

**STEBEN COUNTY ADHOC OFFICE SPACE COMMITTEE**

*Thursday, September 29, 2016*

*9:00 a.m.*

*Legislative Committee Room  
Steuben County Office Building  
Bath, New York*

**\*\*MINUTES\*\***

- |                     |   |   |  |
|---------------------|---|---|--|
| <b>COMMITTEE:</b>   | Robin K. Lattimer, Chair<br>Gary D. Swackhamer                    | Carol A. Ferratella, Vice Chair           | John V. Malter                                 |
| <b>STAFF:</b>       | Jack K. Wheeler<br>Tammy Hurd-Harvey<br>Carol Gamet<br>Phil Roche | Mitchell Alger<br>Alan Reed<br>Vicki Olin | Pat Donnelly<br>Jennifer Prossick<br>Eric Rose |
| <b>LEGISLATORS:</b> | Joseph J. Hauryski<br>Hilda T. Lando                              | Kelly H. Fitzpatrick<br>Aaron I. Mullen   | K. Michael Hanna                               |
| <b>ABSENT:</b>      | Brian C. Schu   | Scott J. Van Etten                        |  |
| <b>OTHERS:</b>      | Mark R. Alger<br>Mary Perham                                      |   |  |

**I. CALL TO ORDER**

Ms. Lattimer called the meeting to order at 9:00 a.m. and asked Mr. Mitch Alger to lead the Pledge of Allegiance.

**II. GENERAL BUSINESS**

Ms. Lattimer stated the purpose of today’s meeting is to review the project and provide an opportunity to ask questions.

Mr. Hauryski stated it is important that everyone is on the same page. He wants to make it clear regarding the timing of this meeting; this date was not intentional. In order to meet Open Meetings Law notice requirements, the earliest we could hold this meeting was today. All of the Legislators at Monday’s meeting heard that and I had asked if there were any objections for anyone not being able to attend. One Legislator noted that they would be out of town and I suggested that they should share their thoughts with the committee prior so their opinions could be heard. This meeting is not being held to prevent anyone from attending.

Mr. Hauryski stated the AdHoc Committee was formed, and held its first meeting on May 27, 2015. They held five meetings over the course of five months. At each of these meetings, the committee heard every conceivable option that you could think of, in terms of what to do to solve the space needs. We all know we have a space problem. The committee has looked at six options. One of the bigger ticket options was to include moving Mental Health into the new building. One of the lowest ticket items was to just building a Records Center. The committee took those two options off the table. That left four options that they seriously zeroed in on.

Mr. Hauryski stated on December 8, 2015 we looked at all of the options once again. It was the pleasure of this committee that we move forward with Option #5. This option was put forward to the Legislature to vote on. The Legislature met on December 21, 2015 and approved a resolution specifically authorizing moving forward with Option #5. The resolution was approved with one dissenting vote from Mr. Weaver and with Mr. Crossett and Mr. Mullen being absent.

Mr. Hauryski explained, the figure we were looking at was \$8,618,100. On September 26, 2016, that figure increased to \$8,737,500. The difference is \$119,400. The new figure included a generator which the committee felt was important. Without a generator, we do not have the ability to run County operations. Currently in the County Office Building, in the event of a power failure, we are only able to run IT, emergency lighting and Public Health. Two additional items, high-density storage and furniture are not included in this figure as they will be budgeted for down the road. Considering the fact that from December 2015 to September 2016 the difference in cost is \$119,400, that is phenomenal.

Mr. Hauryski stated that he has asked Mr. Roche to address the committee regarding the impact of this project on his department. Mr. Roche stated he was not in attendance at Monday's meeting, however, he was asked to come today as his department will require additional space in the near future. Essentially my department employs six full-time attorneys and three full-time administrative staff. We also employ seven part-time attorneys that are located in private offices throughout the County. Additionally, the Conflict Office for felonies only, employs two part-time attorneys that are located in private offices and the Assigned Counsel Office Administrator is under contract to the County and is located in a private office. Recently we received a State Grant that provided almost all of the funding necessary for a third full-time Family Court Assistance Public Defender position. This grant was in jeopardy due to the lack of office space, which was ultimately resolved by converting a former copy room into an office.

Mr. Roche stated there are a lot of changes coming due to State mandates that will force the restructuring of our indigent defense system and will ultimately require more attorneys. There will be a change in eligibility standards which means that nearly anyone who applies for a public defender will receive a public defender. Along with that will be caseload limits. The State will prescribe the number of cases that each attorney is allowed to carry and we will be required to hire new attorneys. There will now be additional reporting requirements, an approval process and more admissions. Another area will be counsel at arraignment. Every County is required to do this and we currently do not. The Supreme Court, the NY Court of Appeals and our ethical standards all say that we have to do this. We will be required to do this and fairly soon, this will be a condition of State funding which will amount to approximately \$280,000 per year. We have 49 local court judges and we will be required to provide attorneys at any of those courts, at any hour of the day or night. This is substantial considering the size of our County and the State will require this.

