May 11, 1982

Honorable Chair and Members of the
Marquette County Board of Commissioners
Marquette, Michigan

Ladies and Gentlemen:

A meeting of your Executive Committee was duly called and held on May 11, 1982 and copies of the minutes of that meeting have been furnished to all members of the Board of Commissioners and a copy of the minutes is attached hereto and made a part of this report.

Respectfully submitted,

EXECUTIVE COMMITTEE

_____
Chair

_____

_____

_____

_____

May 11, 1982

Honorable Chair and Members of the
Marquette County Board of Commissioners
Marquette, Michigan

Ladies and Gentlemen:

You will remember the Marquette County Board directed its Executive Committee to investigate the possibility of establishing a separate civil counsel position responsible for handling civil responsibilities of the county, including the labor relations responsibility, to determine whether it would be beneficial to the County to have a separate civil counsel. The Executive Committee requested an Opinion from Patricia Micklow, Chief Civil Counsel, on the Board's authority to establish such a position, and a cost analysis on establishing the position from Duane Beard, Controller. Attached is a copy of Micklow's Opinion, and Beard's financial analysis, along with a communication to the Committee from Gary Walker, Prosecuting Attorney, on the Committee's deliberations of the subject.

You will note, Ms Micklow states in her Opinion that the County Board of Commissioners has the discretionary authority to employ an attorney to represent the County in civil matters. To do so requires a majority vote of the County Board and a determination by the Board based on "reasonable and factual foundation" that the Prosecuting Attorney is not able to properly represent the County in this matter. As it was the general consensus of the Executive Committee that the performance of the Prosecuting Attorney has been satisfactory the Executive Committee does not find any reason to pursue this matter further.

Respectfully submitted,

EXECUTIVE COMMITTEE

_____
Chair

_____

_____

_____

_____

GARY L. WALKER
MARQUETTE COUNTY PROSECUTING ATTORNEY

County Building
Marquette, Michigan 49855
(906) 228-8500, Ext. 256

DAVID R. PETERSON
Chief Assistant Prosecutor

PATRICIA L. MICKLOW
Chief Civil Counsel

Assistant Prosecuting Attorneys:
WILLIAM R. REKSHAN II
CAROLYN L. HANSON
KARYN A. KIRKPATRICK
CHERYL L. DELLA PIA

Special Investigator
WAYNE N. JUSSILA

PAO 82-14

May 10, 1982

Mr. Berle LaPin, Chair
Executive Committee
Marquette County Board of Commissioners
County Courthouse
Marquette, Michigan 49855

IN RE: PROSECUTING ATTORNEY: SEPARATION OF CIVIL COUNSEL FUNCTIONS

Dear Commissioner LaPin:

While reviewing the proposed minutes of the April 13 Executive Committee meeting, I noted that the Committee resolved to request an opinion relating to the proposed removal of the Chief Civil Counsel position from the supervision of the Prosecuting Attorney. I have reviewed the applicable Michigan statutes and case law concerning this matter. In my opinion, it is within the discretion of the County Board of Commissioners to employ an attorney to represent the county in civil matters generally or on an ad hoc basis provided the Board has determined that the Prosecuting Attorney is unable to properly represent the county, and a majority of the members-elect vote in favor of such a resolution. Further, the Board determination must be based on a reasonable and factual foundation to assure that its discretionary powers were properly exercised.

Generally, the elected position of Prosecuting Attorney is a constitutional office, the duties of which are prescribed by law. Michigan Constitution 1963, Article 7, Section 4; Lawrence Scudder and Company vs. Emmet County 288 Mich. 181 (1939); OAG 1945-46, No. 0-3340, page 288. In addition to his criminal prosecution duties, the responsibility for handling all the county civil matters rests with the Prosecuting Attorney;

> The Prosecuting Attorneys shall, in their respective counties, appear for the state or county and prosecute or defend in all the

> courts of the county, all prosecutions, suits, applications, and motions, whether civil or criminal, in which the state or county may be a party or interested. MCLA 49.153.
>
> The Prosecuting Attorney or county corporation counsel in a county which has employed an attorney in lieu of the Prosecuting Attorney to represent the county in civil matters shall give opinions, in cases where this state, a county, or a county officer may be a party or interested, when required by a civil officer in the discharge of the officer's respective official duties relating to an interest of the state or county. MCLA 49.155.

