

COUNTY OF OSCODA

Board of Commissioners
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Oscoda County Courthouse Annex ~ 311 Morenci Street ~ P.O. Box 399 ~ Mio, MI 48647

OFFICIAL MINUTES June 9th, 2009

A REGULAR MEETING OF THE OSCODA COUNTY BOARD OF COMMISSIONERS WAS HELD ON TUESDAY, JUNE 9, 2009 AT 10:00 A.M. IN THE COMMISSIONERS'S ROOM, COURTHOUSE ANNEX, MIO, MICHIGAN 48647

Chairman Stone called the meeting to order at 10:00 a.m.

Roll Call:

Members Present: Commissioner's Stone, Hunt, Kauffman, Marsh and Trimmer

Members Excused:

Pledge to the Flag:

Others Present: 13 members of the public were in attendance.

The Board reviewed the agenda as presented:

Kauffman/Marsh a motion to accept the agenda for **June 9, 2009**, as presented.
2009-181 **5 ayes: 0 nays: Motion Carried.**

The Unofficial minutes presented by the County Clerk and the Unofficial BOC Report presented by the board secretary for May 26th, 2009 were reviewed:

Hunt/Trimmer a motion to approve the Unofficial Minutes & Unofficial B.O.C Report
2009-182 from the **May 26, 2009** B.O.C. Meeting, as presented.
5 ayes: 0 nays: Motion Carried.

PUBLIC COMMENTS:

Commissioner Stone made a statement that any disagreement that the board members have with each other should not be allowed to be aired at the board table during public meetings that the board needs to work as a team.

Commissioner Kauffman stated that the law allows ORV's to be used as farm equipment and a helmet is not required. He stated if anyone wanted to see the law he would be glad to show them. Janet Brucher from the Chamber of Commerce stated that she had all positive phone calls on the new ORV Ordinance.

Doug Brucher from Power Sports thanked the board for opening the roads in Oscoda County.

Mark Pattullo from Parmalee Trading Post and Luzerne Express thanked the board for passing the ORV Ordinance and the positive attitude, would like to be on the committee to help setup for grooming of the trails and with placing signs that state "Ride with Pride"

Dave Klimmek from Klimmek Sales & Service has had all positive comments and would like to be placed on the Advisory Committee for the ORV's, questioned if Commissioner Hunt would be able to be a positive body on the board due to the fact that he opposed the Ordinance to begin

with, Commissioner Hunt stated he has accepted the boards decision and will work to keep the County's best interest in mind.

Bob Heatherton, Ogemaw County ORV Patrol offered his assistance to the county on helping with giving the riders maps and instructions.

Janet Brucher from the Chamber of Commerce will have a survey done on the total number of ORV stickers that were sold in Oscoda County since the Ordinance was passed.

APPOINTMENTS:

Paul Perry from the Planning Commission presented an update on the "Capital Improvement Program/Subdivision Plats". Mr. Perry asked the board to rescind their motion #2009-101 that exempted the Planning Commission from reviewing the Capital Improvements of the County. Commissioner Hunt asked Mr. Perry to provide him with a copy of PA 33 of 2008 so the board could review it before any further actions were taken. Commissioner Hunt asked to table the matter until a later date. The board asked Mr. Perry if he would contact Mary Ann Heidemann, Regional Land Use Educator to be on the July 2009 agenda.

OLD BUSINESS:

NONE

NEW BUSINESS:

An annual resolution from the Northeast Michigan Council of Governments (NEMCOG) to review and consider. **Resolution 2009-010** "Northeast Michigan Comprehensive Economic Development Strategy (CEDs) Project List 2009-2010" supports the economic development districts activities; the County must adopt this order to be eligible for EDA Funding.