Mr. Roche stated we will be hiring a lot of new staff. You can try to find attorneys part-time or contractually, however, I will tell you that there is very little interest out there for people to do this on a part-time basis. Someone had suggested finding space on Liberty Street to house attorneys and that would be possible. However, one of the difficult things about my office is the need for security. We have clients, family members, victims and individuals with mental health and substance abuse issues. Currently individuals coming into the County Office Complex have to go through the metal detectors to get to our office. The presence of security has diffused many situations. We also have panic buttons in our offices. Another issue is getting back and forth to court as well as the inability to have administrative staff. We are in court multiple times per day as well as different offices within the County. The take away is we will be hiring more attorneys and support staff. The question is how do we hire and where do we put them.

Mr. Wheeler commented that Schuyler County has already hired six additional attorneys. Mr. Roche stated we have approximately 3,400 assigned counsel cases per year and Schuyler County does about one-third of what we do. Mr. Hanna asked how much time do the attorneys spend in the office? Mr. Roche replied a Family Court attorney spends about half of their time in the office. The criminal attorneys spend about two-thirds of their time in the office. If you hire attorneys to go out and be in the local courts, they will travel more. They will be out a lot at night and spend about half of their time in court. Mr. Mullen asked how many additional staff and space would you need? Mr. Roche replied with the caseload cap and eligibility standards, we would be looking at hiring two to four attorneys and two support staff. We would need to hire three attorneys to do counsel at arraignment. Mr. Mullen asked if you are centralizing the operation, would it be easier to cover? Mr. Roche replied yes. Mr. Mullen asked if everyone is located in Bath, how does that help you cover the County? Mr. Roche replied we would have more flexibility. We can send an attorney to County Court in the morning and then

to another court in the afternoon. Most of our business is in Bath, Corning and Hornell. Approximately 80 percent of our assigned felonies are in courts in Bath, Corning and Hornell. The problem will be evening and weekend coverage. Mr. Mullen commented you could still have part-time attorneys. Mr. Roche stated you could, but we don't have people practicing criminal law who are interested; in general, or with being on call on nights and weekends.

Mr. Roche stated with regard to caseload caps, our full-time criminal attorneys are over and our full-time family court attorneys are over. In order to be compliant with the standards, we would need at least one additional full-time criminal court attorney and one additional full-time family court attorney. With the new standards, the numbers will go up and that will determine the number of attorneys we will need. Mrs. Lando commented that she does not believe we have ever discussed security needs. Mr. Roche stated that it has never been an issue because we currently have security. If you move us to the new building or to Liberty Street, we would need to have something in place. Mr. Wheeler commented we would also have the liability of having different employees under different working conditions.

Mrs. Ferratella asked what happens with paying rent on Liberty Street or purchasing a building? Ms. Lattimer stated that when we purchase a building, it becomes exempt on the village tax rolls. The village has 43 percent of its properties listed as exempt right now. Mr. Wheeler stated we have been giving the village updates and one of the things they have liked is that we are looking to build on our existing footprint.

Mr. Mullen asked what are the part-time attorneys doing for security? Mr. Roche replied most of those attorneys do not meet with clients in their offices. One of those attorneys uses my office to meet with clients. Another attorney meet clients at the Jail and the others meet their clients at court. Mr. Mullen asked so a lot of the meetings are taking place elsewhere? Mr. Roche replied yes. The part-time attorneys are working with misdemeanor cases and are meeting with clients directly at court. They cannot do that with the felony cases. Mr. Mullen asked what is the difference for requirements for family court versus criminal court? Mr. Roche replied ideally for designing, we would have all of the family court attorneys in one spot, all of the criminal attorneys in one spot and the conflict defender in one spot. They do not all need to be together.

Mr. Wheeler explained the plan is to move Public Works to Cornell Cooperative Extension, and move Cooperative Extension to the new building. That opens up the Public Works space for the District Attorney. In turn, that opens up the District Attorney's Office and Annex space for the Public Defender. Mr. Mullen asked what would be the total square footage allocated to the Public Defender? Mr. Wheeler stated that gives the Public Defender room for growth. The Balcom House will become flexible space and you could put the Conflict Defender over there. He stated adding up all the different areas, they would end up with 3,000 square feet, which is about 1,000 square feet more than they are currently operating with.