However, the Michigan legislature has provided in the County Civil Counsel Act, 15 P.A. 1941 as amended, that a County Board of Commissioners may engage counsel to represent the County with respect to civil matters in certain circumstances:

> The Board of Supervisors of any County by a majority vote of the members-elect may employ an attorney to represent the county in civil matters, whenever the Board determines that the Prosecuting Attorney is unable to properly represent the County. Such attorney shall receive such compensation as shall be determined by the Board of Supervisors. MCLA 49.71.

If the County Board exercises the option of providing for separate civil counsel, the Prosecuting Attorney is directed to refrain from acting in such capacity:

> In case the Board of Supervisors of any such County shall employ an attorney under this Act to represent the County in civil matters, the Prosecuting Attorney of such County shall not act with respect to such matters, unless requested to do so by the Board of Supervisors. MCLA 49.72.

The definitive interpretation by the courts of the above-cited statutes is found in Wayne County Prosecuting Attorney vs. Wayne County Board of Commissioners 44 Mich App 144 (1972). In that case, the Michigan Court of Appeals affirmed the trial court decision that the Wayne County Board of Commissioners did not abuse its discretion and acted on a reasonable basis when it created an

office of corporation counsel for Wayne County to represent the county in all civil matters. The action taken by the Board in this case was based upon certain findings of fact: (1) That the volume and complexity of the county's civil litigation had increased; (2) That the prosecutor had failed to increase the size of his civil division despite overall staff increases of 37 assistants; (3) That studies on county reorganization recommended removal of civil law functions from the prosecutor's office; (4) That the prosecuting attorney had openly taken a position along with other elected officials opposing reorganization, unless reorganization is only by the County Home Rule; and (5) That the Board of Commissioners, in order to implement county reorganization would need independent, impartial, and unbiased legal counsel to represent the Board of Commissioners in all legal matters relating to Wayne County. In addressing these several issues raised by the Plaintiff in this case, the Court ruled inter alia that the employment of corporation counsel by a County Board of Commissioners is not an unlawful expansion of the Commissioners' powers because the expansion was authorized by statute as required by Article 7, Section 8 of the Michigan constiiution of 1963 and MCLA 49.71. The court further reasoned that the resolution by the County Board of Commissioners to employ corporation counsel to represent the county in civil matters was not invalid due to conflict with statutes imposing the same duties upon the prosecutor since the resolution itself did not terminate the duties of the prosecutor, but rather termination occurs by operation of law through MCLA 49.72.

Further, the court countered the argument raised by Plaintiff that MCLA 49.71 permitted only an attorney being employed on an ad hoc basic by stating that although ad hoc employment of an attorney by the Board of Commissioners is permitted under MCLA 49.71, this does not necessarily preclude the conclusion that general employment of an attorney is also permitted.

Finally, the Court, in answer to the Plaintiff's contention that there was no reasonable basis for the determination of the Board that the Prosecuting Attorney "is unable to represent the county" in civil matters and the Board's motives were improper, the Court stated:

> Whenever an act is within the scope of the power granted to the acting body, motive is not a test of the propriety of the exercise of that discretionary power. People v Gardiner, 143 Mich 104, 106-109 (1906); The United States Cold Storage Corp. v Detroit Board of Assessors, 349 Mich 81, (1957).

> The wisdom and motivation of the Wayne County Board of Commissioners in adopting its resolution is not a test of the validity of the exercise of its discretionary powers so long as the finding has a reasonable foundation as it does here. It does not appear that the Wayne County Board of Commissioners acted without a reasonable basis, therefore, it did not abuse its discretion. Carlson v Landon, supra; Wendel v Swanberg 384 Mich 468, (1971). Wayne County Prosecutor, supra at 159.

