

10:00 a.m.

The Board of Supervisors of Modoc County met in regular session this 2nd day of November, 1992 there being present Supervisors John Schreiber, Melvin "Andy" Anderson, M.W. "Mick" Jones, Nancy J. Huffman and Don Polson. County Clerk Maxine Madison, and CAO Larry Pennell also present.

Meeting called to order pursuant to law by Chairman Polson. Flag salute. Chairman notes the agenda was posted October 29, 1992.

**MATTERS INITIATED BY THE PUBLIC:**

No matters initiated by the public.

**CONSENT CALENDAR:**

Consent agenda item 1(D) removed from consent calendar for discussion by Supervisor Huffman.

Motion by Supervisor Jones seconded by Supervisor Huffman and unanimously carried, that Consent Agenda Items are approved as presented except for the item withdrawn for further discussion. Chairman and/or Clerk authorized to execute/record any necessary documents.

1(a) Approval of Agreement for Professional Sanitarian Services in November -- Farnam.

1(b) Reaffirming drought resolution.

1(c) Approving addendum to County of Modoc and Woodland Memorial Hospital Agreement. Contract No. 92-14 MH

**CONSENT CALENDAR ITEM 1(d) APPROVAL OF REQUEST TO PURCHASE FIXED ASSETS - OCJP GRANT:**

Probation Officer requests authorization to purchase specified fixed assets, which are subject to reimbursement from OCJP through the 92/93 Jail Removal Grant at no cost to the County of Modoc General Fund.

Motion by Supervisor Huffman, seconded by Supervisor Jones, and unanimously carried, to approve the Probation Officer's request to purchase fixed assets from OCJP Grant funds.

Vote: All Ayes.

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2. REPORT AND APPROVAL OF AGREEMENT FOR COUNTY COUNSEL SERVICES  
- COMISKY:

Clerk reads proposed Retainer Agreement between the County of Modoc and Hugh E. Comisky, Jr., Attorney at Law for County Counsel.

Audience members Faye Murray, Marcel Capik, Jane Erkiaga, Joe Colt, Rick Holloway, June Roberts and Lois Freeman speak regarding the issue. Some of the concerns were the cost of hiring another county counsel, the number of law suits filed and how many won or lost in the county, problem with the proposed contract being a four year contract and comments regarding the plus side of the contract having a 30 day termination clause. Another concern voiced by audience members was the matter being acted on at this time with majority of the board members being new members taking office January 1993. Another concern was no background check or job application filed by Mr. Comisky. Comments from the audience were both in favor of the contract and against the contract.

Hugh Comisky present and informs Board members that in 22 years practice "that he has never represented anyone that did not want him to represent them." He informs members that Government Code Section 27641 provides for a four year appointment with removal for cause. He did insert the early termination clause as he realizes there is a lot of conflict regarding the position.

Board members respond to questions of audience members. Supervisor Schreiber informs the audience that the issue has been worked on for the last two years and that it has been building up for a period of years. Board members discuss hiring outside counsel for the hospital issue at a cost of \$60,000. to \$70,000.

District Attorney Sorensen speaks regarding the issue of county counsel and that she has given advise to Board members and county department heads. The hiring of outside counsel for the hospital buyout with the nursing home was a decision made by the board to hire counsel that works with this type of action exclusively.

Supervisor Polson advises audience members that Assistant District Attorney Mason and Hugh Comisky are candidates for the position.

Supervisor Anderson voices concerns regarding the budgeted \$10,000. and that the cost probably will exceed this amount. He suggests that an application for employment be filed with references.

Supervisor Jones states concerns that the work load in the District Attorney's office has increased and that more help is needed in the office. District Attorney Sorensen has informed members that she works weekend and nights keep up with the work. District Attorney Sorensen does reiterate that Assistant District Attorney Mason will be available for board meetings when work

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permits in the office that this is the way the work load is presently handled.

Supervisor Huffman suggests that Hugh Comisky submit a formal application for the position and that the contract be reviewed by other counsel.

No action taken at this time, the matter to be on the November 16, 1992 board agenda.

11:05 a.m. Board in recess.

11:20 a.m. Board meeting reconvenes with all members present.

### 3. REPORT AND APPROVAL OF CAO EMPLOYMENT AGREEMENT AND AUTHORIZATION FOR CHAIRMAN TO SIGN - PENNELL:

Clerk reads proposed Agreement for Special Services of County Administrative Officer.

Comments by Supervisor Elect Colt regarding the policy of severance pay and that at times it is better to give severance pay up front instead of 60 day notice as the production quality is very low during this period.

