

CALHOUN COUNTY
PROCEEDINGS OF THE
BOARD OF COMMISSIONERS

March 4, 2009

The Special Session of the Calhoun County Board of Commissioners convened at 5:05 p.m., Wednesday, March 4, 2009 in Administrative Conference Room 3-700, Calhoun County Building, 315 West Green Street, Marshall, Michigan.

Roll Call: Present: Comrs. Camp, Gerow, Rae, Rocho and Todd. Temporarily Excused: Comr. Haadsma (Arrived at 5:15 p.m.) and Comr. Lee (Arrived at 6:02 p.m.).

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. All 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

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- 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?
- 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?

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- 20) Would you say that your strength is in drafting or in the substantive review of documents? Provide examples of this strength.
- 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 your 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 Richard C. Lindsey, Jr.:

- 1) I would have to say that my experience is limited. I have experience in Jackson County, specifically with township government. Our firm represented Columbia Township for about fifteen years, so I have experience in that form. Also, working for the Chelsea Area Fire Authority which is a Fire Board. I was counsel for them for several years. I have dealt with Jackson County in the form of Region II planning issues and zoning issues. That type of thing. I don't have any specific experience with Calhoun County so I'm coming in as a new face, new place.
- 2) My commitment to the county I think would be one hundred percent. I moved back here ten years ago. I live in Marshall. My kids are young and will be going to the Marshall schools. One hundred percent commitment to Calhoun County. This job I guess came to my attention because my sister-in-law was looking for a job and happened to find it. I wasn't particularly looking for anything. Sometimes you have something that fits at the right time. It makes a lot of sense for me as far as my commute. It took me a minute and a half to get down here from my house. So my commitment would be one hundred percent to the county. I think I could bring a lot to the county as far as my background in litigation.
- 3) Well, when I started it was books, and it is almost a hundred percent electronic research now, so the avenue that I have most often available to me that's electronic is West Law or Lexis. I learned that mode..., I should say that it was just starting to be taught when I was in law school. Typical things that we would get is updates on governmental issues and links to current cases, things like that; but I see you do still have the books here, so they are available.
- 4) Well, I have been researching this position. I have extensive experience in litigation. I also have extensive experience in labor negotiations and labor work; and one of the interesting things I observed

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was the debate the county had about whether or not to make this a part-time or full-time position. I guess I would say that I think the right decision was made to make this a full-time position, and I would bring the ability to go out, reach out to other areas of the county that are not using counsel in the past and say this resource is available. The best way that I'm aware of to avoid litigation, because it is timely and costly, is to plan beforehand by meeting with people and saying "What issues do you have?", and address those issues. I have represented businesses for the past fifteen to twenty years. Businesses are doing the same thing as the county is doing. Doing more with less, and nobody wants to pay their counsel any more than they have to. My education background I think speaks for itself. My litigation experience I think speaks for itself. I have extensive experience. I believe I would be a great benefit to the county.

Chairman Rae inquired, "Can you give me some examples of your extensive labor negotiations?"

Attorney Lindsey responded, "Sure. I'm sure you have read about it. Well, the most recent thing I had was the Teamsters' organizing drive with a client in Jackson County, and I won't take all the credit for it because we had a labor consultant that was involved; but the Teamsters actually drew the petition after we met with the employees and talked with the employees. My writing sample I brought was actually a case that was just submitted on appeal to the Supreme Court by the Central States Pension Fund, which is the pension fund for the Teamsters. I represented a client and won in the Sixth Circuit and the Central States appealed it. Of course, I hope that it is denied; but if it is not, then it will go before the Supreme Court. I have been... we have been mainly involved with the Teamsters and the U.A.W. That is the nature of the beast in Jackson, but I think the experience is applicable "across the board." Also, I've done numerous arbitrations and negotiations. I think pretty much the gambit. State proceedings. We did work for Jackson Community College with their employees in-house. We worked with the state on that. So quite the gambit."

Comr. Rae inquired, "Is your work primarily defense related?"

Attorney Lindsey responded, "For corporations, I would say primarily defense. The nature of a practice in a small town it is across the board, but in the last year I represented the Chinese car company that got sued in Jackson County. We successfully resolved that case in about a two year period. So when companies come to Jackson County or are doing business in Jackson County we're the firm that they call, so I represented Johnson Controls and different large companies. The Eaton Corporation. So I have experience with dealing with both in-house counsel, and we have clients outside of Jackson County and outside of Michigan also."

Comr. Rae inquired, "Have you done workers compensation defense?"

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Attorney Lindsey responded, "That's one of the areas that I've never done before. Our firm has one client that is self-insured and does some work, but I've never done it."

Ms. Archambault inquired, "Have you ever negotiated anything for the public sector?"

Attorney Lindsey responded, "No. U.A.W. or Teamsters and the National Relations Board."

- 5) I have been in...probably the most wide experience with employment law has been litigation that we were involved with representing Consumers Energy. There were a series of race discrimination cases. I spent about three years defending those cases. I do... An interesting development in Michigan law, there are not many discrimination cases any more as far as litigation. So my experience has shifted away from the beginning of my career in fighting cases. It has now shifted basically to employee manuals and trying to be active to try to avoid litigation. But employment litigation in Michigan has dropped way off, so I haven't done anything actively recently; but I always keep familiar with the applicable laws.
- 6) I talked a little about labor. We have been involved in the U.A.W. and Teamsters in negotiating contracts. Property...Go through them again.

Mr. Wilcox stated, "Professional services."

Attorney Lindsey responded, "Professional services, we certainly represent...we would represent basically the same positions as the county. We would be representing the employer. I've certainly negotiated executive contracts, manufacturer's representative contracts. Those type of employment contracts. A number of those. Real estate,..."

Mr. Wilcox stated, "Property."

Attorney Lindsey advised, "Property, real estate,...and again, I used to tell people that I used to practice real estate law; but I haven't in the past two years because I don't know how things are going here, but nothing has sold in Jackson in the last two years. So there simply is not a lot of that going on, but I used to extensively do real estate. That's anything from a simple you buy a house and I review the documents for the landowner to I had a client selling property in Albuquerque, New Mexico, and there's, you have to review everything from environmental issues all the way through."

Mr. Wilcox stated, "Purchasing."

Attorney Lindsey responded, "Purchasing, I guess I looked at those purchasing contracts just in general review. Not anything specific as far as negotiating. I would certainly review them and give my comments."

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- 7) Well I guess...I guess any time that I have an assignment I would try to obviously look at the statutory provisions that apply and try to figure out what the extent of it, what the rules are first; and then try to develop a set of I guess, guidelines or recommendations to the client. And I'm assuming that the Board is going to be the client. Essentially, the county is the client; and come up with a plan and say these are the options that are available and these are the pros and cons of each one. As I said, I think I'm paralleling the county to a business, and the county is trying to get the best deal for the dollar.
- 8) Wow, in the next five years. I will be completely honest with you. What I know about county government, and specifically Calhoun County, I've learned from reading the website and watching t.v. and seeing you guys in the meetings. The thing that jumped out at me that seems that would need to be developed as we go along forward is an economic development group, an entity that would coordinate between the townships and cities. As I see things going forward the big issue is going to be...there's going to be some money that's going to come along I'm guessing from the current plan that was passed by the President that's going to be allocated and then what happens when that money is gone. And those are going to be the big issues as we continue to lose industry. That's going to be the single biggest thing facing the county and the state both, and how do we address that.

Chairman Rae stated, "Regarding the economic ability of units to function and work with one another, do you have any experience in that area?"

Attorney Lindsey responded, "Yes. My experience has been on the outside trying to get townships and the county to line things up for developments, I recently did that in Jackson. We had a development that...I forget the name, it was a hospice, and was to be used for terminally ill patients, and it involved easements and governmental units talking to each other. That's the kind of experience I have. I think the experience I have would probably translate into this job to pick up the phone and call and say "this is what I am and try to get these things together and let's talk. That's the way to get things done in my experience."

- 9) You mean as far as computers?

Chairman Rae responded, "Yes."

Attorney Lindsey responded, "Okay. I can do everything as far as to legal research. Do I know how to twitter. I don't know how to twitter. I'm learning as I think probably everyone else is. I have a palm pilot with a calendar. Everything is pretty much electronic now."

Comr. Camp inquired, "And for communication with Commissioners, would you use email?"

