be seeing."

Comr. Rocho inquired, "And the legal implication of that?"

Attorney Gilbert responded, "They will put the counties and the cities in a situation where they will have to actually have to send people out to inspect the homes to come up with the true values, and it will be almost impossible for a county or a city to do that because you just don't have the people."

- 9) I can type I guess. I would say intermediate. I am not, I would not consider myself an expert on spread

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sheets. I have not done a spread sheet. But other than that, that's why I say it is mediocre.

- 10) I am in court just about every single day. I do...probably about forty percent of my practice is in criminal law. I've done trials in District and Circuit Courts. I've been in I don't know how many counties in the State of Michigan, but I've been in Macomb County all the way to St. Joe County. I've been as far north as the Soo. I've been in Grand Rapids. Both coasts. I haven't been in the "thumb." A large part of my practice is mostly divorce and real estate law. Typically, not going to court on real estate cases; but divorce cases. I've been to divorce trials and I've done a few land trials. I've been to administrative agencies for point of law, and Secretary of State cases, and met with administrative tribunals. I have been in the Court of Appeals. I have not been in the Michigan Supreme Court; but I've filed cases. I've never been called to argue in front of the Michigan Supreme Court, but I've filed cases there. I've been in the U.S. District Courts, and I'm currently in the U.S. Sixth Circuit Court.
- 11) As far as the U.S. Court of Appeals, I have my first case before them now. U.S. District Courts, they were both criminal cases. Michigan Supreme Court, I have had a number of criminal cases and a number of neglect and abuse cases that were filed with the Michigan Supreme Court. Court of Appeals, I have had a few favorable rulings, but typically I am going in there representing criminal defendants and people allegedly abusing their children. I think I've won five, six or seven cases; but not many. I've won more in the state courts.
- 12) Again, I was an Assistant Prosecutor and a Chief Assistant Prosecutor; and when I was Chief Assistant Prosecutor in Barry County part of my job was scheduling and part of my job was also dealing with other county government officers when they needed me. I got along with them very well I think.
- 13) There are these people that I call "U.C.C.ers," they believe in U.C.C. 1-207, and whenever they come before you they'll sign something without prejudice. If they looked at the flag, they wouldn't like it because it has gold trim around it and that makes it a military court. They are against paying property taxes, and they actually have license plates that are blue that say U.C.C.1-207. I don't know what color they are now, but when I dealt with them the license plates in Michigan were blue and they would say private conveyance on it and something else on the bottom. It's a four year penalty to possess such a license plate. I don't know why they do that. I think those were probably the most interesting cases I did because you are trying to convince somebody what the law actually is, when there's no way that they're ever going to believe you. Freedom of Information Act, one thing I find interesting. Kent County, actually the Grand Rapids Police Department, for some reason when you file a Freedom of Information Act request with them, they refuse to comply. They make you sue them, and as soon as you are in the court at the pre-trial hearing, they hand over the police report that they should have given you before. I don't consider that interesting, but that's my experience with the Freedom of Information Act. Most police agencies ...well most police agencies cooperate, they give you exactly what you want; but certain agencies they decide not to. They don't want you to have it for some reason. Worst thing that I've ever had to do was sue a judge in Kalamazoo who would not give up a search warrant.

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Comr. Camp inquired, "Do you follow the Open Meetings Act?"

Attorney Gilbert responded, "Yes."

- 14) One issue that I would need to know before I can give you an answer to that, is whether or not the casino is actually considered tribal land? I believe it is, therefore, it's part of the tribal nation. We have no jurisdiction over it. It is my understanding that it belongs to the Indians, however, it's an awful small tribal land and I wouldn't be surprised if... Well, is the Indian Nation actually going to have its own police force? Because I would really expect them to either be working with Emmett Township or Calhoun County as far as traffic enforcement and crimes on the premises. I don't know for sure, but I would suspect unless they are going to have their own police agency. They can have their own police agency by law, and usually they do.

Comr. Rocho stated, "I think this is less about our jurisdiction; but one thing I would like to ask about is any experience or knowledge that you have on the legal suit standing right now relative to revenue allocation."

