

Leelanau County Board of Commissioners
Regular Board Session – Tuesday, March 15, 2022
Tentative Minutes

Proceedings of the meeting are being recorded (audio and video) and are not the official record of the meeting; the formally approved/accepted written copy of the minutes will be the official record of the meeting. The video of the meeting can be found at the following link: <https://www.leelanau.gov/meetingdetails.asp?MAId=2320#video>

Meeting called to order by Chairman William J. Bunek at 7:00 p.m. Today's meeting is being held at the Government Center, 8527 Government Center Drive, Suttons Bay, Michigan.

Pledge of Allegiance/Moment of Silence:

The Pledge of Allegiance to the Flag of the United States of America was recited, followed by a moment of silence / private prayer.

<u>Roll Call:</u>	District #1	Rick Robbins	PRESENT
	#2	Debra L. Rushton	PRESENT
	#3	William J. Bunek	PRESENT
	#4	Ty Wessell	PRESENT
	#5	Patricia Soutas-Little	PRESENT
	#6	Gwenne Allgaier	PRESENT
	#7	Melinda C. Lautner	PRESENT

Approval of Minutes —

Executive Board, February 8, 2022:

#063-03152022 Regular Session

MOTION BY WESSELL THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE EXECUTIVE BOARD MEETING MINUTES OF FEBRUARY 8, 2022. SECONDED BY ALLGAIER.

Discussion – none.

AYES – 7 (Wessell, Allgaier, Bunek, Lautner, Robbins, Rushton, Soutas-Little)

NO – 0

MOTION CARRIED.

Regular Session, February 15, 2022:

#064-03152022 Regular Session

MOTION BY WESSELL THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE REGULAR SESSION MEETING MINUTES OF FEBRUARY 15, 2022. SECONDED BY ROBBINS.

Discussion – none.

AYES – 7 (Wessell, Allgaier, Bunek, Lautner, Robbins, Rushton, Soutas-Little)

NO – 0

MOTION CARRIED.

Approval of Agenda

Chairman Bunek said there is one late addition (not stated – the following item was listed on the agenda: Late Addition #1 – Meeting Protocols Concerning Electronic Devices, Commissioner Allgaier) and a request to remove Action Item #9, Emergency Management – Cherry Capital Connection Easement Lease Agreement with the Administrator Janik stating that they are not yet ready.

#065-03152022 Regular Session

MOTION BY WESSELL THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE AGENDA AS AMENDED. SECONDED BY ALLGAIER.

Discussion – none.

**AYES – 7 (Wessell, Allgaier, Bunek, Lautner, Robbins, Rushton, Soutas-Little)
NO – 0 MOTION CARRIED.**

Public Comment:

The following individual(s) spoke in person:
Bill Wiesner.

The following individual(s) commented via email:
Bill Wiesner

Email comments can be found at the following link:
<https://www.leelanau.gov/meetingdetails.asp?MAId=2320#handouts>

Commissioner Comment:
None.

Communications, Proclamations, Presentations —
Janik noted that he distributed his Leelanau County “Top Ten” points of Price for 2021. The document can be found at the following link:
<https://www.leelanau.gov/meetingdetails.asp?MAId=2320#handouts>

Consent Agenda Items:
Chairman Bunek stated the following: The purpose of the Consent Agenda is to expedite business by grouping non-controversial items together to be dealt with by one motion without discussion. Any Commissioner may ask that any item on the Consent Agenda be removed and placed elsewhere on the agenda for full discussion. Such request(s) will be automatically respected and will not need a second.

#066-03152022 Regular Session

MOTION BY RUSHTON THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE CONSENT AGENDA AS PRESENTED. SECONDED BY SOUTAS-LITTLE.