Attorney Lindsey responded, "I like email because if you get home at ten o'clock at night, then I can email you in the morning and we can communicate that way. Clients in my experience like phone calls; so if anyone wanted a phone call, I have no objection to that. Email is convenient for a lot of reasons.

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You specify the way, and I will do it.”

- 10) I was in the Sixth Circuit Court of Appeals last Fall in this case I was talking about.. As far as being in Circuit Court in Jackson, maybe once a week as far as a regular hearing. Trials, maybe five or six trials a year. Arbitrations, three or four arbitrations a year. I have been in everything from District Court, Circuit Court, Court of Appeals. Never been in the Michigan Supreme Court. I had a trial last Fall in Tampa, Florida. I’ve practiced in Nevada. I have a case pending in Minnesota now and Kansas. We do things where ever we are needed for clients.

Comr. Rocho inquired, “Have you done any administrative hearings here?”

Attorney Lindsey responded, “The administrative hearings that we worked on involved JCC and employment matters at JCC. They were about five or six years ago. But I have, yes.”

Chairman Rae requested, “Explain what an administrative hearing is.”

Attorney Lindsey responded, “Sure. It’s a quasi’ judicial hearing. In this case, I guess it depends on what your definition is of it. But in this case it was a case involving JCC. There was a reduction made and they appealed to M.E.R.C. An administrative law judge in Lansing heard the case and ultimately ruled on the case.”

- 11) Well, my most recent one was the Central States case which was successful. I’ve been successful at every level so far, and I’m hoping I will be successful with the Supreme Court. It was a case that actually started five years ago, and Central States was contending that my client owed about a Million Dollars of past pension fund contributions. Their theory was that the contract was terminated in 1994 and that basically my client should have been paying for everybody else from 1994 on. We had discovery for about two years. Discovery is depositions, talking to people and examining documents. We had arguments in front of Judge O’Mirra, and he ruled in our favor; and then I was in the Sixth Circuit Court of Appeals. I have had a handful of cases before the Michigan Court of Appeals. I’m thinking maybe five or six. It’s not that common to file an appeal. The Michigan Supreme Court, I have never had a case. Numerous cases in Jackson County; e.g., jury trials, bench trials, administrative hearings, arbitrations. Lots of different things.

Comr. Haadsma inquired, “In terms of discovery, when at the beginning of the discovery process do you do your depositions and scheduling in regard to the opposing party?”

Attorney Lindsey responded, “Well, there is some strategy involved in that. I would typically try to exchange paper discovery beforehand. The cases that I have been dealing with, with the advent of email, there has been an expediential increase in the number of documents. My typical, absent any specific factors about strategy, would be to do paper discovery, take the depositions relatively quickly and get a handle on the case so that you know what you are talking about. Then in Jackson County

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especially, there is a push towards mediation. Of course if that doesn't work, we end up in trial."

- 12) What I know of it is what little bit of it I've read in the newspaper in Jackson County, which is limited so. But as in any project I would research it and figure out what the perimeters were and then. I guess my job is to...you walk in off the street and you give me something I've never heard of before, and then I spend the next six months or however long it takes to prepare the case, getting ready and finding out everything I can about it and becoming an expert on that area. And that's what I would do with that question.
- 13) The Freedom of Information Act, the case that we dealt with over a number of years in Columbia Township. Again, I don't know how much the news filters over here. That was a Township that was unhappy with their assessment; and the state came in and seized the tax rolls, and the treasurer ended up resigning. It went on for a number of years. In fact even today your assessment will come back and it will be radically different based upon this thing that happened years ago. My experience in that was to deal with the township, and in dealing with townships you have to keep in mind that it will be viewed by somebody else; i.e. by schools; and then there were issues with filming the township meetings, because that had never been done before. That was my main experience, with that particular case.
- 14) Well, that's a good question. Again, okay, I guess I'll answer it in the same way. I know from reading the newspaper and watching the Commission meetings on t.v. I guess the average citizen's view. I don't have anything more specific on that. So as in anything, I would have to research it and provide whatever advice that I could.
- 15) Lawyers don't make mistakes. Biggest mistake that I made, okay. That's a hard question. I guess, we had a partner about four years ago. He was a partner that had been with the firm for a long time. Him leaving, I would have handled it differently. I guess, it's hard to explain; but our law firm was like a family. You spend more time with them than you do your real family; and I guess with him if I could have done it differently, I would have approached it differently and tried to open some more communication with him and try to work things out. This wasn't explored at the time. People dug their heels in and I think that was a mistake, me included. I guess, what I learned from it is to try to keep the lines of communication open. Pick up the phone and call. Don't always send a nasty email. Pick up the phone or say "Let's go have lunch."

Comr. Haadsma inquired, "Was there litigation which followed this breakup?"

Attorney Lindsey responded, "No, there was no litigation. I guess I would just describe it as there was just hard feelings. And I guess I would, having to do it over again, I would have tried not to have him leave in the first place; because you know, you draw a line in the sand at some point and people will not move any more and I'm not sure that was the wisest thing to do at the time. But bygones are bygones. I had lunch with the guy a couple of weeks ago and there's no hard feelings."

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Chairman Rae inquired, “No litigation over that?”

Attorney Lindsey responded, “No, absolutely not.”

Chairman Rae questioned, “Your firm had no buy/sell agreement?”

Attorney Lindsey responded, “No. Well, in Michigan there are some prohibitions on buy/sell agreements and what you can do with law firms so. Let me just leave it at that.”

Comr. Haadsma stated, “I understand what you experienced. In my twenty-one years with a law firm we have a tight contract. That is why I specifically asked the question in the context of who can get out of the contract. Nothing like that?”

Attorney Lindsey responded, “No. No, it’s been five years ago now so there’s... I think we ultimately signed releases and everything so everyone was happy and walked away. Actually, no litigation. Nothing like that.”

16) Well, I filed the Supreme Court brief last Thursday. I tend to...being in litigation, everything runs off deadlines set arbitrarily by the court. It is always an issue trying to manage resources and billable time to get the product out the door. A quality product. The best our firm can put out. I would say that I do that virtually every day or several times a week.

17) I’m currently... When I moved to Jackson originally I was on the Jackson County Bar Association and became President of the Jackson County Bar Association. I was on a number of different boards. One of them that I did a lot of work with was Special Development Homes that owns a number of homes for developmentally disabled adults. I eventually served on that in several positions and eventually as President. I’m currently Co-General Counsel for the Boy Scouts in Jackson and Ann Arbor and a couple of different counties. What I’m doing right now is I have a four and a half and one and a half year old sons at home, so I have been less involved in things in the last few years. That’s just the way things have worked out, but my sincere hope would be that this would allow me to expand the things that I’m involved in. Just cutting the commute down and having that time available is a big factor. I went to law school in Washington, D.C. I had what I would describe as an epiphany in my second year getting caught in traffic on the beltway at 5:00. I thought this is not where I want to live. This is not where I want to raise a family. I came back to Jackson. That was where I was offered a job, and I came to Calhoun County because this is where I want to raise my family. My understanding of a lawyer is you need to be involved in community things and make a contribution, and this is surely my thought.

Comr. Haadsma inquired, “What kinds of organizations would you anticipate joining if offered this job?”

Attorney Lindsey responded, “You know, I have not really thought about it. Good question. I mean,

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I know the standard school things that I'm watching my brother's older kids going through. The Cub Scouts and Boy Scouts. Those things. I went through the list of the committees that have open positions. There are a number of things open. I guess, I'm interested in the economic development more than anything else."

Comr. Haadsma questioned, "You are describing committees of the county?"

Attorney Lindsey responded, "Yes. Yes, and I'm not limiting it to that; but I think there are lots of opportunities."

Comr. Haadsma inquired, "Are there any organizations in the Marshall area that you might have a special interest, not pertaining to government?"

Attorney Lindsey responded, "I live in a house built in 1870. My intent is to be on the homes tour at some point. I was asked to do it last year. Our house was on it in 1997. I'm a historian before I'm a lawyer. That was my major as an undergrad, so the Marshall Historical Society is definitely something I'm interested in."

- 18) No, not sanctioned. To be truly honest, our firm was sued by a man who had an issue over a will and was incarcerated, and named all of us in the firm. The malpractice carrier covered it for a few dollars. Other than that, no.

Comr. Camp inquired, "Were you directly involved in that case?"