RESOLUTION 2009-010

**NORTHEAST MICHIGAN COMPREHENSIVE ECONOMIC DEVELOPMENT
STRATEGY (CEDs) PROJECT LIST 2009/2010**

WHEREAS, Oscoda County desires to improve the county economy; and

WHEREAS, The Oscoda County Board of Commissioners actively supports and currently participates in the economic development districts activities of the Northeast Michigan Council of Governments (NEMCOG), and

WHEREAS, the Northeast Michigan Council of Governments' Regional Economic Development Advisory Committee (REDAC) has reviewed and adopted the 2009/2010 Comprehensive Economic Development Strategy (CEDs) Project List, and

WHEREAS, Concurrence with the CEDs Project List by each county in the Region – Alcona, Alpena, Cheboygan, Crawford, Montmorency, Oscoda, Otsego and Presque Isle - does not preclude any of developing their own CEDs and allows them to retain eligibility for U.S. Economic Development Administration (EDA) funds,

THEREFORE BE IT RESOLVED, That Oscoda County hereby adopts the 2009/2010 CEDs, Project List, because it does reflect economic interests and concerns of the county, and

BE IT FURTHER RESOLVED, that Oscoda County requests continued designation by the Economic Development Administration as a Redevelopment Area eligible for EDA grants, loans and other programs under the Public Works and Economic Development Act of 1965, as amended.

**Kauffman/Trimmer
2009-183**

a motion to adopt **Resolution 2009-010** “Northeast Michigan Comprehensive Economic Development Strategy (CEDS) Project List 2009-2010” presented.

Roll Call Vote: Marsh, yes; Trimmer, yes; Kauffman, yes; Hunt, yes; Stone, yes; Motion Carried.

An annual Resolution from the County Equalization Director to adopt the “**Tax Certification for Taxes Levied in 2009**”.

RESOLUTON 2009-011

“Tax Certification for Taxes Levied in 2009”

Resolved by the Oscoda County Board of Commissioners, that there be levied on all taxable property of said County for the year 2009 a tax of \$ 5,123,147 for operating purposes, said tax to be apportioned among the several fractions of the County as follows:

<u>Unit</u>	<u>Rate (Mills)</u>	<u>Taxable Value</u>	<u>Tax Revenue</u>
Oscoda County	5.8717 Mills	390,814,481	\$ 2,294,745 (S)
Council on Aging	0.4904	390,814,481	191.,655 (W)
Sheriff Equipment	0.2489	390,814,481	97,274 (W)
Sheriff Operating	1.0000	390,814,481	390,814 (W)
Ambulance Operating	0.4979	390,814,481	194,587 (W)
Ambulance Equipment	0.5000	390,814,481	1 ,954,072 (W)
Total Township	8.6089		\$ 5,123,147

**Hunt/Kauffman
2009-184**

a motion to adopt **Resolution 2009-011** “Tax Certification for Taxes Levied in 2009” as presented.

Roll Call Vote: Stone, yes; Hunt, yes; Kauffman, yes; Marsh, yes; Trimmer, yes; Motion Carried.

A request from Mr. Mark Granter, Director of the Council on Aging asking the Board to submit a letter of support, for the Oscoda County Council on Aging Community Plan.

**Trimmer/Hunt
2009-185**

a motion to send a letter of support from the Oscoda County Board of Commissioners to the Oscoda County Council on Aging, for the Council on Aging Community Plan.

5 ayes: 0 nays: Motion Carried.

Commissioner Stone asked if any of the Board members were planning on attending the Michigan Association of Counties 2009 Annual Summer Conference scheduled for August 16-18, 2009. Commissioner Marsh will attend and represent Oscoda County.

The following Resolution and Waiver prepared by Mr. Peter Cohl, Legal Counsel in regards to the retirement of the Counties Animal Control Officer, Mr. Robert Berney were presented.

RESOLUTON 2009-012

"SEPARATION AGREEMENT AND WAIVER OF CLAIMS"

THIS SEPARATION AGREEMENT AND WAIVER OF CLAIMS, is entered into this

9 day of June, 2009, by and between Robert Berney (hereinafter referred to as "Employee");

and Oscoda County (hereinafter referred to as "Employer").

WITNESSETH:

WHEREAS, a dispute arose whether the Employee was a County employee or an independent contractor; and

WHEREAS, the parties are desirous of settling matters related to the Employee's employment and separation there from.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, IT IS HEREBY AGREED between the parties as follows:

1. The Employee shall retire from Oscoda County effective **February 1, 2009**, under the County's MERS retirement plan per the attached letter dated May 28, 2009, from Dawn Grabinski (Attachment A). The Employee shall pay MERS \$1,788.21 by check. The Employer's estimated cost is \$24,438.00.