Attorney Gilbert responded, "I am not aware of the lawsuits right now. What? From the casinos?"

Comr. Rocho responded, "Yes."

Attorney Gilbert questioned, "What issues are they claiming?"

Comr. Rocho responded, "Well, in many areas of the state the casinos have not handled the distribution process. They have not paid any of the county units, and so they have had to go to court to enforce the compact."

Attorney Gilbert inquired, "Are they saying that...the, oh boy, I can't remember the name of the federal agency... the Indian..."

Comr. Rocho stated, "The Bureau of Indian Affairs."

Attorney Gilbert inquired, "Are they saying that the Bureau of Indian Affairs is responsible for making sure payments are made?"

Comr. Rocho responded, "I can't answer that."

Attorney Gilbert stated, "Okay, well basically if there is a compact between the Indians and the unit of government, it is a contract just like any other contract and it can be enforced. I think it should be enforced. Their whole basis for getting their casino in the first place, is by getting that compact in the first place, but I presume they will be relying on that compact to actually build the casino and should

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be paying that pursuant to the contract.”

- 15) I’ve made a lot of mistakes in my legal career. The biggest mistake I ever made, I think, was a plea bargain when I was a Prosecutor. It is something that lives with me to this day. I had a case where some guy was molesting little kids, and he was charged with first degree criminal sexual misconduct. I plead him down to second degree criminal sexual misconduct. At the time when I was the Prosecutor I had Judge Schuster in Barry County. I mean I knew who he was, but he was great to a Prosecutor because if someone was found guilty, he was going to go to prison and he was going to get the maximum penalty. And Schuster gave him ten to fifteen years. It wasn’t enough. The guy was a pedophile, and not just a pedophile. He was a predator. I have represented people and I’ve prosecuted people, and he is the only person that I can ever say that has no redeeming qualities; and it is something that I think about to this day.

Chairman Rae inquired, “How is that a mistake? Were you appointed to represent this person?”

Attorney Gilbert responded, “No, I was the Prosecutor. It was a mistake. I should not have given him a plea bargain. He did his ten to fifteen years, so he didn’t get out. I mean, even when Judge Schuster was on the bench, there wasn’t the kind of sentence that we have now. You could actually get out even though you got ten to fifteen. This guy did his maximum time.”

Chairman Rae stated, “Well, I don’t think you should beat yourself up over that.”

Attorney Gilbert responded, “Well, it’s something I think about.”

Comr. Rocho questioned, “And the lesson learned was?”

Attorney Gilbert responded, “Well, I plead that case out because I didn’t want to put the kids through what I thought they were going to have to be put through; and I’ve been a Prosecutor and I’ve done all kinds of criminal sexual misconduct cases as Prosecutor, and typically you are dealing with kids and they are going to have a very hard time, but I don’t know why. I mean it was a good case. I don’t know why I plead that case out. I think it was a mistake. Because yes, the kids would have been injured more, but you know what, the guy wouldn’t be getting out. He did more than just them as far as I am concerned, and it bothers me that I did that.”

- 16) I’m a lawyer. I deal with it every single day. An example, the Sixth Circuit Court case I’m dealing with right now. I’m new to the Sixth Circuit Court. That means that I’ve got to make sure that I know what the Court rules are and I’ve got to know the laws that I’m dealing with. The Sixth Circuit Court deadlines are a lot shorter than the state deadlines are. For instance, in Michigan when you file a claim of appeal in a criminal case, you have forty-two days to get it in. In U.S. courts you have ten days. You’ve got to know the rules, and I’ve got to make sure I know the rules before I walk into the case typically. In this case, making sure you dot your “i’s” and cross the “t’s” is very very ... it can be very

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intense.