Attorney Lindsey responded, "No. I was the liaison with the insurance company."

Comr. Haadsma questioned, "You have not been a respondent in any grievance commission proceedings have you?"

Attorney Lindsey responded, "I...There was a grievance filed against me maybe ten years ago by a client. My response was that the grievance was filed when I pushed the client to pay his fees, then there was no further investigation."

- 19) I don't think. I know my Mother was a township supervisor and a secretary of Marlee School for years and knows Ms. Rocho. I don't know Ms. Rocho. I don't think I ever met you. I don't think I know anyone else.
- 20) I guess, if... It depends on if you are talking about litigation, it involves taking a lot of documents and trying to narrow it down and make some sense of it, so I think I'm exceptional at doing that. I developed that very well. As far as reviewing documents, what I try to with clients is to identify the risk areas and layout the possibilities. My litigation experience I think plays into that because I've seen

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where when things get “off rail” and they are headed in the wrong direction, and I can say here’s what you need to avoid. I have done a lot of that, and I think I have extensive experience in both of those areas.

- 21) I literally filed this last Thursday in the Supreme Court. Prior to that was an appellate case in the Sixth Circuit Court of Appeals on the same case. Again, the judge ruled in our favor and dismissed the case. The Sixth Circuit Court of Appeals agreed the Judge O’Mirra and his dismissal. Central States’ counsel..., we tried to mediate through the Court of Appeals and they said they were supremely confident that they would win on appeal and they lost the appeal. Now they are supremely confident that they are going to win in the Supreme Court. I’m supremely confident that we’re going to win, so we’ll see how that goes.
- 22) Well as I stated before, I use in my everyday practice, voice mail and phone communication. I would be aware that anything I do on behalf of the county I would keep in mind that the county exists to serve the citizens of the county, so to that extent I would be expected to be very responsive. It is important to be responsive. I would use phone calls, meetings or whatever is appropriate in the communication venue.
- 23) In Jackson County one of the judges a couple of years ago took a course on mediation, and the big “push” in Jackson County is mediation. So we are expected to go to mediators trained by the state to try to resolve a case. I had a case last year that dealt with lake rights. We had to resolve an issue between two individuals concerning the frontage and a dock. That was the most recent one. Almost everything I do involves mediation and negotiation of some sort.
- 24) I will have to say, this case. Challenged legally, I’ll have to say on this case, my wife was literally having our first son. I didn’t know anything about RISA and had to research those statutes and it sounded like there was no way to beat this. It was a case you might have heard of; e.g., Behnke Trucking out of Battle Creek. A lot of time and effort was involved in learning the law and figuring this out. This case was part of my greatest challenge.

Comr. Camp inquired, “Regarding current knowledge, time lines; if we need something between Commission meetings, how would you function in that time line?”

Attorney Lindsey responded, “If you want something by 5:00 p.m., I would provide that information by 5:00 p.m. Whatever needs to be done. I deal with deadlines all the time. I would be responsive to you.”

Comr. Haadsma inquired, “Do you have knowledge of Judge Clarendon Paxton in Jackson, and would you support him in his election?”

Attorney Lindsey responded, “I know Judge Paxton just in passing. The experience I have had was with his office, which I think is the second best office in town. I worked with Keith Schroder and his partner

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on the case with the Chinese car company. He represented a former employee that had gone to work for the car company and I collaborated with him extensively. He's a good attorney and I think he will be an excellent judge also."

Comr. Haadsma inquired, "Why would you want to go from what you perceive to be the best law firm in Jackson to a governmental job?"

Attorney Lindsey responded, "Well you know, that's a good question. There's personal factors. The drive and being close to my family is a big part of it. I guess I have a feeling as I learn about the job that this might be the right time and place to try something different. It's hard to put into words because I am losing my income from private practice. I think I'm excited. I read about the hiring of a new Administrator. It was in the paper. This looks like this position is a blank slate and I would get to shape this job, and that's exciting. I came into a firm that has been around for literally 160 years, and the answer to every question is "We've always done it that way." I've prospered and done well within that firm, but this would be really exciting to me to have this position and being able to put my own stamp on it."

Comr. Haadsma questioned, "You are not going to another kind of practice in an office down the street?"

Attorney Lindsey responded, "I can't promise anything, but I've only had one epiphany so far, and that was on the beltway in Washington. This is less of an epiphany and more of something that... I have been at one job since leaving law school. This is a really hard and personal thing for me, but this is for my family that I'm leaving. It is a very hard decision to make, so would I make that decision again? I don't think so."

Comr. Camp inquired, "Why did you pick Barb Freysinger for a reference?"

Attorney Lindsey responded, "She is the Executive Director of Special Development Homes. And again in my current practice, it is difficult to come up with a list of people without the firm knowing I am leaving. She is a friend, and she has been Executive Director of that company for a long time."

Chairman Rae inquired, "If you were in fact offered the job, when could you start?"

Attorney Lindsey responded, "Fairly quickly. A minimum of two weeks."

Responses by Finalist Richard Scott Ryder:

- 1) I started basically my legal career in Shiawassee County, Michigan as an Assistant Prosecuting Attorney,

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and I worked there for four and a half years from December of 1974 until April of 1979. I then took a position as the Chief Hearing Referee in Kalamazoo County, Michigan. I worked there for twenty-five years until May of 2004 when I retired. I then took a position in St. Joe County as Juvenile Court Administrator. I was there from May of 2004 until January of 2007. I have spent virtually my entire professional career working in county government.

- 2) Well, I'm prepared to do whatever it takes to do an excellent job as Corporation Counsel. What I mean by that is that I'm prepared to spend as much time as is necessary. I consider this to be an executive professional position, which means that there are not 9 to 5 hour expectations. You know you are here long enough to do the job; and if it means working evenings and on the weekends, it is not a problem. I'm prepared to do that, and I've done that in all my other positions. I have no secondary retirement plans at this point in time, and so I'm prepared to be Corporation Counsel for the rest of my professional career however long that it takes.
- 3) That would be an eclectic answer. For the Tribe, I've done a great deal of research in environmental law, and I have written a number of environmental ordinances for the Tribe. I've done real estate and housing law for the Tribe. In my private practice I represent the Youth Advancement School Board, so I did research and work with the Freedom of Information Act, the Open Meetings Act. I also write appeals in child protective proceedings, so I've done a great deal of work in that area also. As far as other avenues today I was researching the law concerning interrogatory appeals, or appeals in court hearings before you have a final judgment. I do a great deal of different areas of research; and when I looked at the job description it called for a vast variety of legal experiences, and that really interested me. I enjoy that very much.

Mr. Wilcox inquired, "What avenues of legal research do you use?"

Attorney Ryder responded, "I use a lot of different search engines; e.g., Lexis-Nexis; Lowe's Law, although I don't like that as well as Lexis-Nexis. Even Wikipedia has some interesting legal articles. And then the Institute of Continuing Legal Education through the Bar Association also has excellent legal resource work."

- 4) Well, I have been practicing law for thirty-four years, and during that period of time I've done a lot of different things. First of all, I'm very familiar with county governments and how county government works. I worked occasionally with the Corporation Counsel when I was a Referee in Kalamazoo County. I have known Duane Triemstra for twenty-five years or more. I was doing Corporation Counsel work as an Assistant Prosecuting Attorney. I have represented the Sheriff Department and the Sheriff, and even went into federal court in a lawsuit where the Sheriff got sued, and got a no cause for action. I also represented, and this dates me a little bit I realize, the C.E.T.A. Program in the late 1970's. I approved all their contracts in Shiawassee County and advised the C.E.T.A. director about different legal issues, so I have that Corporation Counsel experience. I've taught at Western Michigan University. I taught criminal law and procedure. I teach at Glen Oaks Community College. A Juvenile Justice and

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Delinquency class. I have a very broad and eclectic legal background, all of which I think qualifies me to be Corporation Counsel.

- 5) I was the Juvenile Court Director in St. Joe County; and that meant that I had to hire and fire, and I had to do both. I also was involved in union contract bargaining with the A.F.S.C.M.E. Union with the caseworkers and clerical staff, so I had a number of occasions where I had to be familiar with legal labor law issues. And being the attorney for the school board there are always employee issues that arise. So I do have some familiarity with employment law.
- 6) Well, labor I just explained. I was on the management bargaining team in St. Joe County. I have done some real estate work in my private practice. Before I became an Assistant Prosecutor I spent a little time first at law school working for a law firm doing a lot of real estate work; and I've done some real estate work for the Tribe, although I haven't negotiated a real estate contract. I have, however, advised the Tribal Council on some contractual matters, including one real estate purchase they were involved in. I'm sorry, the other categories were?

