

Barry County Board of Commissioners
November 22, 2011; 9:00 a.m.; Commission Chambers
Minutes

1. Chair Stolsonburg called the regular session of the Barry County Board of Commissioners to order at 9:00 a.m. in the Barry County Commission Chambers.
2. Monet of Silence/Invocation
3. All those present stood and pledged allegiance to the flag.
4. Roll was taken. The following members were present: Ben Geiger; Howard Gibson; Robert Houtman; Joe Lyons; Donald Nevins; Dan Parker; Craig Stolsonburg; Jeff VanNortwick. Deputy Clerk, Kim Gravelle was also present.
5. APPROVAL OF WRITTEN AGENDA:

Chair Stolsonburg stated that the Central Dispatch Citizen at Large should be added under new business for discussion. Moved by Parker, seconded by Gibson to approve the November 22, 2011 agenda as amended. Motion carried.

6. LIMITED PUBLIC COMMENT: There was no response.
7. VARIOUS CORRESPONDENCE:

Commissioner VanNortwick stated a thank you note from Kathy Walters-Surratt had been received.

8. CONSENT ITEMS:

Moved by Geiger, seconded by VanNortwick to approve the consent items:

- a. Approval of November 8, 2011 Board of Commissioners meeting minutes.
- b. Approval of November 15, 2011 Committee of the Whole meeting minutes.
- c. Approval to re-appoint Ronald Heilman to serve on the Barry County Community Corrections Advisory Board to fill a citizen at large position for a three-year term beginning on 1-1-12 and expiring on 12-31-14.
- d. Approval to enter into an agreement between the County Barry and Michigan State University Extension, and to approve the Umbrella Memorandum of Agreement for the period of January 1, 2012 through December 31, 2016 and the Annual Work Plan for Barry County's 2012 Fiscal Year, January 1, 2012 through December 31, 2012.
- e. Approval to remove Dr. Mayack from the Barry County Animal Control Shelter Advisory Board pursuant to Article IV, Section 4, of the Barry County Animal Control Shelter Advisory Board By-laws.

Barry County Board of Commissioners

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Roll call vote: Ayes: Nevins; Houtman; VanNortwick; Geiger; Parker; Gibson; Lyons; Stolsonburg.
Motion carried.

9. PRESENTATIONS:

Dr. Dennis Bona, President of Kellogg Community College and past president, Dr. Paul Ohm thanked the Board for their support and presented plaques.

10. PUBLIC HEARINGS: None.

11. ITEMS FOR CONSIDERATION:

- a. Moved by Nevins, seconded by Houtman to approve transfers and disbursements: claims in the amount of \$180,635.90. Roll call: Ayes: Lyons; Nevins; Houtman; VanNortwick; Geiger; Parker; Gibson; Stolsonburg. Motion carried.
- b. Moved by Houtman, seconded by VanNortwick to amend the Barry County Animal Control Shelter Advisory Board By-laws Article IV, Section 1, to reduce the number of members from twelve (12) to eleven (11) by elimination of one veterinarian position, and to change the kennel operator position to a citizen at large position with a one-year term. Roll call: Ayes: Houtman; VanNortwick; Geiger; Parker; Gibson; Lyons; Nevins; Stolsonburg. Motion carried.
- c. Moved by Parker, seconded by Gibson to approve resolution #11-25, To Acquire and Construct Capital Improvements Consisting of the Construction of an Addition to the Thornapple Manor Medical Care Facility and Related Improvements and to Publish Notice of Intent to Issue Capital Improvement Bonds. Roll call: Ayes: VanNortwick; Geiger; Parker; Gibson; Lyons; Nevins; Houtman; Stolsonburg. Motion carried.