- 17) Professionally, I belong to the criminal law section of the Michigan Bar Association. I am on the Board of Directors for the criminal law section. I belong to the Barry County Bar Association. I belong to the Calhoun County Bar Association, and the Michigan Bar Association. I belong to a group in Barry County. It's called Starting Over For Success. It's for people that are coming out of prison, and this organization gets them jobs in the construction area, and basically what they are doing is giving people just out of prison a heads up. I'm also involved with the Boy Scouts of America. I'm not quite sure, but I think I'm Chairman right now. There's been a change. I'm either Chairman or Activities Chairman for the Boy Scouts of America of the Ottawa Trails Council right now. I should know, but I'm supposed to find out tonight which one I am.

The Boy Scouts don't. It's something that I feel like I'm giving back to the community. I mean, I was a Boy Scout and I was proud of it, and it really helped me a lot growing up; and I'm part of it because I want to help kids. As far as being in the Michigan Bar Association, it is required; and the Calhoun County Bar Association, it allows me to associate with other attorneys. I haven't been to a Bar meeting in a while, but then again they don't have them too often. Barry County it is the same thing. I have an office in Barry County so it helps me associate with other attorneys and talk about the issues that are going on in the different courtrooms. Criminal law section, I do a lot of criminal law and it keeps me abreast of what is going on as far as criminal law, Department of Corrections, things of that nature. Family law, well, I do a lot of family law. I represent children. I represent parents getting divorced, and by belonging to those different sections you get flyers or pamphlets every month telling you what the state of the law is. Whenever you are practicing law you want to belong to those sections that cover your area of practice because of the benefits involved. You do get newsletters and updates on the law without having to look them up yourself.

I would be joining a Bar Association section dealing with corporate law, and probably labor and employment law. I'm also part of the general section of the Michigan Bar Association, but the flyers they send out really don't cover anything in particular. Every now and again you get something on employment law, but not often.

- 18) It depends on what you mean by a respondent. In an attorney grievance complaint they send you a grievance form. I've had probably four grievances filed on me in my career. They never went any where. I didn't go to a hearing or anything else. I believe they were found unsubstantiated, and it just ended. I'm sorry, I keep looking at you Rae, but it seems to me...you are a lawyer so; it seems to me that the attorney grievance stuff if they are unsubstantiated, they just don't go any further. I have never been subject to sanctions by any court.

Comr. Rocho inquired, "Any malpractice suits?"

Attorney Gilbert responded, "No."

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Chairman Rae stated, "Four grievances over a twenty year period of time is negligible."

Attorney Gilbert responded, "My last one was probably ten years ago in a criminal case where somebody was found guilty, and that was the basis for the grievance basically because I lost the case."

- 19) I know Mike Rae and Jim Haadsma. I know you (Bradley Wilcox) from some where. I don't recognize the name. Other than that, I have no relationship. Oh, I know you from the Paralegal Studies. I am on the Board of Paralegal Studies at Kellogg Community College. That's another that I belong to.
- 20) In drafting documents, depending on the type of documents. I would be checking out the law to make sure that the document I'm drafting is correct and based upon law as opposed to just taking a plea and spitting it out. I think I am pretty thorough. I think that's my primary strength.
- 21) Actually, it's right here. This is the second brief that I filed in People versus Michael Irish. It is a Barry County case from 2007. He had been charged with aggravated indecent exposure. One of the issues was the introduction of evidence against him from a prior act that he committed in Lansing a number of years ago. He basically was showing himself to a neighbor and doing things with himself that he shouldn't have been doing. It was taken to the Court of Appeals based upon an adverse ruling from the Circuit Court judge, and the Court of Appeals granted my motion for appeal and suppressed certain evidence; and later on we again appealed another issue which was not granted on appeal. I'm not quite sure. I think this is the second brief. This would be the one that was denied. This is, like I said, from 2007. Both were pre-trial motions.
- 22) The best way is to speak with a voice. I don't believe in memos. They are necessary, I understand; but typically the best way to communicate with somebody is face-to-face. You have to make a phone call with our constraints in life today, however, the best way to communicate is face-to-face.

Mr. Wilcox inquired, "Do you use email?"