Senior Services – Acceptance of AAANM (Area Agency on Aging of Northwest Michigan) Contributions:

#067-03152022 Regular Session

• TO ALLOW LEELANAU COUNTY SENIOR SERVICES TO ACCEPT A CONTRIBUTION FROM AREA AGENCY ON AGING OF NORTHWEST MICHIGAN FOR PROVIDING SENIORS WITH MIPPA BENEFICIARY OUTREACH ASSISTANCE TOTALING \$600.00, AND THAT IT BE PLACED INTO LEELANAU SENIOR SERVICES CONTRIBUTIONS FROM OTHER AGENCY ACCOUNT #281.000.000.677.000.

Solid Waste Council – Tire Recycling Contract Amendment No. 1, ERG:

#068-03152022 Regular Session

- **TO APPROVE AMENDMENT NO. 1 TO THE AGREEMENT FOR MOBILE COLLECTIONS OF TIRES WITH ERG ENVIRONMENTAL SERVICES, WITH A COST NOT TO EXCEED \$12,800.00.**

Solid Waste Council – Mobile Tire Recycling Collection Contract Amendment No. 1, ERG:

#069-03152022 Regular Session

- **TO APPROVE AMENDMENT NO. 1 TO THE CONTRACT BETWEEN LEELANAU COUNTY AND ERG ENVIRONMENTAL SERVICES FOR A 1 DAY SCRAP TIRE COLLECTION EVENT FOR RESIDENTS, WITH A COST NOT TO EXCEED \$10,000.00, AS PRESENTED.**

Solid Waste Council – Household Hazardous Waste (HHW) Contract Amendment No. 2, ERG:

#070-03152022 Regular Session

- **TO APPROVE AMENDMENT NO. 1 TO THE AGREEMENT FOR HOUSEHOLD HAZARDOUS WASTE SERVICES WITH ERG ENVIRONMENTAL SERVICES.**

Solid Waste Council – Electronics Contract Amendment No. 2, Comprenew:

#071-03152022 Regular Session

- **TO APPROVE AMENDMENT NO. 2 TO THE AGREEMENT WITH COMPRENEW FOR ELECTRONICS COLLECTION SERVICES.**

Solid Waste Council – Mattress Recycling Collection, Bay Area Recycling for Charities (BARC):

#072-03152022 Regular Session

- **TO DIRECT PLANNING DIRECTOR TRUDY GALLA TO PURSUE A SOLE SOURCE CONTRACT WITH BAY AREA RECYCLING FOR CHARITIES (BARC) FOR MATTRESS RECYCLING, AND PROVIDE A CONTRACT FOR SUCH SERVICES TO THE COUNTY BOARD FOR CONSIDERATION.**

Leland Dam Authority Recommendations – Approval of Proposed Triennial Dam Inspection, Leland Dam, Spicer Group, Inc.:

#073-03152022 Regular Session

- **TO WAIVE ITS REQUIREMENT ON BIDS AND APPROVE ENTERING INTO AN AGREEMENT WITH SPICER GROUP TO CONDUCT A TRIENNIAL INSPECTION OF THE LELAND DAM, AT A COST NOT TO EXCEED \$2,000.00; PENDING COUNSEL REVIEW AND APPROVAL. FUNDS TO COME FROM SPECIAL ASSESSMENT/CAPITAL PROJECTS FUND #805.**

Leland Dam Authority Recommendations – Approval of Proposed Appraisal, Leland Dam, Spicer Group, Inc.:

#074-03152022 Regular Session

- **TO APPROVE AN AGREEMENT WITH SPICER GROUP, INC., FOR AN APPRAISAL OF THE LELAND DAM, AT A COST NOT TO EXCEED \$2,400.00; FUNDS TO COME FROM FUND #805 (SPECIAL ASSESSMENT/CAPITAL PROJECTS).**

Information Technology – AT & T Contract Renewals – Business Local Calling Essentials, Three Accounts:

#075-03152022 Regular Session

● TO WAIVE ITS POLICY ON BID REQUIREMENTS AND APPROVE THE RENEWAL OF THREE CONTRACTS

- **36M Business Local Essentials Contract 231 256 0264 400**
- **36M Business Local Calling Essentials Contract 231 256 0619 078**
- **36M Business Local Calling Essentials Contract 231 256 2216 609**

FOR PHONE SERVICES FROM AT&T, AS PRESENTED, WITH FUNDS TO COME FROM TELECOMMUNICATIONS FUND #656.000.000.801.000 AND #656.000.000.850.000.