Comr. Camp responded, "Professional services and purchasing."

Attorney Ryder responded, "As the Tribal Court Administrator and as the Tribal Court's only employee, I was my own Purchasing Agent, and so I engaged in a number of contractual agreements on behalf of the Tribal Court. And the last one was, professional services. I'm not exactly sure what you mean by that."

Comr. Rocho clarified the question.

Attorney Ryder advised, "I reviewed some of those contracts when I was a Juvenile Court Director because we engaged in some consultant services and hired independent contractors to run some of our programs, so I am familiar with writing and reviewing those kinds of contracts."

- 7) I've got to tell you that that is a great question, and the reason I say that is for many of my years working in county government during budget time that question seems to always comes up. I have been in Kalamazoo County when the Board of Commissioners had to decide whether they were going to give every department a ten percent cut, for example in the courts where I worked, or whether they were going to distinguish and differentiate between those services that are mandated and those services that are discretionary. We used to talk about it in Kalamazoo, and I don't want to offend anyone here if they are from the M.S.U. Extension, but we always wondered if growing tomatoes was as important as funding the courts and the jail. That's a very difficult situation for Commissioners. I would not be uncomfortable in making those recommendations. I think that mandated services are the core services that the county cannot do without, and that would be courts, law enforcement, emergency services, roads and transportation. I would have to say that, although they are important, for example parks would not necessarily be a mandated service and would have to look at that in these tough economic times.

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Comr. Camp questioned, "Could you please focus on the mechanism of how you would approach researching the issue and advising the Board?"

Attorney Ryder responded, "Well certainly, the term mandated service is probably not a term that everyone would agree on, so part of the research would be to provide the Commissioners with a "handle" of what that really meant; not only in the legal definition, but with a political sensitivity because they're the ones that will be making the tough decisions of what services get cut and what services don't. So it would be a legal research. I would probably contact other counties of comparable size to Calhoun and talk to their Corporation Counsels about whether they have encountered that issue and what means they have taken to resolve it, and then I think it would be a consultation/collaboration with the Commissioners as to how those issues would finally be determined."

- 8) I think the casino is an issue that will raise a number of legal issues for the county as well as for the Tribe. There's going to be an extreme influx of employment and employees which brings with it housing and other issues. Hopefully the county and the Tribe will have a beneficial and mutually profitable relationship. Stimulus money aside, I think that probably the biggest issue for counties, and I'm including Calhoun in this, is the issue of a shrinking tax base and shrinking tax dollars for the county to provide services and having to make tough decisions regarding mandated versus discretionary services. I think that jail overcrowding and/or Juvenile Home overcrowding are issues that if they have not snuck up on Calhoun yet, are likely to because they are in all the surrounding counties. I think the issue of the cost of housing prisoners, the cost of jail, the extent that the Sheriff patrols the highways and/or acts as custodian of the jail is an issue that will come to the forefront in Calhoun County also. I would add there is always the environmental issues of pure air and clean water that counties must be sensitive to, and those issues are not going to go away.

Chairman Rae inquired, "How did you prepare for this interview?"

Attorney Ryder responded, "Well, one thing that I did, I tried to review for example, the Battle Creek newspaper for potential issues or things that were on the agenda. I talked to some people that live in Battle Creek and then I kind of brain stormed on my own regarding issues that I'm familiar with that I've encountered in other counties that I worked in that seem to be universal."

Comr. Camp inquired, "What would be the legal impact of those?"

Attorney Ryder responded, "I'm not exactly clear of what you mean by legal impact. I'm not trying to be difficult. I'm just not sure what you mean by that. Do you mean the potential for lawsuits or legal issues arising out of the Board's intervention on these issues? What exactly do you mean?"

Comr. Camp responded, "When you brought up everything from environmental issues to jail overcrowding, I was wondering why you felt that they would have a legal impact at the county level."

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Attorney Ryder responded, “Well the political nature of all of those issues as well as the legal requirements, for example, the environmental requirements, it’s not clear what this new administration is going to be requiring from local municipalities about clean air or clean water; but it appears that they will have a different tact than the prior administration, and may very well put more requirements upon local municipalities and counties to do more things with clean air and clean water. There may be... Anytime there is money from Washington there are legal requirements attached to it. There are regulations that have to be interpreted so that the money is used appropriately and within the guidelines. Those were some of the things I was referring to when I talked about legal issues.”

- 9) Given those categories, I would rank them between developed and advanced. One of the things that I’ve really had to do being my only employee including my own secretary with the Tribe is, I’ve really had to work on my clerical skills and typing skills. I’m certainly more competent now than when I took this job several years ago. Now I don’t know who to compare myself to, I don’t know. Would I hire myself to be my own secretary, probably not; but I certainly know my way around the computer a little bit.
- 10) I have an all day trial tomorrow in Kent County for a termination of parental rights case involving two Indian Tribal children and one Indian Tribal member. Right now I am the Indian Child Welfare Act Attorney for the Tribe, and I appear regularly in courts all over southwest Michigan on behalf of the Tribe in Indian child welfare cases. In my private practice I have a child welfare appellate practice, and in fact I had an appellate brief that was in front of the Court of Appeals today to be decided by them. So I am frequently in court. When I say frequently, I would say three or four times a month for those particular types of matters. I have not yet had to go in to court on behalf of the school board that I represent.
- 11) Wow. When I was first hired as an Assistant Prosecuting Attorney in Shiawassee County I did sixteen criminal appeals in the Court of Appeals and argued half a dozen. Only lost one case, and lost it three times. I kept going back and kept getting “hammered.” I still think the Court was wrong, but I won every case but one in that first time around. As the Chief Referee in Kalamazoo County I filed an amicus brief in the Supreme Court on behalf of the Probate Judges Association, and that was a case that decided the issue of whether or not the Probate Court, Juvenile Division, had independent judgment from the Circuit Court at that time before the Family Court or whether they had to get permission to hear cases from the Circuit Court. The probate judges’ position was that they had their own jurisdiction, and we prevailed in that particular case. I have been in several district courts, one time on a lawsuit against the former Sheriff of Shiawassee County who was sued by a probationary deputy; and I got a no cause of action against the probationary deputy, so that was a win. I don’t know what the outcome was today in the Court of Appeals, but I did receive the news that I lost my last appeal that I filed in a termination of parental rights case on behalf of an incarcerated father.
- 12) Well, as the Juvenile Court Director in St. Joe County I worked directly with the County Administrator and with the Board of Commissioners in budget areas, employment areas and in the general day-to-day operation of the court and the county. So I’m very familiar with that. As the Chief Referee in

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Kalamazoo County I did have some contact with the Board and the Administrator, but it was less direct because the judges were the ones that dealt directly with the county administration. I would often do research for the judges on issues involving various court difficulties or things like that, and accompany them to the Board meetings because I did the research and knew the law.

- 13) Just recently with the school board I said to them because I had only been working with them for about four months, I said “Are you fellows familiar with the Open Meetings Act and the Freedom of Information Act,” and a couple of them gave me a look like what are you talking about. I explained to them, first of all, that the key thing about the Freedom of Information Act was you have to have a person that all of these requests are referred to, someone designated under the statute who makes that initial decision; and I said that it probably ought to be me. They weren’t real clear about where all of those requests were going. I don’t know that we received a lot of them, but they weren’t really sure where they were going and I think some of them went to the principal of the school; and I said “Well, you need to clear that up because that should go through me.” The Open Meetings Act was interesting because we hadn’t had a lot of Board meetings where a lot of people had come and were in a building that had some pretty serious security because the Youth Advancement Academy was a school for expelled students. So I explained that we had to make these meetings accessible to the public. Make sure the meetings are published in the newspaper so that people know that we’re having these meetings and that they are open, and that we have to accommodate them if they come. So we’re working on that issue a little bit. But it was a revelation
- 14) I probably should hit a home run with this one, if I don’t, then I’m probably not doing very well. First of all let me say that, I really enjoy working the Tribe. I enjoy my job there, and I have learned a lot about Indian law and have an increased respect for Indian country. I’m sure my perspective is colored a bit by my employment, I certainly respect the Tribe’s right to their sovereignty, and I can tell you that the Tribe is working hard to be a good neighbor. We are working hard to make that sovereignty a reality. I think a functioning court system is a key to the sovereignty meaning something. Laws that the Tribe has can be fairly and appropriately enforced. So, I’m a supporter of Tribal sovereignty. I’m a supporter of the Tribe. I don’t believe you expect me to say anything else. I think that for the Huron Potawatomi Band it’s about time that the Tribe has an opportunity to do for its membership what I believe the casino will allow them to do.