Accordingly, on the basis of the foregoing facts and statutes, the Michigan Court of Appeals concluded that a county may employ corporation counsel solely for the purpose of representing the county in civil matters providing the Commissioners have not abused their discretion in finding that the Prosecuting Attorney was unable to properly represent the county in civil matters where such a finding has a reasonable basis. Since this case specifically set forth the findings of fact established by the Wayne County Board of Commissioners' resolution, it is apparent that a reasonable basis for establishing the separate position of civil counsel for the county must be based on facts to document the proper exercise of the Board's discretionary powers. In an earlier opinion, the Michigan Attorney General had also concluded that the Board of Commissioners may for valid reasons employ civil counsel to represent the county in respect to civil matters. OAG 1960, No. 3486, page 27 at 29.

In summary, therefore, civil counsel may be employed to represent the county in civil matters generally, or on an ad hoc basis by the County Board of Commissioners. Prior to the adoption of such a resolution by a majority of the members-elect, however, the Board must properly exercise its discretion by determining that the Prosecuting Attorney is unable to properly represent the county, and such a determination must be based on a reasonable and factual foundation.

Very truly yours,

Patricia L. Micklow
Chief Civil Counsel
PLM/cs

cc: Duane C. Beard, Marquette County Controller
Henry Skewis, Marquette County Clerk
Gary L. Walker, Marquette County Prosecuting Attorney

COUNTY OF MARQUETTE
COURT HOUSE
MARQUETTE, MICHIGAN 49855
(906) 228-8500

D44

MEMORANDUM

TO: Executive Committee

FROM: Duane C. Beard, Controller DCB

SUBJECT: Preliminary Financial Analysis - Reorganization of the Civil Counsel Function

DATE: May 11, 1982

I noted in reviewing the minutes of the April 13, 1982 Executive Committee meeting that the above-referenced topic was discussed by the Committee and a motion was made to request information from the Governmental Support Division. I was not present at the meeting and thus am not intimately familiar with the discussion which occurred. The minutes yield only a very brief outline of the concept under discussion. The minutes referred to "financial information on the effect of the proposal," and the "to do list" prepared by the Commission Aide requests "a financial analysis of creation of Corporate Counsel position and assignment of labor relations to Corporate Counsel." These two elements of information taken together unfortunately do not provide an adequate base for a detailed cost analysis. However, based on a series of assumptions as to the Committee's needs, the following preliminary analysis is provided.

Based on my limited knowledge, I believe a wide range of legal counsel arrangements are utilized by Michigan counties. Although I have not conducted a detailed study and am not aware of any detailed study which is readily available, I am generally aware that the arrangements in Michigan counties range from very simple arrangements to relatively complex ones. At one end of the scale in a very small county, such as Alger, the Prosecuting Attorney personally provides all of the criminal prosecution services as well as all of the Civil Counsel services. This includes services to the County Board and any of its departments or suborganizations. At the other extreme is the situation in which two separate "law offices" exist in the county--one a Prosecuting Attorney's Office and the other a Corporation Counsel. The Corporation Counsel arrangement may take two different modes:

- the Corporation Counsel and his/her staff are county employees;

- the Corporation Counsel is a private law firm retained for Corporation Counsel services.

For those counties which employ a Corporation or Civil Counsel, a wide range of diverse duties exists from the relatively narrow responsibility of providing counsel strictly to the Board of Commissioners to a situation in which the Corporation or Civil Counsel provides legal services to all civil functions of the county. At its maximum level this includes: the Board of Commissioners; the constitutional officers of the county; the officers of the state courts (district, circuit and probate judges); the general fund departments not headed by constitutional or statutory officers; the non-general fund departments (such as health departments, community mental health, medical care facilities, commissions on aging), child support collections activities, (such as the IV-D cooperative reimbursement program or family support activities), involuntary mental commitments, labor relations services, child abuse civil actions and childrens protective activities. Currently in Marquette County all of the latter services are provided through the civil function of the Prosecutor's Office.