Emergency Management – Local 9-1-1 Surcharge Renewal:

#076-03152022 Regular Session

● TO APPROVE STAYING STATUS QUO FOR THE ANNUAL SNC-500 COLLECTION AND REMITTANCE REPORT AND HAVE THE 9-1-1 DIRECTOR AND COUNTY CLERK COMPLETE, SIGN, AND SUBMIT THE NECESSARY DOCUMENTS ONLINE AS REQUIRED.

Prosecuting Attorney – Renewal of Agreement with West Law/Thompson Reuters:

#077-03152022 Regular Session

● TO WAIVE ITS POLICY ON BID REQUIREMENTS AND APPROVE RENEWING THE CONTRACT WITH WEST LAW/THOMSON REUTERS TO PROVIDE ONLINE LEGAL RESEARCH TO THE PROSECUTING ATTORNEY’S OFFICE FOR A TWO-YEAR PERIOD BEGINNING APRIL 1, 2022, UPON SIGNING THE CONTRACT AS PRESENTED. FUNDS TO COME FROM 101.250.229.801 AND 101.250.230.801.

Grand Traverse Band 2% Allocation Awards:

#078-03152022 Regular Session

● TO ACCEPT THE 2% ALLOCATION AWARDS FROM THE GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS, AS FOLLOWS:

- **Family Court/Child & Family Services (Safe Haven), \$5,000.00:**
- **Senior Services, LCN Neighborhood Assistance Ministry, \$20,000.00:**
- **Sheriff’s Office, Purchase of Narcotics Analyzers, \$32,800.00:**
- **Solid Waste Council, Tire Recycling, \$10,000.00:**
- **Solid Waste Council, Mattress Recycling, \$6,000.00:**

Discussion – none.

**AYES – 7 (Rushton, Soutas-Little, Wessell, Allgaier, Bunek, Lautner, Robbins,)
NO – 0 MOTION CARRIED.**

Building Safety/Security Options – Air Purification Systems Options:

Chairman Bunek offered comments and Administrator Janik noted a Wall Street article he read regarding how critical the ventilation system is. *Ventilation, Shots are Key in Virus Fight – U.S. News, The Wall Street Journal Saturday/Sunday, March 12-13, 2022, by Sarah Toy and Renee Onque.*

Commissioner Rushton questioned if this is an "opinion" of the writer of the article as opposed to naming any scientific evidence. Administrator Janik said it was not on the opinion page.

#079-03152022 Regular Session

MOTION BY WESSELL THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE PURCHASE OF FOUR (4) PURE AND CLEAN UNITS AND ONE (1) MID-RANGE HYDROXYL BLASTER UNIT FROM THE ARYA GROUP FOR THE LEELANAU COUNTY LAW ENFORCEMENT CENTER AT A COST NOT TO EXCEED \$9,999.95; FUNDS TO COME FROM FUND #470.000.000.970.000. SECONDED BY RUSHTON.

Discussion – none.

AYES – 7 (Wessell, Allgaier, Bunek, Lautner, Robbins, Rushton, Soutas-Little)

NO – 0

MOTION CARRIED.

MOTION BY ALLGAIER THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE THE QUOTE PRESENTED BY GARY O'CONNOR FOR THE PURCHASE/INSTALLATION OF AIR PURIFICATION COMPONENTS WITHIN THE AIR HANDLING UNITS OF EACH OF THE THREE FLOORS OF THE LEELANAU COUNTY GOVERNMENT CENTER AT A COST NOT TO EXCEED \$6,324.00; FUNDS TO COME FROM #470.000.000.970.000. SECONDED BY SOUTAS-LITTLE.

Discussion ensued.

Motion and support withdrawn and report back next month.

Commissioner Soutas-Little questioned the air exchange rate and she would like some answers.