Attorney Gilbert responded, "I use email. I'm using it a lot more now. Until recently, until about three, four or five years ago I wouldn't use it, but about three years ago I actually started using it consistently. I didn't like the idea of using it. Now I have been dragged into the Twentieth Century I suppose; but well, now I do find it important now. I was against it because upon sending things through the air ways I was afraid that people would intercept it; and that is a very very big concern when you are talking about your client's privacy rights. You know the importance of keeping the papers that you are filing, the papers that you are dealing with, confidential. But I have been using it a lot more. In the federal court system you are asked to e-file everything and there is no such thing to me as confidentiality. I was worried that private matters would be intercepted and was worried about confidentiality."

Comr. Camp inquired, "Regarding memos, do you see a difference between a memo and different kind of written communication?"

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Attorney Gilbert responded, "It is important to have things in writing because you can have that later on. I agree with you, a letter or things in writing is important; but again if you are trying to get your point across to people, I would prefer face-to-face communication. Memos are necessary. I don't like them because they are not personal, but you have to dot your "i's" and cross your "t's," and it should be in writing because people don't remember what they said."

- 23) Again, as a criminal lawyer I do it almost every day. It is part of the job. I mean you're always negotiating something whether it's a plea bargain or a property settlement or something else. I won't say everyday, but at least once a week.

Comr. Rocho inquired, "In terms of your skill set then what would you indicate are some of your attributes as far as negotiation skills?"

Attorney Gilbert responded, "When I'm dealing with criminal law particularly, or any law for that matter, I know the law well; and if I'm arguing the things, I try to know the law well. I can argue for my client effectively. As far as bargaining or negotiating, I'm known to be rationale, think reasonably and speak reasonably."

- 24) What do you mean by that?

Comr. Gerow responded, "Well, for instance, if it is an issue beyond your scope of expertise."

Attorney Gilbert stated, "If it is beyond my scope of expertise, I pass it on. There are certain areas in the law that you just can't practice. I do trademark law every now and then, however, in order to file something with the U.S. Patent Office you have to be a certified patent attorney. I'm not a certified patent attorney. I can do a trademark, but I can't do a patent. If I'm challenged by any given branch of the law, then I look at it, read it and figure it out. That's what attorneys do. That's what those I.C.L.E. books are for."

Comr. Rocho inquired, "Just in terms of the type of law you would be handling for the county, it would be the types of things we addressed earlier in the interview. You would basically be the attorney for the Board, yet you would have representative interests from the elected officials. Could you tell us a little bit about your conflict resolution skills."

Attorney Gilbert inquired, "As opposed to what?"

Comr. Rocho responded, "How do you handle it? Do you handle it well?"

Attorney Gilbert stated, "I believe I handle conflict well. I believe I do. I try to make sure there is not a conflict to begin with."

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Comr. Camp questioned, “Your resume states that you went into private practice for employment law and when we asked about your experience with employment law, you stated that it was limited. Is there anything else you would like to tell us regarding that general area?”

Attorney Gilbert responded, “Well, I’ve done whistle blower cases before. Just after I left the Prosecutor’s Office I represented a gentleman that was a reserve officer and was working for a ambulance service in Prairieville Township. He ended up filing a lawsuit against the Township and the ambulance service because he was fired. He turned in a supervisor, the manager of the ambulance service, for theft; and as a result of that, the Township decided not to do absolutely anything about it. In fact, the man was convicted and came back to work the day he was sentenced, demoted my client and put him on a shift that he could not work. Effectively firing him. I got him his back pay, which was not much. And one more case involved a Chief of Police. I have probably done two or three of them. That’s why I said, limited.”

Comr. Rocho stated that she didn’t think that the county had an liability risk insurance company while asking the questions. Comr. Rocho inquired what really is the scope of work for the position? Professional services agreements? Purchasing and contract law? Comr. Rocho questioned whether the scope of work for the position warrants it being a full time position.

Chairman Rae advised that the job description sets forth what is encompassed for this job; further, pointed out that the position could also be used in new innovative ways under the direction of the County Administrator.