Comments from audience members Dan Frey, Ron Greive, John Coulson, J. Clark, J. Roberts, Don Stahl, J. Erkiaga and E. Carver. Some of the comments were as follows: how many county departments or employees are presently under contract, why urgency for CAO and County Counsel contracts at this time, legality of contract and the limitations on elected officials regarding the contract. Question from audience whether L. Pennell would be an employee or is this a contract for service.

Comments by board members regarding the proposed contract. Supervisor Anderson comments regarding a closed session the day that CAO Pennell was hired and that the Brown Act was violated. CAO Pennell discusses the proposed contract. David Mason, Assistant District Attorney to research the issue whether the board can enter into a contract for services that will bind the incoming board members for the future.

Matter continued until the afternoon session to give Assistant District Attorney Mason an opportunity to research the issues regarding the proposed contract.

12:05 p.m. Board in recess.

2:00 p.m. Board meeting reconvenes with all members present.

### 4. PROGRESS REPORT AND POSSIBLE MINUTE ACTION RE: CMSP (County Medical Services Program):

Supervisor Huffman reports on CMSP program and that a task force is working with the state to determine how the pool money that

the state wants to cap at \$22,000,000. will be spent. Some of the 32 counties involved are concerned that funds spent above the pool money will be billed against the counties. The county will have to make a decision whether to accept the decision of the task force and if each county has to agree to the decision before it is final.

Board meeting recesses and Modoc County Air Pollution Control District Board of Directors convenes:

12. REPORT AND RECOMMENDATION AND PUBLIC HEARING RE: AIR POLLUTION RULE AMENDMENTS:

Agricultural Commissioner Wright appears on behalf of the Air Pollution Control Board. The rules presented have previously been adopted by the Air Resources Control Board. He informs board members that in reviewing the rules he finds that the rules will have no effect on Modoc County. No appearances by the public. Public hearing closed.

Motion by Director Jones, seconded by Director Schreiber, and unanimously carried, to accept the Modoc County Air Pollution Control District Proposed Air Toxic Control Measures as recommended.

AIR POLLUTION CONTROL BOARD OF DIRECTORS MEETING ADJOURNED. BOARD OF SUPERVISORS MEETING RECONVENES:

14. REPORT, RECOMMENDATION AND PUBLIC HEARING RE: SPECIAL DISTRICT AUGMENTATION FUNDS:

Auditor Tedrick discusses the Special District Augmentation Funds and that the funds have been reduced from \$40,988.00 to \$40,027.00. The Board held the public hearing regarding the funds and no action was taken to disburse the funds due to the state budget process.

Discussion by board members regarding appointments to the Special District Augmentation Committee. The committee will make recommendation to the Board regarding distribution of augmentation funds commencing next year.

CAO Pennell and Auditor Tedrick to review the requests presented at the public hearing in August and make a recommendation to the board for the meeting November 16, 1992.

3. CONTINUED REPORT AND APPROVAL OF CAO EMPLOYMENT AGREEMENT AND AUTHORIZATION FOR CHAIRMAN TO SIGN - PENNELL:

Assistant District Attorney Mason reports on the contract for the CAO Employment agreement. He reports that the proposed contract doesn't specify expressly whether it is intended to be a contract for services to hire independent contractor or employment contract. If the idea is a contract to employ the services of a CAO as an independent contractor it should specify that. It should

not refer to compensation as salary as that implies an employer-employee relationship. If the contract is intended to create a personal contract for services in the nature of an independent contractor the compensation levels as a general rule do not include benefits. If it is a contract for independent it should state that the contractor is an independent contractor.

The question regarding the board binding a successor board, is that the general rule is that one board may not bind a successor, however that general rule does not apply in some instances. He informs members that this may in fact be one of those times. Most of the cases refer to City Councils. He states that the question is whether the contract as entered into is just, fair and equitable at the time of execution. Mr. Mason discusses termination of the contract and binding the board that they cannot terminate the contract within 30 days following the entry into office of a supervisor. He suggests that the termination clause in the contract should be equal for both parties. He suggests that item 4. of the contract should be amended to delete the portion following 30 days written notice to the other. He suggests that if the contract is to be as an independent contractor that the language be included in the contract.

David Mason and CAO Pennell to review the matter and report to the Board at the November 16, 1992 meeting.

**6. REPORT AND APPROVAL OF REVISED RATE STRUCTURE FOR MENTAL HEALTH SERVICES:**

This matter is continued to the November 16, 1992 board meeting.

**7. REPORT, 2ND READING AND ADOPTION OF ORDINANCE RE: INCREASING TRANSIENT OCCUPANCY TAX TO 10%:**

Reading of proposed ordinance re: increasing transient occupancy tax. Consideration of the proposed ordinance by board members.