Administration – Veterans Memorial Update:

PowerPoint displayed on the screen with pictures of the Veterans' Memorial. Janik explained the pictures and options to place a Space Force flag. Janik questioned if Commissioners really want to spend \$8,000.00? He is receiving calls to wait until there are actually Space Force Veterans. Janik reviewed options of how the flags could be moved to accommodate the additional flag. Janik had dialog with both Commissioners Lautner and Bunek.

#080-03152022 Regular Session

MOTION BY BUNEK TO PLACE THE SPACE FORCE FLAG UP AND PLACE AS SUGGESTED. SECONDED BY RUSHTON, ALLGAIER, SOUTAS-LITTLE.

Discussion – none.

AYES – 7 (Bunek, Lautner, Robbins, Rushton, Soutas-Little, Wessell, Allgaier)

NO – 0

MOTION CARRIED.

Late Addition #1 – Meeting Protocols Concerning Electronic Devices, Commissioner Allgaier:

Commissioner Allgaier expressed concerns regarding Commissioner Lautner wearing headphones during last week's meeting. She does believe that there is a policy regarding using cellular devices and wearing headphones in the meeting raises lots of questions with other Commissioners. She does not want to stop and ask the question during the meeting what is she listening too and it is not fair to the public. She thinks that we need to include that in our policy. She would have thought it would be understood, but perhaps it needs to be clarified.

Commissioner Rushton asked about what is the policy via zoom and using earbuds.

Commissioner Allgaier said that "we" are not using zoom.

Commissioner Rushton asked Administrator Janik for clarification on the County policy.

Administrator Janik said he doesn't believe a policy was passed, but in the rules, it is talked about. It is not advisable because any device used during a public meeting becomes subject to FOIA – so if you use your cell phone, iPad, any type of electronic device during the meeting, it is subject to FOIA and that is State law. There was discussion about emergency calls and he continued that the Chairman did advise everyone to not use devices during the meeting.

Chairman Bunek agreed and said that he said if you have a phone try to leave it in your pocket if you can. Some people can't and that they need to be in communication for some reason, or if you have a second iPad, or whatever, just know that it can be FOIA able. He does not know if we "the Board" want to start setting up every particular policy over every particular movement. He continued that if the Board wants to, you can make a motion.

Commissioner Allgaier said that if she picks up her cell phone, it is obvious that she is talking with someone. If she has headphones on, she said that no one knows if whether she is communicating or not, but it is pretty obvious if you pick up you cell phone and are talking or tapping at it, which she doesn't do. She continued that if you have headphones on, then there is a real question, so if the Board was to allow headphones, she stated she thinks that someone would have to check if someone starts using headphones. She said then questions would need be asked as to what "you" are listening into?

Commissioner Rushton said we can say the same thing and she is looking down the row here and sees two Computers – one personal, one public and she sees a phone. She continued that nothing stops any Commissioner from opening any sort of communication device and communicating with or without headphones. Rushton stated that has happened in the past and it's been talked about in the past to a certain degree in private and in public. She continued that her recommendation would be that if you want to police every Commissioner outside of the law then you are welcome to do that.

Commissioner Allgaier said that headphones are a little obvious.

Commissioner Rushton stated that it doesn't matter and that having an extra computer is a little bit obvious too. She said who is to say that somebody can't sit there and email somebody outside this building, and get an opinion about something and then vote. She said, "What's different?"

Commissioner Allgaier stated that she could wear headphones and hook into somebody and just have them relay her information.

Commissioner Rushton agreed.

Commissioner Allgaier stated good.

Commissioner Rushton stated that in the same token all of those things can be FOIAd, so if you want to open yourself up to that go right ahead is her point. She continued that there are certain laws that govern the Board as Commissioners but you are not going to stop all the

communication that goes across this table, and there has been plenty of it over the years, which she can attest to that.

Commissioner Allgaier tried to respond.

Commissioner Rushton continued and as you (Commissioner Allgaier) she is sure before you (Commissioner Allgaier) sat on this Board were communicated with historically, so.