Comr. Haadsma inquired, “In regard to the casino and the Tribe, certainly I doubt that anything that has happened in New Buffalo will evolve here, but given the controversy in New Buffalo, might you have any conflict with being Corporation Counsel here given all you have done with the Tribe?”

Attorney Ryder responded, “I honestly do not see any conflict. One of the legal issues, as you know, is jurisdictional; i.e., what court is it going to be in, who is going to exercise sovereignty. I don’t believe that being a former Tribal employee, or a former Tribal attorney, or the former Tribal Administrator would disqualify me or in any way compromise me in the county with any issue or dispute with the

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Tribe.”

Comr. Rocho inquired, “Have you had experiences that you could lend to what Calhoun County might have to go through in regard to revenue allocation?”

Attorney Ryder questioned, “Are you referring to experiences with the Tribe?”

Comr. Rocho responded, “Yes.”

Attorney Ryder responded, “I have only been indirectly involved with the casino. I did some tax work for the Tribe, and including meeting with the construction people and making sure that they had the necessary tax paperwork they needed, I honestly have not been privy to any discussions, and don’t have much information, on the tax allocation issues.”

Comr. Camp inquired regarding Tribal resident areas.

Attorney Ryder advised, “The tax agreement that the Tribe negotiated with the State of Michigan designates certain areas as resident Tribal member areas. Now, that includes the reservation at Pine Creek, but it also includes other areas in this county, Branch County and in Allegan County; and in fact, it was supposed to mirror somewhat the demographic distribution of Tribal membership.”

Comr. Camp inquired, “Did you give an opinion on controversy with Athens Township regarding which parcel was in the reservation in Athens Township for the tax year of 2008?”

Attorney Ryder responded, “I got involved in that a little bit early because that question came to my desk when I was implementing the tax agreement. We, the Tribe, has retained a law firm in Grand Rapids that’s dealing with that issue; so although I am familiar with the fact that there’s a controversy, I was not involved in any negotiations, discussions or resolutions regarding that particular controversy.”

Comr. Camp inquired, “Have you had an opportunity to speak to any other, I guess anyone from the Prosecutor’s Office, working out any of the agreements regarding jurisdiction in Emmett Township?”

Attorney Ryder responded, “I have not been involved in the law enforcement negotiations, but I’m familiar with them because the Tribal Court was kind of included in the larger law enforcement package. And we’re very supportive of and appreciate the help that Emmett Township is going to provide us. We’ve now hired a Police Chief. They don’t call him a Chief. I need to be careful of that. It’s the Director of Department of Public Safety. He’s a good guy and he is going to do a good job, and there have already been a couple of instances where the Tribal Court has had to use him. But we have a lot of respect for the people in Emmett Township. I know the township supervisor. My wife used to work for Kellogg Community Credit Union and he serves on the Board of Directors. I’ve met him a couple of times, and we appreciate all that they’re doing for us.”

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- 15) Well, you probably would not believe me if I told you I have never made a mistake. I'm not sure that would make very credible. I think the mistake that I probably learned the most from was a trial error that I made when I was a young Prosecutor. I was kind of the Perry Mason generation. I loved watching Perry Mason on t.v. and I was fascinated by the law, and always wanted to be a trial lawyer. So I get my first big opportunity. The first case I ever tried was an OUIL case. Even back in the day getting the breathalyzer results submitted into evidence was extremely difficult, I made a mishmash out of it. I know I did. I will never forget because we had a six person jury in district court, and one of the jurors winked at me as they were going into discussions; and they came back and found the kid guilty, and I have no reason why. What it taught me was, preparation, preparation, preparation. Though I thought I was prepared, though I thought I was ready, I wasn't. It made me a lot better of an attorney because I prepare better because I embarrassed myself.
- 16) When you do appellate law you have strict guidelines and deadlines. Once you receive the transcripts you have a very short period of time to review the transcripts, do your written briefs, and get them filed; and if you miss that deadline, then your client loses because they don't get their day in court. I feel very strongly about that, in making sure that my clients get their day in court, so you've got to make those deadlines. When I was a Juvenile Court Referee and I had to render an opinion I would set deadlines for when those written opinions had to be rendered. People are entitled to know what the court's decisions are, and they are entitled to know in a fairly rapid manner. I'm very comfortable working under deadlines, and I'm very comfortable with having that kind of pressure. That doesn't bother me. I'm familiar with that.
- 17) When you say community are you talking about local community, or are you talking greater like state or...?

Comr. Gerow responded, "County."

Attorney Ryder responded, "Calhoun County. Well, I just finished two years as the President of the congregation of my church. And that's a church that I joined when my wife and I lived in Three Rivers and when I was working in St. Joe County; and we remained with that congregation. I am the President of the West Michigan Soccer Referees Association. I have been a high school soccer referee for over twenty years. I am a past member of the Sunrise Rotary of Kalamazoo. When I moved to St. Joe County that did not seem to be practical any more. I believe in service organizations. I am a former Jaycee. I'm also a very active member of the Kalamazoo County Bar Association. I was a member of the St. Joe County Bar Association when I was there, and I would certainly expect to join the Calhoun County Bar Association. I would probably do that anyway because of my work with the Tribe. I would think that I would be interested in joining a local service club, particularly Rotary; but I would be willing to join the Lions or an exchange club, or more than one club if so recommended. I believe that it is important to participate in your local community."

Comr. Haadsma inquired, "Why is it important?"

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Attorney Ryder responded, "Law is a people discipline and you have to make people connections. There are going to be times when I may find myself in an adversarial position; but if you know your adversary and they know you and if there is a mutual respect, matters have a tendency to get resolved without litigation or litigation can be mitigated, and that's good because that saves the county money and resolves issues. So it's about people and making connections with people."

- 18) I have never been charged with malpractice. I've never been a defendant in any criminal case, but I did have one case when I was a Chief Referee in Kalamazoo County that went to the Grievance Board. And this particular lady grieved every attorney that she came into contact with. There were so many of us that we were going to get T-shirts that said "I've been grieved by so and so" because it was almost a club, and that went no where. So I've never had any grievances that ever went anywhere beyond the initial filing, and I've never received any professional discipline of any kind.
- 19) No.
- 20) Well, I brought some documents with me today. I've had the opportunity to draft a number of environmental ordinances for the Tribe. I brought an example of one that has been approved; e.g., our Forest and Timber Protection Ordinance. We were having a serious problem with people coming on the reservation, cutting down our trees and poaching our lumber; and we didn't have any law that dealt with that issue, so I wrote that ordinance and the Council passed it. I also wrote a Rental Housing Ordinance for the Tribal Council, and they passed that one. So I've written a number of different ordinances for the Tribal Council. A lot of the environmental ones are in the Bureau of Indian Affairs E.P.A. limbo. I'm not exactly sure where that goes, but they are in Washington being reviewed somewhere, and we expect them to come back and then the Tribal Council can act on them. Because there was a grant involved we had to submit those ordinances to the Federal Government. As far as contract review, I believe that was the second part of the question. I haven't been involved in reviewing any particular contract. The Tax Agreement is certainly a contract, and I was implementing that so I had to become familiar with that. I said that we did a little real estate work, so I have written a couple of contracts for consulting services or appraisal services, and then I negotiated my own contracts with the Tribal Council.
- 21) Well, I guess I picked the right writing sample because I happened to bring that brief with me today. It was in the case of Johnny Lee Pulley Jr. who was a father of three children. He had his parental rights terminated in Cass County. I felt that Mr. Pulley complied with the court orders in the case services plan and argued on his behalf that he had made a substantial compliance with the requirements of the department and that there was no good factual basis for the court to terminate his rights. It was argued today in front of the Court of Appeals and I haven't gotten the result. The last appellate brief before this one that I wrote was one in Kalamazoo County. It involved a father that had been very involved with his infant daughter; but then went to prison on a parole violation and was in prison when his rights were terminated, and I argued on his behalf that the court had made a couple of significant due process errors, including discharging his attorney for no apparent reason. And the Court of Appeals used the oxymoronic phrase of "harmless error," that the error that the trial court did in discharging his attorney

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was in view of the evidence, harmless; and what they were basically saying was, “You may be right, but he was still in prison; and since he was still in prison and he wasn’t getting out in time to step in and be a dad, they terminated his parental rights anyway. So I got them to admit that there was an error, but they called it harmless.