Motion by Supervisor Jones, seconded by Supervisor Schreiber, and unanimously carried, to reject the proposed ordinance to increase the transient occupancy tax to 10%. Tax to remain the same as it is currently set at 4%.

**8. REPORT, 2ND READING AND ADOPTION OF ORDINANCE RE: DEDICATION REQUIREMENTS OF STREETS, ALLEYS AND OTHER PUBLIC RIGHTS OF WAY OR EASEMENTS:**

Board members consider the proposed ordinance. This is the time for the 2nd reading of the ordinance. Reading of the ordinance waived.

Motion by Supervisor Jones, seconded by Supervisor Huffman, to adopt Ordinance Number 238-A, providing for the requirement of Dedication of Streets, Alleys, and Other Public Rights-of-Way or Easements. Vote: All Ayes.

**9. REPORT AND RECOMMENDATION RE: COUNTY PERSONNEL POLICIES AND M.M.C. PERSONNEL RULES:**

CAO Pennell discusses the discrepancies between the personnel rules for the hospital and all other county departments. He recommends that the Board approve the approach in applying the Hospital rules to all existing employees, specifically the probationary period for hospital employees is 90 days of service while the county employee ordinance provides for 12 months satisfactory service, and that sick leave payout does not apply to hospital employees as it is not part of the regulations, until the personnel ordinance is amended. The matter has been discussed with the Hospital Board of Directors and MCEA.

Motion by Supervisor Schreiber, seconded by Supervisor Jones, and carried, to apply the hospital rules and regulations to the present hospital employees.

Vote: Ayes: Jones, Schreiber, Huffman

Abstains: Polson

Noes: Anderson

**16. MODOC MEDICAL CENTER ITEMS:**

**a. INTRODUCTION OF TOM DICKERSON, HOSPITAL ADMINISTRATOR:**

Bob Brooks, Vice-Chairman of the Hospital Board of Trustees introduces Tom Dickerson, the new Hospital Administrator. Joyce Gysin, Surprise Valley Hospital District, Hospital Administrator present.

**b. FINANCIAL AND STATISTICAL REPORT - SEPTEMBER, 1992:**

Rick Wheat, fiscal officer presents financial reports for the month of September, 1992.

**c. REPORT AND APPROVAL OF AGREEMENT FOR FINANCIAL CONSULTANT SERVICES - PHILLIPS:**

Board members consider Cost Report consultant proposal for Rodney A. Phillips, CPA, the Hospital Board of Trustees recommend the retention of Mr. Phillips for the preparation of the cost report for FY 1992. The cost of the Rodney A. Phillips proposal is \$6,000.00 less that the report last year. Last year the report was prepared by Paul Fayollat.

Matter continued to the November 16, 1992 in order for board members to compare the proposals of Rodney A. Phillips and Paul Fayollat.

**d. MANAGEMENT PLAN UPDATE:**

Hospital Administrator Dickerson presents management plan update to be accomplished within the next 3 months. He discusses the efforts being made to get doctors into the area.

**e. SNF BOND FUND DISTRIBUTION:**

Board members discuss the proposed SNF Bond Funds distributions as requested by Administrator Dickerson. He requests authorization to access the SNF Bond Working funds in the amount of \$6,426.70 telephone costs, for development of Modoc Master plan in equipment. Request \$7,396.82 for The People Difference from Marketing SNF funds. The Hospital Board of Trustees has recommended approval of the expenditures and that payment be reimbursed by the SNF Fund.

Motion by Supervisor Jones, seconded by Supervisor Anderson, and carried, to approve the items with costs to be recovered from the SNF Bond fund reserves. Vote: Ayes Anderson, Polson, Jones and Huffman

Noes: Schreiber

**f. BAD DEBT WRITE-OFF:**

C.F.O. Wheat presents the list of proposed accounts receivable write-offs a total of \$9,892.20.

Motion by Supervisor Schreiber, seconded by Supervisor Jones, and carried, to approve write-off of active accounts receivable in the total amount of \$9,892.20 representing 33 accounts with the understanding that they will be turned over to a collection agency for collection.

Vote: Ayes: Schreiber, Polson, Huffman and Jones

Noes: Anderson

**g. APPROVAL OF REQUEST TO PURCHASE FIXED ASSETS:**

Request by Richard L. Wheat, CFO to purchase new Scopes for colonoscope and gastroscope for a total cost of \$26,061.75.

Motion by Supervisor Schreiber, seconded by Supervisor Jones, and carried, to authorize the Modoc Medical Center to purchase new scopes from Olympus Corporation for colonoscope and gastroscope for a total cost of \$26,061.75.