Mr. Mark Alger commented we are talking about this because of the Records Center. We recognized a need for the attorneys, both the District Attorney and the Public Defender because both of their spaces are split. The question is do you want to add space, and if so, how? In looking at the square footage, Public Works is picked on because of the size of open space and they are easily transferred downstairs rather than relocating staff elsewhere. Is this a perfect solution? No, because we don't know what will happen when the caseload cap is implemented or when we will need to hire additional attorneys. Counsel at arraignment will be one of the biggest issues. Mr. Mullen commented that is a different issue from office space. Mr. Mark Alger replied not really. We have to have attorneys available at any time. Mr. Wheeler commented along with that, our current plan for flexibility in this building will allow us to do other things with conference spaces. We would free up conference spaces in the County Office Building that would be available for other uses in the future.

Mr. Hauryski stated we had four options and this committee selected option #5. To do option #5, to-date we have already spent \$103,922 to have Labella start the architectural and design work. Mr. Wheeler commented the final design will be sent out on Friday. That will be another \$30,000 - \$40,000 bringing our to-date total to \$150,000 paid out. Mr. Hauryski stated he will not go to his constituency

and tell them that we spent \$150,000 and we are going to start all over again. With that said, the issue at hand is not the selection of the option, but how to pay for it. He read an email that he received from Mr. Schu this morning which reads: "...I'm good with whatever financing they come up with. The committee and others have to understand we approved the project. We are only talking about financing".

Ms. Lattimer stated the dilemma she feels we have on hand is that we have already approved option #5. If there is dissent on the bond, then let's discuss that now. The resolution on Monday that you voted on was how to fund the project, not whether we are going to build. That is water under the bridge. Mr. Hauryski stated that he would propose lowering the amount of the bond from \$5 million to \$4 million. We would be borrowing \$1 million less. Mrs. Lando asked what does that save us? Mr. Wheeler stated it will drop the annual payment \$100,000 and over the course of ten years, you will save \$150,000 in interest.

Mr. Hauryski stated he asked Mark Alger to attend today, as he wanted to hear from him as he has experience with building projects. Mr. Mark Alger stated when we built the new Health Care Facility, we still had the old facility and we were at the point of talking about renovating it. We had a study completed that provided options for renovation. Then we had a change in the membership of the Legislature and the new Board decided not to move forward. That was a \$15 million project. The suggestion was made at that time to tear it down or build a building for the purpose you intended it for. You are now building for the purpose of office space and housing records. This is a more efficient use of space and is less expensive. If we had renovated the old Health Care Facility, you would not be able to deal with these other issues. With regard to the financing you are talking about, reducing the amount of the bond will save you some interest and will not hurt your funding situation. You will have the Jail bond coming off the payment schedule in a couple of years. Mr. Alger stated you will be able to fund this project without impacting taxes and the space is being designed for a specific purpose. Mr. Wheeler stated we are in a position to do this project without raising taxes. Unless something catastrophic happens, this will fit into our financial plan and this is a really good time to do this.

Mr. Swackhamer stated the idea was to take the jail payment and put that toward the new building. Mr. Donnelly stated the bonds will overlap, but it is certainly manageable. Mr. Mark Alger stated that he always enjoyed the ability of this group to work together and come to a consensus. Once you selected the option, it is important to rally together and get it done. The Legislature has done a good job of coming up with a good solution.

Mr. Swackhamer stated the contingencies and some of the other expenses are only there if we authorize them to be spent. They are not part of the original cost. Mr. Wheeler stated some of the contingencies and design contingencies are built in. Those estimates have been conservative. Mr. Swackhamer asked do we have control over those? Mr. Wheeler replied yes. We will put bids out and anything in addition would need to be authorized by the Legislature. Mr. Mark Alger commented the important thing to look at is the bottom line. The project is \$8.6 or \$8.7 million. At this point, you are establishing the budget and that is it.

Mr. Malter stated you will not know anything until the bids come in. Mr. Wheeler stated based on what this committee and the Legislature approved for option #5, that is the top number and that is it. We will be getting a construction manager to act on our behalf. Mr. Hanna stated when we made the decision to build, he was all for it. Controlling the costs from now on, we will need to hold their feet to the fire. Mr. Wheeler stated that is why we suggested hiring a construction manager. The change orders will go through a process. Mr. Mark Alger stated you will establish a construction budget and within that, you

will have a contingency fund. The only way the contingency fund gets spent is with someone's approval. Any changes will be reported back and approved. Small items could be approved by Mr. Wheeler and other items would come to the committee and the Legislature. Mr. Hanna stated that he would like to see more of those approvals come to the Legislature. Mr. Mark Alger stated that he would encourage you to be careful how you do that. Unless you hold special meetings, you will be leaving yourselves open to a delay claim by the contractors. That is the only hesitancy he would have about waiting for the Legislature to act on all change orders. You want to give Mr. Wheeler some authority to approve up to a threshold. You want to empower the AdHoc and Finance Committees to approve many of the change orders. All of the change orders would be reported back to the Legislature.