Comr. Haadsma inquired, “Did you just submit the briefs or did you argue this case, the Pulley case, in the Court of Appeals?”

Attorney Ryder responded, “No, there was no oral argument. It was just briefs. I haven’t argued orally in the Court of Appeals since I was an Assistant Prosecutor from 1974 to 1979.”

- 22) I see this position, especially with the Board of Commissioners... I mean I’m used to having multiple bosses and when you work for more than one judge you have multiple bosses, and I would see that all of the Commissioners would be bosses; and I see a very collaborative approach to that. I believe in good communication and would use whatever means are available, and that includes face-to-face, email. I don’t text very much so you won’t have to worry about that; but I believe in a lot of face-to-face communication and a lot of written communication. I like to write things down that way they are incorporated in. You know what you’ve talked about and you know what has been discussed. As far as employees go, I would be wearing, in my understanding of the job, multiple hats when it came to employees. Some I would supervise, and I expect people to be professionals and I expect them to do their job and to know their job. I’m not a micro-manager so for the people I supervise I’m not going to micro-manage them. I will treat them with respect and hope that they are competent to do their job. If I’m in an advisory or consulting role with other departments or other employees, I would want my door to be open. I would want people to feel free to come to me with legal questions and legal issues, and I would try to get back with them with the best possible information as soon as I could.

Chairman Rae advised, “I want you to be clear that we have a chain of command, and you would be reporting to a Chief Executive Officer and be under that person’s direction.”

Attorney Ryder responded, “Yes. Yes, I do; and I didn’t mean to leave that part of the communication hierarchy out. I have no problem working in an administrative structure like that. Like in the court system, I was directly responsible to the Chief Judge but also was responsible to the other judges also.”

Chairman Rae inquired, “You would be part of an administrative team. Do you understand that?”

Attorney Ryder responded, “Absolutely. When I was the Chief Referee I was a part of the court’s administrative team along with the Court Administrator, the Assistant Court Administrator and the Director of the Juvenile Home.”

Ms. Sproule added, “I’m new, but I don’t believe we have employees reporting directly to you, so the

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supervision piece, not so much directly to you.”

Attorney Ryder responded, “Well, that was one of the questions I was going to ask. The job description seemed to indicate that there was some clerical help that I would oversee, but there aren’t any other positions then that report would report to this position?”

Ms. Sproule responded, “Right. We don’t necessarily have a legal department. It is a pretty independent position other than being a part of what I call the executive team.”

- 23) Well, the last time I was in a formal negotiating atmosphere was when I was in the bargaining team in St. Joe County, and we managed to get through every particular management position that we advocated for. And we made I think some very good pro-employees moves, for example, we solidified an employee posting policy. They didn’t have one and that was great I think, employee proactive. As far as recently in the workplace, my boss, the Tribe and the Chief Judge, were talking about a court rule that we were looking at implementing. I made some significant changes to a court rule. It involved a recognition of foreign judgments. That would be non-Tribal court orders like state court orders, and also how we were going to deal with arrest warrants, search warrants and subpoenas. And the judge liked my ideas after we batted it back and forth. I’m not a stranger to standing up for my ideas if I think I have a strong position or I think I’m legally correct, but that doesn’t mean that I’m not willing to look at the other side and to compromise if that’s necessary.
- 24) I would have to say a recent situation that occurred in the Tribe. It was quite a legal challenge to us. We were notified that a Tribal member and a Tribal employee had an arrest warrant out for them, and this was a state court arrest warrant. The state court was not really clear about how they were going to execute this warrant on Tribal land, so I contacted the state courthouse, met with the probation officer and facilitated the execution of the warrant by getting our Tribal judge to issue an order recognizing the warrant; and then I talked to our Director of Public Safety to see whether or not he could work out a situation where the Tribal employee wasn’t arrested in front of everybody during work hours, and he was able to work out a situation where she could turn herself in. It was a win-win for everybody. We asserted our authority, our jurisdiction as a Tribe. Maintained our sovereignty. Cooperated with the state court and made sure that the employee, although brought in front of the appropriate court, wasn’t embarrassed or otherwise subject to any kind of stigma or ridicule.

Attorney Ryder inquired, “When will the decision be made?”

Chairman Rae responded, “We are going to make the decision at our meeting tomorrow.”

Attorney Ryder inquired, “How will you notify the selected candidate?”

Chairman Rae responded, “Ms. Sproule will notify you. She is the Executive Officer.”

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Attorney Ryder inquired, "Is there a residency requirement for this particular job? Would you expect the candidate you selected to move to Calhoun County?"

Chairman Rae responded, "Candidly, there was no discussion regarding that. That would be something if you are in fact in Kalamazoo, I guess you would have to answer that."

Attorney Ryder advised, "Okay, I don't have a problem with it; but my wife said if they ask you that, you tell them that you would have to have time to sell the house. I said "Well, I don't know if it will come up, but if they don't bring it up, I will ask. I would see this as a position where you wouldn't want to be viewed as a "carpet bagger."

Comr. Haadsma inquired, "You would sell your house then if you were offered the position?"

Attorney Ryder responded, "I would look for a residence in Calhoun County, yes. I mean, I love where I live and I'm not real excited about selling the house, but I'm excited about this position. If the position were offered to me and there was an expectation or if I felt like I needed to live in Calhoun County, I wouldn't hesitate to do that. Again given the economic times and the housing market, who knows how long that could take."

Attorney Ryder questioned, "I realize that there's an on-call piece in the job position. As Chief Referee I was on-call for twenty-five years, and I would get called a lot from the police agencies or the Juvenile Home saying "What do we do with this kid?" It doesn't bother me any, but I just couldn't figure out why Corporation Counsel would be on-call. Could you provide an example of that? Why I would be called in the middle of the night?"

Chairman Rae responded, "Off of the top of my head, I don't know."

Mr. Wilcox advised, "The whole executive team is on-call to the Board, and we make that commitment."

Attorney Ryder responded, "Okay. That's okay. I don't have a problem with that."

Responses by Finalist Lucy W. Kaiser:

- 1) I worked with Wayne County for four years. I was the Assistant. I started off with Wayne County as the Special Administrative Assistant to Mike Duggan, who was... I can't remember his title right now. He was the Deputy Director of... He was basically McNamara's "right hand man," so I was his Administrative Assistant, basically a Special Administrative Assistant to him for a few months. Then I basically became Assistant Corporation Counsel and I worked on several different areas that was dealing with litigation. We had special projects. The first job that I had there was a special project dealing with nuisance abatement. I did some tax work with them. Workers compensation, I wrote opinions for various departments. Wayne County at that point their Road Commission no longer existed

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so basically the roads were all rolled into the county and the Road Commission was not a separate entity, so there were a lot of road cases. Those types of issues. Subsequently from there I then went to Macomb County where I was Assistant Corporation Counsel, and was for the last five and a half years. That was...the duties there were a little more involved in that I dealt with a Board of Commissioners there. They had twenty-six Commissioners. We had five attorneys total in the office at Macomb County. Our main function was to provide support to the Board of Commissioners. We obviously did the opinions. We handled meetings. Helped with things. They operated under the Robert Rules of Order so we helped with those issues. I also did a lot of opinions for the various departments; i.e. Human Resources, the Treasurer, the Department of Senior Services, the courts, the Circuit Court, the Juvenile Court, the Probate Court. They had a Senior Care Facility, so I did a lot of work with that. Some litigation. Not quite as much. Most of their litigation went to outside counsel in Macomb County. The smaller cases of litigation would stay in-house. Macomb County was actually fortunate in that they did not have a large number of lawsuits against them, but they were unfortunate in the ones they did have as they were large ones which typically went to outside counsel.