RESOLUTION NO. 11-25

COUNTY OF BARRY

STATE OF MICHIGAN

**RESOLUTION TO ACQUIRE AND CONSTRUCT CAPITAL IMPROVEMENTS
CONSISTING OF THE CONSTRUCTION OF AN ADDITION TO THE THORNAPPLE
MANOR MEDICAL CARE FACILITY AND RELATED IMPROVEMENTS AND
TO PUBLISH NOTICE OF INTENT TO ISSUE CAPITAL IMPROVEMENT BONDS**

Minutes of a regular meeting of the Board of Commissioners of the County of Barry, Michigan, held in the County Building in Hastings, Michigan, on the 22nd day of November, 2011, at 9:00 a.m. Local Time.

PRESENT: Commissioners: Ben Geiger; Howard Gibson; Robert Houtman; Joe Lyons; Donald Nevins; Dan Parker; Craig Stolsonburg; Jeff VanNortwick.

ABSENT: Commissioners: None.

The following preamble and resolution were offered by Commissioner Parker and supported by Commissioner Gibson:

WHEREAS, the County of Barry (the “County”) provides for the operation of a medical care facility known as Thornapple Manor (the “Medical Care Facility”); and

WHEREAS, the Barry County Department of Human Services Board, the governing board of the Medical Care Facility, has determined that it is necessary to upgrade and expand the Medical Care Facility by the construction of a free-standing 23-bed skilled nursing facility and other improvements related to the upgrade including, but not limited to, site improvements, parking, and underground sprinkling, related furnishings, equipment and appurtenances, and professional services (the “Project”); and

WHEREAS, the Project is proposed to be located on current County-owned property behind the Community Action Agency (Head Start) and the Barry County Central Dispatch between Nashville Highway and the northerly boundary of the former Penn Central Railroad; and

WHEREAS, the Medical Care Facility’s Application for a Certificate of Need for the Project was approved by the Michigan Department of Community Health on September 29, 2011; and

WHEREAS, it is proposed that the cost of the Project be financed by bonds issued by or on behalf of the County with the principal and interest on the bonds paid by revenues generated by the Medical Care Facility; and

WHEREAS, it is necessary for the public health, safety and welfare of the County to issue and sell capital improvement bonds pursuant to Section 517(1) of Act 34 of the Public Acts of Michigan of 2001, as amended (“Act 34”) to pay the cost of the Project; and

WHEREAS, the current pre-design estimated cost of the Project, including engineering, construction, legal, financial, administrative and contingency costs is \$5,585,486; and

WHEREAS, it is necessary to publish a Notice of Intent to Issue Bonds pursuant to Section 517(2) of Act 34; and

WHEREAS, Section 517(1) of the Act provides that:
“the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limits authorized by law.”

; and

WHEREAS, Section 517(3) of Act 34 provides that bonds issued in accordance with Section 517(1) of Act 34 shall not exceed five percent (5%) of the County’s state equalized valuation; and

WHEREAS, it is anticipated that the County will advance a portion of the cost of the Project prior to issuance of the bonds, such advance to be reimbursed, without interest, to the County from proceeds of the bonds upon the issuance thereof; and

WHEREAS, Section 1.150-2 of the Treasury Regulations on Income Tax (the "Reimbursement Regulations") specifies conditions under which a reimbursement allocation may be treated as an expenditure of financing proceeds, and the County intends by this resolution to qualify monies advanced by the County to the Project for reimbursement from proceeds of the bonds in accordance with the requirements of the Reimbursement Regulations.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

1. The County hereby determines to acquire and construct the Project and to pay for the costs of the Project by the issuance of capital improvement bonds in one or more series pursuant to Section 517(1) of Act 34 in the maximum principal amount of \$6,000,000.

2. The County hereby determines that, based upon the County's 2011 state equalized value of \$2,372,752,645, the County's debt limit for bonds issued in accordance with Section 517(1) of Act 34 is \$118,637,632 and the County further determines that, after taking into account outstanding County capital improvement bonds, the bonds proposed for the Project in the maximum amount of \$6,000,000 may be issued by the County within the afore-stated debt limit.

3. The principal and interest on the bonds proposed for the Project shall be paid primarily from revenues of the Medical Care Facility. The Board of Commissioners does not reasonably expect that it will be necessary to levy any taxes to pay the principal and interest on the proposed bonds, and in no event will any taxes necessary to pay the principal of and interest on the bonds, together with other taxes levied for the same year, exceed the limits authorized by law.