Vote: All Ayes.

**h. STATUS REPORT AND RECOMMENDATION RE: PRO-MED:**

Mr. Bob Brooks presents report on the status regarding Pro-Med insurance and recent developments. Discussion of the payment of unpaid claims to county employees. Rick Wheat to keep board members updated on the progress of payment of the claims. Board members discuss the amounts payable to local doctors and the two hospitals in the county.

4:20 p.m. Board in recess.

4:30 p.m. Board meeting reconvenes with all members present.

**11. REPORT AND MINUTE ACTION APPROVING LIBRARY DEPARTMENT JOB SPECIFICATIONS:**

CAO Pennell advises Board members that the proposed reclassifications and job specifications for the Library were submitted to the MCEA and that they had no objection to the revisions.

Statement by Supervisor Schreiber regarding Library salaries and job specifications.

Motion by Supervisor Huffman, seconded by Supervisor Anderson, and carried, to approve the revised job specifications for Library Assistant I, Branch Librarian, Library Assistant II and Senior Library Assistant.

Vote: Ayes: Anderson, Jones, Huffman and Polson

Noes: Schreiber

**5. REPORT AND APPROVAL OF STAFFING PLAN AND BUDGET AMENDMENT -SHERIFF'S DEPT.:**

Sheriff Mix requests authorization to fill one of the two deputy positions lost in the 1990-91 budget process. He outlines the negative impact on the Sheriff-Jail Department due to the loss of the deputies. He estimates the cost, salary and benefits, for one position for six months will be \$21,000.00.

Motion by Supervisor Jones, seconded by Supervisor Anderson, and carried, to authorize Sheriff Mix to hire a deputy to fill a vacancy in the Sheriff's Department.

Vote: All Ayes.

**10. CONTINUED DISCUSSION AND MINUTE ACTION RE: PER DIEM AND TRAVEL REIMBURSEMENT:**

Continued discussion of per diem and mileage for county employees.

Motion by Supervisor Schreiber for \$200.00 per month for each Board member for in county travel. Motion discussed with no action taken.

This item was continued from the last meeting in order for board members to consider the proposal presented by CAO for Per Diem and Travel Reimbursement. Matter regarding a flat amount for board members for in county travel is considered. A proposal to adjust the mileage to correspond with the rate authorized by IRS is also considered. Per diem to be reimbursed upon submittal of receipts. Discussion of increase of per diem for one day travel. Auditor Tedrick discusses the policy in surrounding counties and IRS regulations.

No action taken on the matter, it is to be on the next agenda for further consideration.



15. REPORT AND RECOMMENDATION RE: SOCIAL SERVICES DIRECTOR COMPENSATION:

Social Services Director Belarde presents a request to increase his salary from \$32,421.00 to \$41,000.00 at no cost to the County. The increase in the amount of \$8,579.00 will be charged to the GAIN Program. He informs Board members that when he came to work here the department had eleven employees and at the present time there are seventeen employees in the department. Director Belarde informs board members that he is currently the lowest paid Director in the state, and after the salary increase if it is approved it will still be the lowest paid director in the state. Director Belarde discusses his budget and the work program that is currently in effect.

Motion by Supervisor Jones, seconded by Supervisor Schreiber, and carried, to approve the salary increase for Director of Social Services from \$32,421.00 to \$41,000.00. Proposed ordinance to be prepared reflecting this change to be on the November 16, 1992 board agenda.

Vote: Ayes: Schreiber, Huffman, Jones and Polson

Noes: Anderson

13. REPORT AND INTRODUCTION OF ORDINANCE RE: SALARY ADJUSTMENTS FOR DEPUTY ROAD COMMISSIONER AND MAINTENANCE SUPERVISOR:

First reading of proposed ordinance changing classifications of Deputy Road Commissioner and Maintenance Supervisor.

Motion by Supervisor Jones, seconded by Supervisor Huffman and carried, to set the proposed ordinance changing classifications of Deputy Road Commissioner and Maintenance Supervisor for adoption November 16, 1992.

Vote: Ayes: Huffman, Jones and Polson

Noes: Schreiber and Anderson

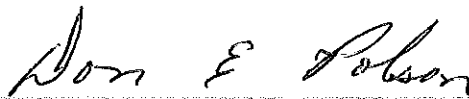
No further business to come before the Board at this time, the meeting is adjourned to meet in regular session Monday, November 16, 1992 at 10:00 a.m.

Meeting adjourned.

5:30 p.m.



Maxine Madison, Clerk



Don E. Polson, Chairman