- 2) That's a little hard to answer, obviously from not being from around here. First thing that I would have to do is really learn about the county overall. I do understand that there's twenty-three cities and townships within the county. I would want to basically understand how those townships function and what their needs are and basically how the people in Calhoun County think and feel. It's kind of hard to say without really getting in and really getting to know and get a feel for the county.
- 3) To pursue, as in utilize?

Comr. Camp responded, "Yes."

Attorney Kaiser responded, "The research tools that I typically used have been Lexis and obviously the books. The statutes. The case law. I have also not had a problem going to outside individuals that might be a little bit more informed than I am to try to get advice and opinions as well."

- 4) Overall I have been a licensed attorney for thirteen years. Each position that I have had has been more involved, more detailed, and required more responsibility. I've been in county government for, like I said, the last nine and a half years. I have a good understanding being with two separate counties at this time. Both operating quite differently. But it's having an understanding of county government I think is a huge step in being able to launch right into the position of Corporation Counsel. If you are new into government, it takes a long time to figure out how county government works. So I believe that my experience is what mostly qualifies me for the position.

Chairman Rae inquired, "Basically, what is the difference between Macomb County and Wayne County in regard to their operations?"

Attorney Kaiser responded, "Wayne County was a county executive format. The Commissioners there,

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I believe there were nine of them. I'm not quite sure. We never dealt with them at all. They had their own separate staff. Their own separate legal counsel. It was not nothing that the Corporation Counsel Department with Wayne County dealt with at all. The county executive format is a lot different than the Board of Commissioner format for one, which Macomb County was. Macomb County was a Board of Commissioners. Twenty-six ran the county. The way things got done was a lot different. There's the streamlining of tasks to be accomplished. The goals to be accomplished were a lot different. Wayne County had been under the executive form of government for quite some time. Macomb County has been going through a large number of changes over the years and it was...in 2008 they, the voters, approved to go to the county executive format, so there has been a lot of changes going on. They had a huge increase in the population which increased demands on the services of the county, whereas, Wayne County was pretty set in what they were doing. So there were a lot of exciting things going on in Macomb County."

- 5) My experience with employment law has been fairly limited. I did deal with the Department of Human Services. At Macomb County we did handle...I did handle unemployment compensation claims. We did a lot of little hearings. I handled any disciplinary actions. I was involved with the Department of Human Services and advised them on what action to take according to the union contracts and how everything is imposed in the grievance process, steps in the grievance policy, whether it was followed properly.
- 6) Labor, is very limited. Recently in Macomb County, I was not involved in it at all. Wayne County had two separate attorneys that handled those particular contracts, and they had to be non-union, so they were kind of separate from everybody else at Wayne County, the attorneys that were union. So these two attorneys there that handled the labor contracts were non-union and had basically their own sort of little office. Macomb had an individual within the Human Services Department that handled those contracts. Corporation Counsel and the attorneys there would only be called in to assist in interpretation or possibly assisting with language if they wanted to figure out how to phrase something correctly. Some dealing with negotiations, but very limited with that just because of the structure of the county.

Mr. Wilcox inquired, "Professional services?"

Attorney Kaiser responded, "Professional services. All of the departments had whatever they needed. I mean they had their own ability to contract with certain individuals. All contracts came through our office for review. So, I mean, we dealt with professional services within every department if they needed them, dealing with outside counsel from our own department, and that was all rotated through our department. So I would say that I've had quite a bit of experience with that."

Mr. Wilcox inquired, "Property?"

Attorney Kaiser responded, "Property, most of what happened was in Macomb County. The experience I had there was dealing with basic real estate agreements, purchase agreements. We...the County liked to buy a lot of land, so I did a lot of the purchase agreements, the deeds. When it came to the actual

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closing another attorney handled that though, but I did do the drafting of the documents.”

Mr. Wilcox inquired, “Purchasing?”

Attorney Kaiser responded, “Purchasing, that was not anything that we dealt with. That was handled by the Purchasing Department and the Board of Commissioners approving their purchases. We only reviewed the contracts.”

- 7) I actually had to do that at Macomb County. I already have a very large brief of mandated services versus non-mandated services, but I would of course want to update it. It’s been a few years since I’ve done it and I would want to look at it again. It’s basically going through the statutes determining what is mandated and what isn’t. It’s also...if the Board would have any special requests to determine. At Macomb County the request came up due to they wanted to see if they could make some cuts because they had a budget problem, so I had to run through the mandated versus non-mandated and determine what they might be able to cut and what they might not be able to. So a lot of it would be, is a request of the Board. If they wanted it looked at, I would go through the statutes and review it that way.
- 8) That’s a very interesting question with the condition of Michigan right now. I think the biggest issues that county government faces... It is my understanding that with Calhoun County is that you do have a County Administrator. I think a lot of the changes that come along in the county depend on the population and on whether it’s increasing or decreasing depends on the changes in the needs of the taxpayers. From what I read from the little research that I’ve done, it seems that Calhoun County has remained fairly stable over the years. There is not a dramatic shift in population. Basically, I think that any changes that will come will be based on the needs that the taxpayers want, and obviously any changes in the law; and if you see new things that the county may want to accomplish down the road, obviously that would necessitate changes.
- 9) Does that mean computer? Is that including research?

Comr. Lee responded, “Yes. Yes to both questions.”

Attorney Kaiser responded, “I would say I’m very fluent in technology.”

Comr. Haadsma inquired, “Beginning, developing or advanced?”

Attorney Kaiser responded, “As far as understanding the complete inner workings of say an I.T., you’re just saying a computer?”

Comr. Haadsma responded, “You are not expected to know hardware.”

Attorney Kaiser stated, “I would say I’m advanced with Lexis. I’m advanced with Word. I’m advanced

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with Excel. I advanced with... Macomb County used Groupwise so any type of emailing issues. I'm advanced with attaching documents. I would have to say that I'm advanced in those areas."

- 10) At Macomb County the majority of hearings we had... There was a lot of different issues. I was, I don't know for lack of a better phrase, I was kind of the special projects gal. I did...we had issues with our Department, issues with the Department of Senior Services where an employee stole, it was alleged to have been \$600,000 from an incapacitated individual. I handled 120 of those Probate cases myself. I was the only attorney that dealt with them, and basically dealt with the state police, dealt with the bankruptcy issues that she was filing, dealt with state police, dealt with the Prosecutor's Office. So it wasn't actually necessarily hearings, except for the Probate hearings that I did, which there were trials. There were bench trials. There were all sorts of motions and issues going on. I've done unemployment. At Macomb County hearings would be unemployment compensation hearings. I did concealed weapons permit appeals, which were all typically motions and hearings in front of the Circuit judges. I did a lot hearings at the Juvenile Court. I was assisting the Circuit Court with their Reimbursement Division. Basically, the hearings involved, were for basically trying to get parents to reimburse for their children that were placed in juvenile detention. I would say that those are the majority of them at this point.

Chairman Rae questioned, "You didn't practice that much in the Circuit Court in Macomb County, is that correct?"

Attorney Kaiser responded, "Well, no, no. There was a lot in Circuit Court. It would be motions on cases. And as I said, the concealed weapons permit appeals. Most of the litigation though, like I said, in Macomb County was not done in-house, but you would have a few cases come in. You would have District Court cases. We handled Circuit Court cases. Federal court on occasion. Federal court was not as frequent obviously, but I practiced in federal court."

- 11) I had a couple of cases in front of the Court of Appeals. I can't remember what it was. Oh yes, I'm sorry. It was dealing with the senior citizen cases. The ones that had gone through Probate. Several of those went through the Court of Appeals. I was...I think there was like maybe three or four of them that went through the Court of Appeals. I was successful on two, and the rest were 50/50, almost 5/50. Other than that, I have not practiced in the Supreme Court. I have done federal court in downtown Detroit. In those cases, most of those cases a few of them were won on motion, and those there weren't won on motion were settled before trial.
- 12) The past experience I guess I would have to say is the senior citizens services case again. That was really quite something because you ended up where the Probate Court blamed the county obviously because they had an employee that stole, and the county who blamed the Probate Court because the Probate Court allowed... The employee had to file in the county with the Probate Court and the Probate Court was not catching these glaring errors. They were basically passing the accounting through. So you had a lot of finger pointing. You had a lot of people trying to protect each other, protecting themselves; and basically I was the go between. I was the mediator. The way the cases were handled I dealt with the Probate

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judges, the Commissioners, and ultimately things just worked out. You kind of...I guess the best way I know how to handle those situations is...I wasn't doing any finger pointing. I was trying to work things out the best we possibly could, and ultimately the people kind of calmed down because they realized that the cases that were going forward were not cases where fingers were being pointed. The finger pointing came through the media, and so that aggravated their issues between the county and the Probate Court itself. Ultimately, it just kind of calmed down, but that was probably the biggest experience I've had with that.