4. A notice of intent to issue capital improvement bonds in substantially the form attached hereto as Exhibit A (the "Notice") shall be published in accordance with Section 517(2) of Act 34 in the *Hastings Banner*, a newspaper of general circulation in the County and determined to be the newspaper reaching the largest number of persons to whom the Notice is directed. The Notice shall not be less than 1/4 page in size in the newspaper.

5. The Board of Commissioners hereby determines that the form of Notice and the manner of publication directed is the method best calculated to give notice to the County's electors of this County's intent to issue the bonds, the maximum amount of the bonds, the purpose of the bonds, the source of payment and security for the bonds, the right of referendum on the issuance of the bonds and such other information as this Board of Commissioners determines necessary to adequately inform the County's electors of the nature of the issue.

6. It is reasonably expected that the County has or will advance funds for the Project prior to issuance of the bonds, including items exempt from the Reimbursement Regulations, from monies on hand in the County's Thornapple Manor Fund, Fund #512.

7. The County hereby declares its official intent, and reasonable expectation, to reimburse all or a portion of the amounts so advanced by the County to the Project from the proceeds of the bonds.

8. All resolutions or portions thereof inconsistent with the provisions of this resolution are hereby rescinded.

PRESENT: Commissioners: Ben Geiger; Howard Gibson; Robert Houtman; Joe Lyons; Donald Nevins; Dan Parker; Craig Stolsonburg; Jeff VanNortwick

ABSENT: Commissioners: None.

The following preamble and resolution were offered by Commissioner Parker and supported by Commissioner VanNorwick:

WHEREAS, the County of Barry (the “County”) provides for the operation of a medical care facility known as Thornapple Manor (the “Medical Care Facility”); and

WHEREAS, the Barry County Department of Human Services Board, the governing board of the Medical Care Facility, has determined that it is necessary to upgrade and expand the Medical Care Facility by the construction of a free-standing 23-bed skilled nursing facility and other improvements related to the upgrade including, but not limited to, site improvements, parking, and underground sprinkling, related furnishings, equipment and appurtenances, and professional services, at a current pre-design estimate of cost of \$5,585,486 (the “Project”); and

WHEREAS, the Medical Care Facility has proposed to utilize the services of Eckert Wordell, PC as architect for the Project (the “Architect”) and CM Contracting, Inc. as construction manager and contractor for the construction of the Project (the “Construction Manager”); and

WHEREAS, both the Architect and the Construction Manager served in those capacities for the 2004 expansion of the Medical Care Facility (the “Prior Project”); and

WHEREAS, it is necessary for the County to enter into contracts with the Architect for the design of the Project and the Construction Manager for the management and construction of the Project.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

9. Eckert Wordell, PC is hereby retained by the County as the Architect for the Project for the compensation as summarized in Exhibit A attached hereto, subject to the conditions set forth below.

10.

11. CM Contracting, Inc. is hereby retained by the County as Construction Manager for the Project for the compensation as summarized in Exhibit A attached hereto, subject to the conditions set forth below.

12.

13. The Board of Commissioners hereby:

a. approves the form of the contract, and any necessary addenda, to be entered into between the County and the Architect for the design of the Project, said contract to be in substantially the same form and content of the contract previously entered into between the County and the Architect for the design of the

Prior Project (namely, AIA Form of Agreement Between Owner and Architect), with such necessary additions and deletions as are deemed necessary by the County Administrator and the Administrator of the Medical Care Facility, in consultation with the County's legal counsel, Mika Meyers Beckett & Jones PLC, to protect the interests of the County with respect to the design of the Project.

b. authorizes and directs the Chair of the County Board of Commissioners and the County Clerk to execute and deliver the contract and any necessary addenda (if any) with the Architect and on behalf of the County for the design of the Project.