2. The Employer shall pay to the Employee on or before **July 1, 2009**, a lump sum payment of \$2,150.60 for accrued vacation (27 days), less normal tax withholdings.

3. Prior to **July 1, 2009**, the Employee shall return to the Employer any and all Employer property, including but not limited to, documents, computer records, identification cards, files, keys and equipment which are owned by the Employer or which were contracted for or purchased with Employer funds. No copies of Employer documents shall be retained by the Employee.

4. The Employee hereby waives, releases, absolves, and discharges the Employer, its employees, agents, servants, Board members, both past and present, successors, and assigns, from any and all manner of action, liability, claim, causes of action, charges, complaints, suits (judicial, administrative or otherwise), fringe benefits, claims which relate to his race, age, sex, religion, national origin, and/or physical handicap, damages, debts, demands, obligations, or any other liabilities of whatever nature, past, present and future, known or unknown, whether in law or in equity, whether founded upon contract (express or implied), tort (including, but not limited to, defamation), statute or regulation (state, federal or local), including, but not limited to, the Age Discrimination in Employment Act (ADEA), being 29 USC § 621, and the Open Meetings Act, MCL 15.261 et seq., common law and/or any other theory or basis arising out of his employment and separation there from with the Employer, including, but not limited to, any claim which the Employee has asserted, now asserts, or could have asserted through February 1, 2009, which is the date of his separation from employment. A separate release and waiver pursuant to the ADEA has been submitted to the Employee this date, and shall be signed and forwarded to the Employer.

5. It is understood and agreed by the parties hereto that the facts and respective assumptions of law in contemplation of which this Agreement is made may hereafter prove to be other than or different from those facts and assumptions now known, made or believed by them to be true. Each of the parties hereto expressly accepts and assumes the risk of the facts and assumptions to be so different, and the parties hereto agree that all the terms of this Agreement shall be in all respects effective and not subject to termination or rescission by any such difference in facts or

assumptions of law.

6. The terms of this Agreement are contractual and are not a mere recital and there are no agreements, understandings, or representations made by the Employer except as expressly stated herein.

7. Each provision of this Agreement is intended to be severable. If any term or provision is held to be invalid, void, or unenforceable by a court of competent jurisdiction for any reason whatsoever, such ruling shall not affect the validity of the remainder of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Resignation Agreement and Waiver of Claims on the dates indicated below next to their signatures.

IN PRESENCE OF:

EMPLOYEE

_____ Date _____	_____ Date _____
Chairman Joseph L. Stone	Robert Berney

_____ Date _____	Vice- Chairman
Michael Hunt	

**WAIVER AND RELEASE OF ALL CLAIMS UNDER
THE AGE DISCRIMINATION IN EMPLOYMENT ACT**

FOR AND IN CONSIDERATION of the Separation Agreement, dated June 9, 2009, entered into between Robert Berney ("Employee") and Oscoda County ("Employer"), and in consideration of the benefits conferred thereunder to the Employee, he hereby agrees as follows:

1. That he does hereby fully and forever release, acquit, and discharge the Employer, its agents, Board members, officers, employees, and representatives, from any and all claims, demands, actions, and causes of action arising under the Age Discrimination in Employment Act (ADEA), 29 USC § 621, except those rights or claims which may arise under the ADEA after execution of this Agreement.
2. For his part, the Employee acknowledges that he has had the opportunity to consult with an attorney before signing this Agreement; that he has had a period of at least twenty-one (21) days in which to consider this Agreement; that he has seven (7) days after executing this Agreement to revoke the Agreement; and that the Agreement will not become effective or enforceable until this seven-day (7-day) period has passed.
3. Further, the Employee acknowledges that before signing this Agreement, he has read the same consisting of one (1) page; that he fully understands its terms, content, and effect; that he has had the benefit of seeking the advice from an attorney of his own choosing and has relied fully and completely on his own judgment and on the advice of his attorney in executing this Agreement, if any.