It is unclear from the 4/13/82 Committee minutes as to the exact nature of the arrangement being proposed by the Committee for Marquette County. Absent a reasonably detailed proposal, it is very difficult to be specific in terms of a financial analysis. A detailed analysis of costs necessary involves analysis of data concerning factors such as case load, the various types of cases, the time typically consumed per case, and analysis of work of a non-case nature such as; time expended researching and writing opinions, attendance at meetings, general legal research, consultation with board members, committees, officers, provision of advice, and so on. In many cases, data concerning the time and money committed to the above-referenced types of activity are simply not available. To complete an adequate analysis, it is necessary to either compile, collect and analyze this information, or to build a foundation solely of assumptions.

Based on my limited understanding of Committee needs at this time, I do not feel it would be cost effective to engage in voluminous data collection and analysis for the apparent universe of choice which is available to the Committee. To do a credible job in this area could easily consume several weeks or more of staff time. Practical limitations decreed that time was not available to fully analyze the full range of possible alternatives and meet the deadline imposed by the May Executive Committee meeting date.

Alternatively, I have instead prepared a sort of "order of magnitude" analysis. Although this does not contain the detailed information and analysis referenced above, it treats the problem generally in terms of the "least-cost, greatest cost" situations. I believe development of such a continuum is useful in advising the Committee, in general terms, of what the extremes of costs appear to be, based on the simplest and most complicated of the alternatives which are available. I would caution the Committee that I believe a more detailed analysis is desirable. I believe such an analysis should be completed when the Committee has narrowed its choice of alternatives to those in which the appropriate amount of staff time can be invested on a more cost-effective basis.

If it seems to "stand to reason" that "we're already doing most of these things, therefore, we're already spending this money, therefore, there's no new expense, it's just a matter of slicing the pie differently", I suggest additional analysis is in order. While this notion is not totally untrue, it is a vast oversimplification which has the potential to contain significant hidden costs.

In addition to the cost issues there are a number of other factors which should be considered in formulating and evaluating alternative proposals. For example:

- Legal Constraints. Identification and analysis of the applicable legal constraints should be completed to define the Board's range of discretionary authority. Since some of the proposals could conceivably involve significant reorganization of the office of a constitutional officer, it seems likely that the potential for a number of legal constraints exists. An additional dimension of legal constraints may need to be considered if the Family Support function is proposed for reorganization. As currently constituted in Marquette County, the Family Support function is based on a special Circuit Court order. It may become necessary to make some amendments to the Court order depending on the specific provisions of the various reorganization proposals.

- Contractual Constraints. Part of the current civil activity of the county is funded by state and federal grant funds. The grants involve grant agreements between the County of Marquette and the State of Michigan. These contracts may involve numerous constraints which must be considered in any of the various reorganization proposals.

- Organization/Management. How should the optimal Corporate Counsel function be organized? Depending on the number of staff personnel, how should the organization chart be designed? Who should report to whom? Who should head the organization, and to whom should the head of the organization report? That is, should it be the Board at large, a Committee or another elected or appointed official?

  One of the factors identified by the Governmental Study Committee in 1977 was the problem of having staff directly reporting to the County Board. An effort was made at that time to create an organizational structure which would preserve the ability of the County Board to be involved in policymaking by assuring that administrative matters were properly channeled to an administrator appointed by and responsible to the Board. The Board was recently forced to revise its organization structure in the instance of the Equalization Department, because of the statutory requirements set out in the Michigan Property Tax Law. It would be a further departure from this philosophy to have the Civil Counsel report directly to the Board. Other issues in organization management are possible duplication of office equipment, such as dictating machines, etc.

Staffing concerns must also be considered. This area involves matching of staff persons with proper training experience and expertise to the various responsibility areas, i.e. litigation, research, secretarial support, etc.