County Administrator/Controller Kelli Sproule stated that the Board always has the ability to review the position, especially during budget time. Ms. Sproule advised that a couple of areas would be to provide more support in the area of policy review, statute compliance; i.e., Freedom of Information Act; and reviewing contracts from the departments.

Comr. Haadsma inquired whether the Board is going to talk about each individual after their interview.

Chairman Rae stated that he thought that the Board would do that on Wednesday.

Responses by Finalist Sheri R Mohmand:

- 1) Basically, for the majority of my career I worked with school law where I do a lot of administrative type cases; i.e., teacher tenure, unemployment security, unemployment benefits. I have done a few family law cases in the past few years. I’m not in court a lot. Lately I’m working for my own company doing more transactional things and working with employees in my husband’s business.

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Comr. Rocho questioned, "So your county level experience is?"

Attorney Mohmand responded, "For Kalamazoo County and the Intermediate School District (I.S.D.). That's kind of a regional type of job. I advised all the local school districts that used my services, and my client was the Intermediate School District Board. I advised them on matters that pertained to them."

Comr. Rocho questioned, "Did you have matters that dealt with K.R.S.A.?"

Attorney Mohmand responded, "At the County we had school safety issues. I worked with the Juvenile Home. I operated the school inside of the Juvenile Home, so there was a lot of collaborative things that I did with the county."

- 2) Well, you would be my client, so I would do everything in the best interest of the county. What's best for the county. Everything else is second. I like Calhoun County. I am from southwest Michigan, but I lived in Calhoun County for about two years before we traveled. I lived in Marshall near Turkeyville. So I think southwest Michigan is a great area to reside in.
- 3) Primarily civil. I have done criminal, but all your civil areas from Freedom of Information Act, Open Meetings Act. I've been in the public sector for a majority of my career. I have done family law, but I prefer the public sector.
- 4) Well, since both are governmental entities, I think that background. I'm good at research. When I worked as a school attorney, basically I was thrown in there and never knew what issue I would be dealing with. It is such a broad area. I can research very well, find the answer and get back to the administrator or the employer and can quickly give them an answer. I'm used to doing that. I like to have many areas or issues to look at. I did that with the judges in Circuit Court in Berrien County and I did it as a school law attorney.
- 5) Well, I was a human resource director; and I have been advising the new one, and I did the training. I didn't hire or fire people, but I was advised what was going on and I advised regarding procedures. I feel comfortable with employment law.
- 6) That's the area that I don't have as much experience on, but I feel comfortable. I don't have a problem negotiating and working with people. I do know some negotiation skills. K.R.S.A., the I.S.D. in Kalamazoo County, was the only I.S.D. in the state that does not have a union. Sometimes unions are better in the fact that they have grievance procedures. Everything is set forth. You have to have good negotiating skills to keep everyone happy. So I have not had a lot of work with the unions perse', but I feel comfortable. I understand M.E.R.C. I understand the basics of negotiation. A lot of it is common sense.

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Ms. Sproule questioned, "What about other types of contract review?"

Attorney Mohmand responded, "I did contract review all the time. I do that a lot for the school district. Reviewing and drafting, I have no problem with that. Whenever the departments had a contract they would drop it in my office for review. I am a big check list person so that I don't forget things. I draft real estate contracts more in the past few years. I feel comfortable with drafting and reviewing contracts."

Mr. Wilcox questioned, "Did you deal with purchasing contracts at the I.S.D.?"

Attorney Mohmand advised, "If they had a legal issue, then I was involved in it. Unless there was a specific problem, then I would be involved. I could get up to speed on that."

Comr. Rocho questioned, "Did you review large purchase or lease agreements? Did you do training regarding procurement provisions?"

Attorney Mohmand responded, "I wasn't involved in training because at the time the Finance Department did most of that; but if there was an issue regarding a purchase, then they would bring me into the meeting. I was involved in it if there was an issue."

- 7) Well, if it's mandated, we have to provide it. I would have to know that statute well to make sure the county was fulfilling its mandates. We had many mandates in education. There were things that are required by law, and I made sure the District was following their obligation."