IN WITNESS WHEREOF, Robert Berney has executed this Waiver and Release of all claims under the ADEA as his free act and deed this 9 day of June 2009.

Robert Berney

**Kauffman/Marsh
2009-186**

a motion to adopt **Resolution 2009-012** “Separation Agreement and Waiver of Claims” and the Waiver and Release of all Claims under the Age Discrimination in Employment Act, prepared by Mr. Peter Cohl, Legal Counsel entered between Robert Berney and Oscoda County, as presented.

Roll Call Vote: Stone, yes; Marsh, yes; Trimmer, yes; Hunt, yes; Kauffman, yes; Motion Carried.

Discussion followed on the Animal Control Officer and it was recommended that Commissioner Marsh and Commissioner Kauffman meet with Sheriff Grace and discuss the best options for the position and bring their recommendation back to the next board meeting.

FINANCIAL:

Luzerne Fire Department submitted a letter requesting Title III funding. Commissioner Hunt asked that it be tabled until the department resubmitted a budget for the funds they are requesting.

Board reviewed Claims and Audit Docket presented by the County Clerk dated for June 9th, 2009 in the amount of \$31,911.11.

**Hunt/Kauffman
2009-187**

a motion to accept Claims & Audit Docket, for **June 9, 2009** presented by the Clerk’s Office, in the amount of **\$31,911.11**.

Roll Call Vote: Trimmer, yes; Hunt, yes; Kauffman, yes; Stone, yes; Marsh, yes; Motion Carried.

Correspondence, Reports, Resolutions:

NONE

Committee Reports:

Commissioner Trimmer:

Attended the Council on Aging: Discussed budget, money being tight.

Attended MSU Extension Advisory Meeting- A reminder of the “Volunteer Appreciation” held in August to honor all volunteers.

Announced the Business Agencies Breakfast Meeting this Wednesday (June 12th) at 7:30 a.m.

Commissioner Kauffman:

Attended the Park Board Meeting- Approved COOR Stimulus Money not sure if the Park will receive COOR Employees yet this summer or not.

Informed the Board of his concern with the future control of the Landfill and the hiring of an attorney.

Informed the Board everything is moving along on the airport.

Commissioner Marsh:

Attended an EDC Finance Committee Meeting-Reviewed and considering the rewriting of two loans because of interest rate changes.

Attended a meeting with Sheriff Grace along with Commissioner Stone- Discussed the future of Animal Control.

Attended the Park Board Meeting- Up-dated bylaws; projects and reservations are comparable to last year.

Attended the NEMCSA Meeting- Representing 12 Counties.

Commissioner Hunt:

Attended a meeting with Ron Burner, RC Manager, and Roger Wiegand, RC Commissioner, along with Commissioner Stone to discuss the MDOT Building.

Met with a AFLAC Representative to review several options that are offered to employees to purchase.

Attended the Northern Michigan Substance Abuse Meeting Gaylord.

Attended the 23rd Circuit Court Hearing on June 8, 2009 in regards to Perry Lake, order was signed and will be moving ahead with getting the permits and starting the assessment formula.

Attended a meeting with a MERS Representative along with Commissioner Stone to review a proposal on Short & Long Term Disability and Life Insurance, need to look at contracts.

Attended Road Commission Meeting- MDOT Building discussed, ORV's discussed, and Perry Lake.

Commissioner Stone:

Met with Ambulance Director, regarding a Personnel issue.

Attending a meeting with Ron Burner, RC Manager, and Roger Wiegand, RC Commissioner, along with Commissioner Hunt to discuss the MDOT Building.

Attended a meeting with a MERS Representative along with Commissioner Hunt to review a proposal on Short & Long Term Disability and Life Insurance, need to look at contract.

Public Comments:

- Paul Perry received an ORV complaint.
- Tammy Emig invited everyone to Steiner Museum on June 20th and 21st for the "Century Military Pride" event.
- Also The RAC Committee Title II board is still looking for Native American Indians to sit on the board.

Chairman Stone adjourned the meeting at 11:00 a.m.

**Next Meeting Scheduled for
Tuesday, June 23, 09 at 10:00 a.m.**

Joseph L. Stone – Chairman

Jeri Winton, Clerk/Register