- Physical Quarters. The resolution of this issue is dependent upon the details of any reorganization proposal, particularly those governing the size and responsibilities of the staff. Where should the office(s) be physically located, what kinds of facilities are needed? These are related questions.

- Quality of Service. Another variable which many units of government across the country are being forced to address is the fact that an important factor affecting cost, is the quality of service provided. Obviously, a lower quality service is less expensive to provide. On the other hand, a decision to lower the quality of service requires a conscious balancing of long and short term considerations. What may appear to be less expensive in the short term, may turn out to be considerably more expensive in the long term, i.e. even though it may seem to be an endless series of bureaucratic impedimentia and red tape to require the Civil Counsel to review all contracts prior to execution, one does not have to reach very far back into history to find a situation where failure to conduct such a review may have had a serious negative financial consequence for County taxpayers. According to all I've been able to discover the construction of the Courthouse Annex was conducted under the terms of contracts with Tom Shaw, Inc., Bourrie, Inc. and Marquette Electric which were accepted and executed by the Board without the benefit of legal reviews. It is my understanding that the architectural agreement was not reviewed either. Subsequently on just one of the construction contracts, a Federal District Court suit and three successive construction industry arbitrations ultimately cost County taxpayers approximately $40,000 in an out-of-court settlement. This cost does not include the value of all of the legal and administrative staff time expended in pursuing these matters. I believe this example demonstrates the necessity to balance the cost of prevention against the cost of cure.

I have attempted to outline some of the issues as I see them and to set out a preliminary/"order of magnitude", least-cost, greatest-cost financial analysis. You will find below a brief preliminary financial analysis which sets out estimated costs for the extremes of the potential alternative:

Alternate A:

- A Corporation Counsel which provides the legal services needed by the Board of Commissioners and those departments directly responsible to and/or appointed by the Board of Commissioners.

Alternate A* (continued)

Attorney x 1/2 time	$ 18,250
Legal Secretary	17,546
Supplies	2,000
Other Charges and Services	3,500
Capital Outlay	2,500
Fringe Benefits	10,700
	$ 54,496

*If labor relations responsibility is included, the attorney should be increased to 3/4 time and $9,125 in direct salary and $2,338 in fringe benefits should be added, for a total of $65,959.

Alternate B

- A Corporation Counsel which provides all civil functions of the county, i.e. the Board of Commissioners, the constitutional officers, the General Fund departments headed by appointed officials, Non-General Fund departments, child support collection activity, involuntary mental health commitments, labor relations and child abuse civil actions.

Lead Attorney	$ 36,500
Staff Attorney (3)	67,000
Legal Secretary (2)	35,000
Investigator I	20,000
Investigator II	18,500
Account Clerk	16,000
Collections Officer	16,500
Supplies	4,000
Other Charges and Services	10,000
Capital Outlay	3,500
Fringe Benefits	62,850
	$289,850

I will be present at your regular meeting on Tuesday, May 11, 1982. I am sure that when the Committee develops more detailed alternatives, more precise cost information can be provided along with additional analysis if desired by the Committee.

DCB:dlp

GARY L. WALKER
MARQUETTE COUNTY PROSECUTING ATTORNEY

County Building
Marquette, Michigan 49855
(906) 228-8500, Ext. 256

DAVID R. PETERSON
Chief Assistant Prosecutor

PATRICIA L. MICKLOW
Chief Civil Counsel

Assistant Prosecuting Attorneys:
WILLIAM R. REKSHAN II
CAROLYN L. HANSON
KARYN A. KIRKPATRICK
CHERYL L. DELLA PIA

Special Investigator
WAYNE N. JUSSILA

MEMO

TO: Berle V. LaPin, Chairperson, and Members of the Executive Committee of the Marquette County Board of Commissioners

FROM: Gary L. Walker, Marquette County Prosecuting Attorney

DATE: May 11, 1982

I notice from your Committee agenda that you are discussing the possibility of creating a separate corporate counsel position as legal advisor to the County Board this evening. I have as yet not been asked for input into the decision process, and assume that your discussions are only of a preliminary nature, starting with a request for a legal opinion and some cost analysis from the Controller. Since the topic obviously has potential impact upon my office as well as Marquette County Government in general, I would request the opportunity to address the Committee before any recommendations for change might be finalized.