Comr. Camp inquired, "How would you advise the Board of Commissioners and County Administration regarding it?"

Attorney Mohmand responded, "Orally, I would advise, but normally what I would do is a research memo. It is legal advice in the proper procedural way. I did it all the time. I would review the Board agenda and research it and take my own initiative to give you advice."

- 8) Well, one problem I think there is going to be is so many mandates and not enough money. I think it's going to be budgetary issues. There is always the employee issues; i.e., collective bargaining, health care benefits which is getting more expensive, so I think that's a big issue. How to keep the employees happy within the county's fiscal restraints. It think it's economic issues.
- 9) I'd probably say that I'm not advanced. I understand the software. Some hardware problems. I'm probably spoiled and have someone plug in whatever has to be plugged in. I can do power point. I can't fix a hard drive. I can function very well. Most software I can use or figure it out fairly quickly.
- 10) Primarily administrative type hearings. I have done motions to keep us out of cases as a defendant. I did

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go to the Court of Appeals on one appeal. So it's primarily of an administrative nature, and I really haven't done any criminal. But I feel comfortable in court and really enjoy it.

- 11) Well, I haven't had any federal court experience, but I feel I could do it. I have no problem with that. I went to the Michigan Appellate court level. It was a zoning easement case with the township. It had merit, but at the time with the composition of the Board, we lost. I enjoyed it though. I have not done the Michigan Supreme Court. I have done the appellate level. I did bring my appellate brief for you to look at. It was a summary deposition motion to dismiss the case at the Circuit Court level. It was a good experience, and I would like to do that again; but I really wouldn't want to have to do it for the county.
- 12) As a law clerk in my first job out of law school in Berrien County I enjoyed working for the courts. It was a great learning opportunity. A good judge is only as good as their assistants. You must respect everyone. As an attorney you can't be arrogant. I had a good working relationship with the Berrien County Court, and the same thing with Kalamazoo County. I dealt with county officials, judges from the court, the Sheriff Department, the Prosecutor's Office and the Juvenile Home. I feel comfortable from the top with the judge down to the filing staff. Everyone deserves respect and that's important.
- 13) Freedom of Information Act, from my experience as a school district we have student information and it can't be disclosed without parental consent, or an employee law suit, in making decisions of what can or can't be released. Looking at the exemptions to it and determining whether it can be disclosed or not. Sunshine laws are there for a reason as the public deserves to know. Open Meetings Act, committee meetings. When I was there some things came down and I had to make sure that the committee meetings were open to the public and some Board members didn't realize that. I had to delicately advise them of this. And there were some issues regarding talking about issues before the meeting. A couple of times I had to address it with the supervisor or the Board.
- 14) Well, I grew up in Sault Saint Marie very close by the Indian reservation. So I have a very good understanding that it's a separate governmental entity. For the new casino I saw along the highway, and the county probably will be working with the Tribe; however, they are a separate entity.
- 15) Well, I have not been sued for malpractice. I had an opportunity before I became a director for legal services. There was a great law firm in Holland that offered me a job and I probably would have enjoyed doing some private practice prior to going to legal services. I think my biggest mistake was not doing private practice in my career. A legal mistake? Perhaps you could clarify what you are looking for.

Comr. Rocho questioned, "When you make a mistake, tell us a little about your reflection and the process you go through so that there is a learning outcome."

Attorney Mohmand responded, "I'm a lawyer and lawyers don't make mistakes. I mean, I have made some mistakes in special education law. It is a very very specialized area of law. Unless you take courses in it, it is kind of learn as you go. I really took time to read all the statutes, but there were some

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mistakes. If I think I made a mistake, then I will call up some of my mentors and colleagues for advice.”