Mr. Wheeler stated the other comment he would make is we are subject to prevailing wages and Wick's Law. If we did not have that, we could show you a cost that would be two-thirds of this. Mrs. Ferratella stated time is of the essence to get out of the old Health Care Facility. Mr. Wheeler stated, yes. The ceiling in in the old Health Care facility recently started leaking over the elections space. We do not know what those costs will be.

**MOTION: AUTHORIZING THE ISSUANCE OF BONDS IN THE AMOUNT OF \$4,000,000 TO PAY COSTS FOR CONSTRUCTION OF A NEW OFFICE BUILDING AND RECORDS STORAGE FACILITY MADE BY MR. SWACKHAMER. SECONDED BY MRS. FERRATELLA FOR DISCUSSION.**

Mr. Malter stated that in looking at this based on the original bond amount of \$5 million with an interest rate of 1.75 percent over ten years, the interest would cost \$500,000. Based on the report that Mr. Donnelly provided, less than .5 percent would save you \$212,000 by not bonding, but paying out of the fund balance. The audit report ending December 31, 2015, showed \$84 million in assets. Taking this out of fund balance, it would be replenished because of what we receive in surplus every year. He thinks that it would save us money if we paid for it through the fund balance.

Mrs. Ferratella commented her concern is we do not know what the future will bring. Mr. Malter stated we already are projecting a major fund balance. We could replace \$4 million or \$5 million within three years. He does not see the interest rates changing that much in the next three years. Mr. Wheeler stated that is a good point and is something we have discussed. Our unrestricted fund balance is approximately \$50 million. We are budgeting tighter and tighter every year and we always have the unknown of the sales tax. We do not have much debt, and we could borrow the entire thing. That is certainly an option. The thing that had the committee come to this middle ground was the concern of the unknown.

Ms. Lattimer stated the tax cap also makes the budget tighter and tighter. Mr. Malter stated that he thinks taking it out of the fund balance is the best option. Ms. Fitzpatrick stated you would be taking the bond payment out of the fund balance anyway. Mr. Wheeler commented it really is a risk tolerance question. Mr. Malter asked what are we raising in taxes every year? Mr. Wheeler replied our tax levy is \$50 million. Mr. Malter stated when he was first on the Legislature, fund balance was \$25 - \$30 million and now we have twice that. Mrs. Ferratella asked could we pay down the bond faster if we choose to? Mr. Donnelly replied there is a call feature on the bond and you would pay a higher interest rate up front. You can also issue the bond for a shorter period time.

Ms. Fitzpatrick asked what is the timeframe for the new building to be done? Does the Jail bond end in 2021? Mr. Wheeler replied the anticipated opening would be mid-2018. Ms. Fitzpatrick stated we would be bonding for a project that we will not be starting for another one and one-half years. Mr. Mark

Alger commented you will be spending money right away though. Mr. Wheeler stated once the bids come in, you will spend money on construction as that will begin when the ground thaws.

Mr. Mark Alger stated you can do as Mr. Malter is suggesting, but the bond is fully paid with the fund balance until the Jail bond is paid off, then then your payments will come from the General Fund. Ms. Fitzpatrick asked should we explore the call feature? Mr. Mark Alger replied it is worth putting it in.

**MOTION: AMENDING THE PREVIOUS MOTION TO AUTHORIZE THE ISSUANCE OF BONDS IN THE AMOUNT OF \$4,000,000, SAID AMOUNT TO BE PAID OUT OF THE FUND BALANCE UNTIL THE JAIL BOND IS COMPLETE MADE BY MR. SWACKHAMER. SECONDED BY MRS. FERRATELLA. ALL BEING IN FAVOR. MOTION CARRIES 4-0. Resolution Required.**

Mrs. Ferratella stated that she would like to make sure that all Legislators get a copy of these minutes prior to the Legislative Meeting. She requested that the minutes be mailed directly to the Legislators.

Mr. Malter stated that a statement was made that we are building a pole barn for records storage. It is much more than a pole barn. Mr. Wheeler stated the records storage facility will be climate controlled, have heating and air conditioning, IT services and a bathroom. It is a working building. Ms. Lattimer commented the downtown facility is much more sophisticated, but the records storage facility is certainly not a pole barn.

**MOTION: TO ADJOURN MADE BY MR. MALTER. SECONDED BY MRS. FERRATELLA. ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

Respectfully Submitted by,

Amanda L. Chapman  
Deputy Clerk  
Steuben County Legislature