I would greatly appreciate being furnished with copies of any proposals considered by the Committee as well as the reasons for them, and would request sufficient time to review them and provide my comments for the Committee's consideration.

GLW/cs

May 11, 1982

Honorable Chair and Members of the
Marquette County Board of Commissioners
Marquette, Michigan

Ladies and Gentlemen:

Your Executive Committee received a communication from Vern Sorenson, Chair, Dickinson County Board of Commissioners, asking for support of H.B. 5438, which would allow Dickinson County to increase the number of members on its County Road Commission from three to five.

Your Executive Committee believes it would be appropriate to assist Dickinson County in this matter and recommends that the County Board write to Representative Dominic J. Jacobetti and Senator Joseph S. Mack asking that they support passage of H.B. 5438, and that a copy of the letters be sent to Dickinson County for their information.

Respectfully submitted,

EXECUTIVE COMMITTEE

_____
Chair

_____

_____

_____

_____

_____

May 11, 1982

The Executive Committee meeting was duly called and held on May 11, 1982 at 7:00 p.m. in the Courthouse Annex.

Present: Commissioners LaPin, May, Racine and Villeneuve.

Absent: Commissioner Cheatham.

In Attendance: Duane Beard, Controller; Henry Schneider, Equalization Director; Patricia Micklow, Chief Civil Counsel.

The meeting was called to order by Chair LaPin. No one wished to speak under the public comment section.

Approval of the agenda was the next item of business. A memo from Gary Walker, Prosecuting Attorney, on the Committee's deliberations regarding creation of a separate legal counsel position was added to the agenda.

The Committee considered the minutes of the April 13 and April 20 meetings. It was moved by Commissioner Villeneuve to approve the minutes as presented. Commissioner Villeneuve withdrew his motion as other members of the Committee wished to have additional time to review the minutes before approval. It was then moved by Commissioner May, supported by Commissioner Villeneuve and carried unanimously to defer approval of the minutes until the next meeting.

Henry Schneider, Equalization Department Director, provided a hand-out on his department's current major activities. One of his department's activities is computer tax service conversion. The county will be encouraging units of government to participate in the county's in-house tax process.

Schneider said his department will be using sales method, appraisal method and combinations sales/appraisal method during the 1982 study program. He said the combination method will allow use of some appraisal studies for all units.

In response to a question by Commissioner LaPin, Schneider said the department conducted a commercial study, an industrial study and a residential study of the City of Marquette this year.

Commissioner LaPin noted Alger County had about a 9% decrease in CEV this year. Schneider said the decrease is due to the conversion of properties in Alger County to commerical forest class and in terms of value he believes Marquette County received the lowest increase in the State.

RE computer tax service conversion. Duane Beard reported on steps taken in this direction, such as formation of a Committee to pursue the goal. He hopes to make the system available by December, 1982. A brief discussion was held on tax services received from Manatron.

Commissioner Villeneuve noted that the Personnel Committee minutes indicate that an Equalization Department employee needs a special chair. Schneider said the employee received a neck injury on the job a few years ago and requires a chair with neck and back support. Beard said if the employee's doctor says the employee must have a certain type of chair than the cost of the chair will be covered by workers compensation.

Schneider said he is developing a tax education program. He said Michigan State University has developed such a program that includes slide presentations, and teaching aides. Schneider then left the meeting.