- 16) Well, many days at K.R.S.A., and currently one second I’m dealing with a second amendment issue, and I constantly have to switch to another issue. I’m used to doing that. I have older children and when I was in law school the oldest was six weeks old, and I handled that and did well. I do more better when I have a lot on my plate.
- 17) I would definitely join the Calhoun County Bar Association, and any other municipal law attorney sections or groups. I used to belong to the Michigan Association of School Attorneys. I did that for a number of years. I served on the school safety board. The Chamber of Commerce in Kalamazoo County, I served on that for many years. School functions I do those things too. I like to be involved in the community. Oh, I was also on the State Bar Association.

Comr. Camp questioned, “How did they assist you in your daily practice of law?”

Attorney Mohmand responded, “Well, I think that is an important aspect if you are practicing law. If you are in organizations that deals with a specific area, you learn more. You also meet other attorneys practicing in that area. It’s a good networking tool and knowing other people that practice the same area of law is very important.”

Comr. Camp inquired, “Do you have a mentor for county policy-type issues?”

Attorney Mohmand responded, “I know Jim Porter and I think he knows what he is doing. There is an attorney in Berrien County that I have used quite often, and I’m sure I will meet some in Calhoun County.”

- 18) I have not in any. I am licensed in Michigan, and in Colorado, although I am now on inactive status in Colorado.
- 19) I don’t really know anyone. I do have some connections in Marshall; however, they are food connections; e.g., Win Schulers, Louie’s Bakery, Darling and Darlings, and Turkeyville.

Comr. Rocho advised, “I do not know Sheri, but I want to disclose that I work at the Calhoun Intermediate School District, and I know a lot of people that Sheri works with, but there is no relationship. I did not know her prior to this process.”

- 20) It depends on which area I am reviewing, but... Well, less is best. You only want what you need in there, but you want to use very concise words. Plain English, being very concise and not ambiguous.

Comr. Rocho inquired, “Do you feel comfortable both drafting documents and reviewing them?”

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Attorney Mohmand responded, "Yes. I've drafted many and reviewed many contracts."

- 21) In 2001 I filed a claim of appeal. The decision was not favorable. Here is the appellate brief. I didn't copy all of the exhibits. I have other writing samples.

Comr. Haadsma inquired, "Do you have anything more recent than 2001?"

Attorney Mohmand responded, "I have not been in court for the past six years, other than a divorce matter. I have mainly been doing transactional things; i.e., real estate, commercial leases, etc. Here is a policy I drafted, and an opinion. I have been very busy working for my family company."

- 22) For the Board of Commissioners, orally of course, through the phone, the computer. I don't like to use email to give legal advice. So I'd rather do it by letter or in person. I really think that email can get you in trouble in giving legal advice. Informational stuff, then email is okay. Presentations, I have no problem. I do training. County-wide meetings on safety or whatever issue.
- 23) Yesterday with my husband. Well, probably eight months ago we had an employee issue in one of our businesses. The co-owner wanted to take action right away and terminate, and I convinced him not to to avoid reason for a termination claim. It was for our own business. We own commercial property throughout Kalamazoo County.
- 24) I think there was a matter of who we would use for third party administrator for health insurance; and I suggested they look at more administrators, and that was not popular.

Comr. Rocho questioned, "Conflict resolution, what do you see as your skill set to positively handle conflict?"

Attorney Mohmand responded, "The key is respect. If you acknowledge their position and show them respect, I believe you can work better. I created a conflict resolution program for some of the elementary schools in Kalamazoo County. Using common sense. Not too confrontational. Respectful."

Comr. Haadsma inquired, "What do you currently do?"

Attorney Mohmand responded, "We have nine acres of commercial space. One site is a restaurant and the remainder is tenant space. My husband is actually an engineer. I primarily do the book work and lease the tenant space. This has worked well for the past six years with my family, but I would rather not work with my husband or the family."

Comr. Camp inquired, "Methods used to communicate, you said working for the county you would represent our interests. Do you envision a role of fielding questions from the public, elected officials or employees?"

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Attorney Mohmand responded, "I represent the county and if you give me the authority, yes I would do that; but my authority would be to advise you. Whatever you want me to handle. With the school board, they would tell me. Provide guidance."

ADJOURNMENT:

The meeting adjourned at 6:42 p.m. at the call of the Chair.

mlb