Commissioner Allgaier replied, "No, actually no." She said that she was told that it was not appropriate.

Commissioner Rushton said maybe, maybe not.

Commissioner Allgaier replied that she was told it was not appropriate.

Commissioner Rushton said, see that's what happens and this is what happens. She stated that we are all adults, we have to take responsibility for what we do when we sit at this bench, but if you want to police everybody then go ahead and put your motion on the floor.

Commissioner Allgaier said that since you (Commissioner Rushton) assume that I was communicating with people up here then can I assume that is what you are doing?

Commissioner Rushton replied by asking if she has other things on her desk? Does she have a second computer, does she have a phone on her desk and that is not the issue here today.

Commissioner Allgaier stated so we can have headphones?

Chairman Bunek answered that he would say if you are going to listen to something during the meeting then you should let the Chairman know. He continued that the Board should know ahead of time that it is going on so that if somebody questions it then the Board can say what is happening. He said that is really what he would say would be the best thing if that is going to happen.

Commissioner Lautner said that by any means if Commissioner Allgaier has a question, please feel free to ask. She said that she had explained to Commissioner Allgaier that there was no outside communication, and that she did explain it to Commissioner Allgaier so that she did know that. Lautner said that she found it actually very interestingly enough that it was easier to hear the meeting with headphones in, and that she found that very, very interesting. Lautner stated that for what it's worth it seemed to cut out the outside.

Commissioner Allgaier said that if somebody has headphones on at the beginning of the meeting that Commissioners can ask if they are attending another meeting because that's what she was told was going on?

Chairman Bunek and Commissioner Rushton concurred with Commissioner Allgaier.

Commissioner Allgaier stated that the Board is going to say that if somebody is going to be listening to another meeting or something while having on headphones that they need to talk to the Chairman first?

Chairman Bunek said he would ask that they do, he doesn't know if they have to. He stated that would be the polite and proper thing to do, and that if he receives a call about it, he said he could answer.

Commissioner Rushton commented that she is not quite sure of the objective of the addition to the agenda, and asked what Commissioner Allgaier's objective is.

Commissioner Allgaier responded and is very concerned about people in the audience seeing a commissioner with headphones on and that would raise a lot of questions. She continued that she thinks it is fair, like the Administrator mentioned, anytime that happens it can be subject to FOIA. To be fair and honest to our constituents, Allgaier thinks that it fair that we appear that we are here, fully attentive, and not communicating or there are just so many possibilities with headphones.

Commissioner Rushton said that here is a possibility that some of us that are older than "you young spring chickens" have hearing issues and sometimes for a hearing-impaired person to put a headphone into their computer to hear.

Commissioner Allgaier said that there is a lag with zoom.

Commissioner Rushton responded that it doesn't matter, either you hear it or you don't.

Administrator Janik said that he could summarize this and take the emotions out of it. "You" all are seven independent elected officials. The Chairman can suggest but cannot mandate if you choose to wear headphones, and as you know you are opening yourself up to FOIA. If people in the audience see that then they have a legal right to file a FOIA request. You as seven independent Commissioners are coming in and you take that chance. If you are doing something legitimate then you have that right, and the Chairman cannot mandate it, but there are consequences for doing it. Janik continued that that is why attorneys advise you not to bring other devices into meetings. Obviously, your phone can be in your pocket, but if you text back and forth, it is FOIA-able; email back and forth, FOIA-able; if someone sees someone with headphones on, that person can legally file a FOIA request and it will need to be investigated. He stated that each of you need to make a choice how to proceed and the chairman cannot mandate unless you pass a motion and even that is questionable as legal as you are seven independent elected officials and you need to make a decision on how to proceed.

Commissioner Lautner said that the record will clearly show she was participating and engaged in the meeting, so she was here and not absent. She continued that she was here and not on zoom and she was here to represent her constituents.

Administrator Janik said under the Americans with Disabilities Act that if you have hearing loss there is a legitimate issue and you do need to announce that out of fairness and you should let the Chairman know.