Patricia Micklow, Chief Civil Counsel, was present to review an Opinion (PAO 82-14) she prepared for the Committee on Prosecuting Attorney: Separation of Civil Counsel Function. In her Opinion she concluded that it is within the Board of Commissioner's discretionary powers to hire a separate counsel to handle civil matters. It would require a majority vote of the Board to do so, and a determination by the Board that the Prosecuting Attorney is not able to properly represent the county, and that the determination must be based on reasonable and factual information. She said a separate counsel's duties could include the collective bargaining function.

Micklow noted she was assigned to the position of Chief Civil Counsel by the Prosecuting Attorney and that her duties include civil work for all county agencies and departments. Micklow questioned whether the quality of the service she has provided to the Board has anything to do with the present discussion on establishing a separate counsel. Commissioner Racine said he does not believe the Board has had problems with the service received by Civil Counsel, and that he has been more than happy with the work performed by her. He said although he was concerned with the Prosecutor's stand on reapportionment, he was not dissatisfied with the job performed by that office.

It was noted Commissioner Carlson brought up the idea of a separate counsel, and eliminating the labor relations responsibility from the Prosecuting Attorney's Office at a Board meeting and the matter had been referred to the Committee. Commissioner Carlson had been concerned that a future Prosecuting Attorney would not be willing to do the labor relations for the county. Micklow said that under the law the Prosecuting Attorney must perform the labor relations duties.

Commissioner Racine noted the Prosecuting Attorney's labor relations responsibilities were taken into account when setting the 1982 salary for that position.

Commissioner May said it was her understanding that this matter was referred to the Committee to determine whether such a change would improve county operations.

Commissioner LaPin said he was not aware that the labor relations function was a statutory responsibility of the Prosecuting Attorney at the time the 1982 salary for that position was set. He said it was his impression that it was up to the discretion of the Prosecuting Attorney as to whether or not he/she would handle collective bargaining.

Commissioner Villeneuve noted that consolidating all collective bargaining agreements has been discussed by the Board. The Committee discussed the current contract negotiations process, including responsibilities of the Board's Ad Hoc Bargaining Committee and the Negotiating Team. Micklow said the Negotiating Team now negotiates five contracts for the county and that Gary Walker, Prosecuting Attorney, has approached her about possibly getting involved in collective bargaining. She said if the Board wishes to use more than one attorney for that function it could be reviewed.

Commissioner LaPin said he has been pleased with Micklow's quality of work both as a Board member and when he was a township supervisor.

The Controller provided the Committee a preliminary financial analysis on reorganization of the Civil Counsel function, which included factors that should be considered in setting up separate counsel, and the approximate cost of a counsel/department handling only board needs, and one which would handle all civil functions of the county. Micklow questioned whether it would be legal to take the child support function out of the Prosecuting Attorney's Office.

Commissioner May believed that if there are no complaints about the work performed by the Prosecuting Attorney's Office it may be a waste of time for the Committee and staff to pursue the matter. She said perhaps the labor relations function could be pursued by the Personnel Committee.

In terms of costs effectiveness, Beard said it would be more economical for both management and the unions to consolidate all five labor contracts into one master contract. He noted a county employee at Acocks or the Health Department does not have seniority when applying for a job at the Courthouse.

Following discussion, it was moved by Commissioner May and supported by Commissioner Racine to report to the Board that the Committee has looked into the matter of creating a separate consel position, as directed by the County Board, to determine whether the function of civil counsel could be conducted in a different way that would be more beneficial to the county, and that an Opinion from Chief Civil Counsel indicated that this can be done under certain circumstances: 1) By majority vote of the County Board; and 2) After determination has been made that the Prosecuting Attorney is unable to properly represent the county. Since the general consensus of the Committee is that the work performed by the Prosecuting Attorney's Office has been satisfactory the Committee does not find there are any reasons to pursue this matter further. In addition, copies of the communications received from Micklow, Walker and Beard on the subject will be attached to the Committee's report. It was noted in his communication Walker asked that he be kept informed of the Committee's actions on the matter. Commissioner LaPin asked for a roll call vote. Ayes: Commissioners May, Racine and Villeneuve. Nays: Commissioner LaPin.