c. approves the form of the contract, and any necessary addenda, to be entered into between the County and the Construction Manager for construction and management of the Project, said contract to be in substantially the same form and content of the contract previously entered into between the County and the Construction Manager for the design of the Prior Project (namely, AIA Standard Form of Agreement Between Owner and Construction Manager (where the Construction Manager is also the Constructor)), with such necessary additions and deletions as are deemed necessary by the County Administrator and the Administrator of the Medical Care Facility, in consultation with the County's legal counsel, Mika Meyers Beckett & Jones PLC, to protect the interests of the County with respect to the design of the Project.

d. authorizes and directs the Chair of the County Board of Commissioners and the County Clerk to execute and deliver the contracts and any necessary addenda (if any) with the Construction Manager and on behalf of the County for construction and management of the Project.

14.

15. All resolutions and parts of resolutions in conflict herewith shall be and the same are hereby rescinded.

YEAS: Commissioners: Lyons; Nevins; Houtman; VanNortwick; Geiger; Parker; Gibson; and Stolsonburg.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

RESOLUTION DECLARED ADOPTED.

Pamela A. Jarvis
County Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF BARRY)

I, Pamela A. Jarvis, the duly qualified and acting Clerk of the County of Barry, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the County Board of Commissioners at a regular meeting thereof held on the 22nd day of November, 2011, the original of which is on file in my office. Public notice of said meeting was given pursuant to and in compliance with Act No. 267, Public Acts of Michigan, 1976, as amended, including in the case of a special or rescheduled meeting, notice by publication or posting at least eighteen (18) hours prior to the time set for the meeting.

IN WITNESS WHEREOF, I have affixed my official signature this ____ day of November, 2011.

Pamela A. Jarvis
County Clerk

DRAFT

Exhibit A

Summary of Compensation to be Paid for Architectural and Construction Manager Services

Architect - Eckert Wordell, PC	\$ 279,479
Construction Manager - CM Contracting, Inc.	
Part 1: Professional Services, Lump Sum:	\$ 22,500
Part 2: Professional Services-4% Fee*:	\$ 205,834
<u>Cost of construction:</u>	\$ <u>3,716,680</u>
Total compensation to Construction Manager (including cost of construction)	\$3,945,014

* The Part 2 “Professional Services Fee” to be paid to the Construction Manager is based upon a percentage of the actual cost of the construction of the Project as specified in the contract between the County and the Construction Manager and, therefore, is subject to adjustment based upon receipt of bids for the construction of the Project and the actual costs to construct the Project. Increases in the cost of the Project must be approved by Change Order by the County in accordance with the contract.

12. UNFINISHED BUSINESS: None.

13. NEW BUSINESS:

Willard Redman was present to discuss his current position as Citizen at Large on the Central Dispatch Board and his newly elected position as 4th Ward Councilman that will begin on 1/1/2012. It was decided there may be a conflict of interest and that Mr. Redman should step down at the end of 2011.

14. COUNTY ADMINISTRATOR’S REPORT: None.

15. CHAIRPERSON’S REPORT:

Chair Stolsonburg expressed concerns about an article in last week’s Banner. He also wished everyone a Happy Thanksgiving.

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16. VICE CHAIRPERSON’S REPORT: None.

17. MEMBER'S TIME:

Commissioner VanNortwick wished everyone a Happy Thanksgiving. Commissioner Lyons expressed his disappointment with an article in last week's Banner. Commissioner Parker stated the Board needs to work together to resolve differences.

18. LIMITED PUBLIC COMMENT:

Rick Moore spoke regarding the Planning Alliance and the Trails System and the importance of working together; Barb Lyons spoke in support of Joe Lyons and expressed her concerns regarding TOST; Chuck Reid also spoke with concerns on TOST and stated the ordinance needs to be reviewed.

19. OTHER BUSINESS:

Chair Stolsonburg stated the Board continues to work on policies as they come up.

20. ADJOURNMENT:

Moved by Nevins, seconded by Houtman to adjourn at 9:45 a.m. Motion carried.

Craig Stolsonburg, Chair
Barry County Board of Commissioners

Kimberly Gravelle
Barry County Clerk's office