- 13) A challenge? I can't say we ever had any challenges on the Open Meetings Act at Macomb. There were never any issues. We never had any lawsuits or violations of the Open Meetings Act. There would be a few times perhaps before a meeting was convened that some Commissioners thought maybe it should probably be a closed meeting, and some Commissioners thought that it should be open. They would ask for a legal opinion and we would give it to them and they would follow it. As far as the Freedom of Information Act, there were very few lawsuits against Macomb County for violation of the Freedom of Information Act. Macomb County, we were...I was very...the whole County was actually, the attorneys, we were fortunate that the people that filed the requests, you could work with them. If they had an issue about not getting enough information, we would talk with them about it. You know, probably come to some sort of an agreement. There were very few lawsuits. I only remember one. Yeah, one that I handled. There were some issues with motions perhaps going forward. There was a big case with the Prosecutor's Office. It was the Steven Grant killing. That was a big deal, but a lot of that was handled before. It wasn't because they said they violated the Freedom of Information Act request. It was stuff that would come up in court prior to a request being made. They wanted decisions made; but I can only remember a couple of lawsuits for the Freedom of Information Act and if I believed they were right, we would pursue it and follow it.
- 14) I don't have any knowledge or experience of that so I would not even know how to comment on it.
- 15) A mistake. I don't know if I could say there was one stand out, glaring, large mistake. There have been a lot of just small ones that just add up over time. You just...it's part of the learning process. You make mistakes in negotiations. You learn a lot in negotiations because you didn't hold out. Which ever side you were on. You either didn't ask for enough or you gave away too much. I can't say that there was ever anything that was glaring, but there certainly has been mistakes. Writing a poor motion. Making a poor oral argument. Realizing after something was said and done, you think back on it and say "Gosh, I could have done this, I could have done that." It's kind of a constant process and I think it's what attorneys do. We always question ourselves afterward and we're always wondering if we could have done it better.
- 16) Pretty much all...I mean, pretty much everything is under a deadline. You are basically always under some sort of time constraint with legal issues, especially if you are dealing with courts, and you just juggle them. To me that's kind of the nature thing with law. I mean, that's what you do. You've got cases to deal with. If you are in county government, you have the departments that you deal with. You

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try to prioritize as much as you can; but if you got time lines and deadlines, you have to make those deadlines. You just do it.

- 17) The only organizations that I belong to are the Macomb County Bar Association, the Macomb County Probate Bar Association, the Wayne County Bar Association, the Wayne County Probate Bar Association, and that's it. They assist in all sorts of avenues. It's a great way to meet people. It's a great information gathering process. There's all sorts of get togethers with the judges and important people within those counties, and that's pretty much what I utilize them for.

Comr. Lee inquired, "Any community service organizations at all?"

Attorney Kaiser responded, "No."

- 18) No.
- 19) None.
- 20) Well if I had to pick one, I guess it would depend on the types of documents you were talking about. Is this like reviewing and drafting contracts? I'm probably better at reviewing contracts than drafting. If you are talking about motions or briefs for court, I'm better at drafting than reviewing.
- 21) Yeah, I didn't bring that brief with me. I was asked to bring an appellate brief. The last appellate issue I had, like I said, was the senior citizen cases pretty much that I was directly involved, and basically handled the entire case and that was about four years ago.
- 22) I am not quite sure what you mean.

Comr. Gerow inquired, "Email, phone, face-to-face?"

Attorney Kaiser responded, "Typically coming into a new environment with people I've never met before, I'm going to do face-to-face until I feel comfortable with them and know who they are and they feel comfortable with me. Then it could be email, voice mail or phone whichever seems to work best for whomever you are dealing with. Some people don't like email and prefer the phone, but I would certainly want to meet everyone, get to know them face-to-face before resorting to phone or email."

- 23) When was the last time I did it successfully? I guess, are you speaking within a court setting or dealing with Commissioners?

Comr. Camp requested, "Please choose."

Attorney Kaiser responded, "I not quite sure I can give you an exact date on that. Most, if not all, of the

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cases that I've had in court I have been successful on. The only one I lost was a couple on appeal in the appellate court for the senior citizen cases, which ultimately they were won at the probate level, so. As far as dealing with the Commissioners and giving opinions, I can't really classify it as being successful or unsuccessful because with twenty-six Commissioners in Macomb County, they are not arguing the validity of my legal opinions. They are just saying that they don't want to follow it, so. I mean, they are not in the position to argue the legal validity of it. Their just saying "Well, we want to do it anyway. Can we?" No, legally you can't, but here is what's going to happen. So, there was no..."

- 24) I would have to say again, I would have to go back to the senior citizens issue. Dealing with 120 cases, 12 attorneys by myself. Dealing with the conflicts with the Probate Court. Dealing with the conflicts with the Commissioners. Dealing with the media, the state police, the Prosecutor's Office, the Court of Appeals and the Bankruptcy Court all on my own with the help from my secretary, but no other attorney. That was probably, I would definitely have to say, the biggest issue; and overall I felt I was very successful. There was also a federal case in there, but that was not the one that I was dealing with; but that was my work at the probate level that had to basically go into the federal case, and made the federal case successful as well. The employee got convicted due to a lot of the investigation that I had done, and she did get jail time, and the county is collecting full restitution from her, or is in the process of collecting it. What was thought to have been \$600,000 that was stolen, I was able to get down to \$200,000; and as I said, we are getting...the county is getting... We're not, I'm not there any more, but the county is getting full restitution for it. Basically everybody, when all was said and done, the Probate Court and the Commissioners and everybody were all back and friendly. Everything worked out and there were no hard feelings. So I would say overall it was really successful.

Comr. Rocho inquired, "What entices you about Calhoun County?"

Attorney Kaiser responded, "I was not all that familiar with this area until the postings, I have to admit; but since then I have been out here four times before the interview to look around the area to see what it was and if it was a place that I would want to come to, and I have been very pleasantly surprised and very pleased. I love the small town of Marshall. I think the downtown is very cute. I like the setting of it. I like the landscape of a lot of it. I like the river. So far the people I have met all around in Battle Creek, Marshall and a few other surrounding areas, they are all very nice. Very nice and very friendly which I like a lot. I feel that it's a place I would certainly enjoy living."

Comr. Haadsma inquired, "Have you lived elsewhere other than when you were away at college?"

Attorney Kaiser responded, "No, and I didn't grow up in Michigan. I grew up in Kansas City. From there I was in Chicago. I was in California. I was in Texas. I was in Georgia, and landed in Michigan with law school; and stayed here after graduating because I didn't want to take another bar exam. After that I've pretty much stayed in southeast Michigan. I was in Detroit, and Saint Clair Shores for the past ten some odd years."

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Comr. Haadsma inquired, "You indicated that Macomb has twenty-six Commissioners and five attorneys. How did they determine which lawyer to let go due to budgetary constraints?"

Attorney Kaiser responded, "Last one in, first to go out. I was the last one hired."

Comr. Camp inquired, "Anything you want us to know about yourself?"

Attorney Kaiser responded, "No. I think you've covered it pretty well."

Chairman Rae inquired, "If and when you were offered the position, when could you start?"

Attorney Kaiser responded, "I could start immediately."

Chairman Rae questioned, "You say that you came out to this area four times, how did you prepare for the interview? Could you be more specific?"

Attorney Kaiser responded, "Well, my reason for coming out here was to see if it was an area that I would enjoy living in. If it wasn't, then I would not have taken the interview. So basically, that was the purpose of my visit; it wasn't necessarily to investigate what Calhoun County was all about, it was to see if this is an area that I could live in. A lot of that has to do with the people, the terrain. Also after coming from Macomb County, I'm looking at the stability; and Calhoun County seems stable, so that is very appealing as well."

Chairman Rae advised, "We will make our judgement tomorrow evening and will let you know."

Chairman Rae cancelled the March 5, 2009 Special Session.

ADJOURNMENT:

The meeting adjourned at 8:01 p.m. at the call of the Chair.

mlb