The Committee discussed a matter referred to them by the Board concerning urging our legislators to present legislation to the effect that at a general election of a census year the voters be given an opportunity to indicate how many commission districts they wish to have. It was noted in discussion that if this was handled by an advisory vote it would not be legally binding per a recent Attorney General's Opinion.

Discussion was held on laws governing the reapportionment of commission districts in the county, and the appeal process for same.

The Committee received a communication from Robert LaMere, Chair, Personnel Committee, on a draft policy on commissioners per diem and reimbursement policy. The draft policy is currently under review by Civil Counsel and no action was taken by the Committee.

The Committee discussed the possibility of eliminating per diem for various appointed boards/commissions and paying tavel expenses only. This was referred to the Committee by the Board.

Commissioner LaPin stated this was referred to the Committee because at the time of reapportionment a newspaper article appeared stating that volunteers should be solicited for these appointed boards/commissions as a cost reducing method. Commissioner Villeneuve said this was the view of Peggy Frazier during the reapportionment process. It was moved by Commissioner May, supported by Commissioner Villeneuve and carried unanimously to send a letter to Ms Frazier asking what she had in mind in this regard as the Committee is currently reevaluating boards/commissions.

A communication from Dr. Randall Johnson, Director, Health Department, on proposed Board of Health attendance rules was presented. The Board has already acted on this matter and the communication was placed on file. Commissioner LaPin felt attendance requirements should be in force for all boards/commissions.

A quarterly report on the Sheriff's Alcohol Related Accident Reduction Program was presented for the Committee's information.

The following notices on utility rate changes were presented and filed:

a. Notice of hearing from the Public Service Commission on Michigan Consolidated Gas Company's request for approval of a plan for customer refunds.
b. Notice from U.P. Power Co. on a purchase and interchanged power adjustment charge to be applied to June and July, 1982 billings.
c. Notice of hearing from Public Service Commission on the matter of implementation of the Operation and Maintenance Expense Control by Indexing System for the Michigan Power Company.

A resolution from Charlevoix County on illegal aliens in the United States was read and placed on file.

A resolution from Ogemaw County urging legislation to relieve unfair and unjust raises in property assessments was presented. The Committee has already dealt with this topic and the resolution was filed.

The Committee received a copy of S.B. 617, re forestry. Discussion was deferred until the next meeting.

A MAC communication on H.B. 4150 (Sub. H-2) to amend the school code with regard to collection of school property taxes was presented. The Committee opposed the content of the bill. The Controller was directed to draw up a draft resolution to that effect for review at the next meeting.

A communication from Dickinson County Board on H.B. 5438 which would expand the Dickinson County Road Commission from three to five members was read. Dickinson County sought support of the bill. It was moved by Commissioner May, supported by Commissioner Villeneuve and carried unanimously to recommend to the Board to ask Jacobetti and Mack to support the bill, and that copies of the Board's letters be sent to Dickinson County.

A communication from Michigan Townships Association to the County Clerk on a tax proposal which takes the primary responsibility for supporting schools off the property tax was received. The Committee tabled this matter until they receive information from MAC on its position regarding the legislation.

A MAC communication on a petition for a ballot proposal on welfare benefits was read and placed on file.

The Committee again discussed support of legislation allowing voters to decide how many commission districts they wish to have. Commissioner May felt such legislation would be a good idea. Commissioner Racine suggested submitting a resolution supporting this concept to the U.P. Association of County Commissioners Conference. The Controller was directed to draft a resolution on this topic for presentation to the Board.

Commissioner LaPin questioned whether employees are checked on their times of arrival and departure from work. Beard said this was up to department heads. A discussion was held on the feasibility of using time clocks.

The severe weather policy of the county was discussed, as well as the closing of the Planning Commission during a recent snow storm.

There was no public comment. The meeting adjourned at 10:30 p.m.

Respectfully submitted,

Karen Chubb

Karen Chubb, Commission Aide