Commissioner Wessell commented as being the elder Commissioner here that he does wear hearing aids and forgot them today. He does usually have them on if he wants to hear what is being said.

Commissioner Rushton commented that she thought the Administrator defined the issue appropriately and suggested that Commissioners move on.

Review of Financials:

None.

Special Reports by Staff, Commissioners, and Affiliated Agencies:

- Commissioner Rushton gave a brief update and let the Board know that the Opioid Taskforce and the new subcommittees that were beginning to meet. They are always looking for volunteers to participate. Administrator Janik offered further comments about a series of meetings about suicide prevention. He also offered comments on activities and/or sponsorships for the prom for all the schools. Brief update continued.

- Commissioner Wessell commented on the article that the Administrator distributed and requested that this be placed on the April agenda regarding the CEO and Grand Traverse County having concerns. They will give a fair assessment and there is a Board meeting in Cadillac. The Administrator and Chairmans from both Counties met.

- Commissioner Bunek commented on the Special Session on April 19, 2022, meeting and Commissioners will be meeting with Matt McCauley, CEO from Networks Northwest and he would think that Commissioners should start thinking about a list of responsibilities and requirements for an Administrator. He requested that Commissioners think about that and perhaps make a list so that when McCauley shows up Commissioners have questions to have for him.

Commissioners responded to Chairman Bunek's comments.

Commissioner Rushton commented that a good place to start would be have the Administrator provide what he currently does. There are a lot of things that he does that Commissioners do not see.

Administrator Janik interjected that he would be happy to make a list, but also priorities in the list as there are other things. Janik also said that Commissioners need to look at the salary range, so you don't get into the prior situation that the County had before he came here, and stick with it. It will avoid controversy.

Commissioner Lautner said that there was a salary and a couple of Commissioners told "them" that they could negotiate.

Commissioner Rushton said in regards to that, what information do we have regarding pay. Administrator Janik responded that he is working on that. Commissioner Rushton referenced CMH (Northern Lakes Community Mental Health) and how that issue was handled. They lost a candidate through negotiations and that is an issue across the Board. People want and need

more money, especially in today's world with inflation. It is something that we need to look at and it is going to be sticker shock.

Commissioner Wessell said that we need to set the range and not go above it unless we are going to come back and start all over.

Administrator Janik said that if you take the Counties, other than Grand Traverse, his salary is comparable.

Chairman Bunek added that once it is set, Commissioners need to stick with it, even if they don't like it.

Public Comment:

The following individual(s) spoke in person:
Charlie Smith.

Commissioner Comments:

Commissioner Wessell commented that the Grand Traverse County Administrator received a leadership award and we are lucky that we had the leadership we did during COVID.

Amendments & Transfers:

None.

Miscellaneous Fund Transfers and Amendments:

None.

Claims and Accounts:

#081-03152022 Regular Session

MOTION BY LAUTNER THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE CLAIMS AND ACCOUNTS IN THE AMOUNT \$228,052.12. SECONDED BY RUSHTON.

Discussion – none.

AYES – 7 (Lautner, Robbins, Rushton, Soutas-Little, Wessell, Allgaier, Bunek)

NO – 0

MOTION CARRIED.

Post Audit Claims and Accounts:

#082-03152022 Regular Session

MOTION BY LAUTNER THAT THE LEELANAU COUNTY BOARD OF COMMISSIONERS APPROVE POST AUDIT CLAIMS AND ACCOUNTS IN THE AMOUNT OF \$2,307,624.53. SECONDED BY RUSHTON.

Discussion – none.

AYES – 7 (Lautner, Robbins, Rushton, Soutas-Little, Wessell, Allgaier, Bunek)

NO - 0

MOTION CARRIED.

Adjournment:

Meeting adjourned at 7:52 p.m. by Chairman Bunek.

William J. Bunek, Chairman
Leelanau County Board of Commissioners

Michelle L. Crocker, Leelanau County Clerk
Clerk, Leelanau County Board of Commissioners