

STEBEN COUNTY PUBLIC SAFETY & CORRECTIONS COMMITTEE

Monday, December 3, 2018

9:00 a.m.

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

****MINUTES****

COMMITTEE:	Aaron I. Mullen, Chair Frederick G. Potter	Kelly H. Fitzpatrick, Vice Chair Thomas J. Ryan	Steven P. Maio
STAFF:	Jack K. Wheeler Dave Hopkins Tina Goodwin John McNelis Matthew Whitmore Brooks Baker	Mitchell Alger Brenda Aston Andy Morse Sgt. Shawn Shutt and Daimon Sgt. Brandon Scott Shawn Sauro	Tim Marshall Cheryl Crocker James Allard Cpt. Christopher Hand Jennifer Prossick Brenda Mori
LEGISLATORS:	Joseph J. Hauryski K. Michael Hanna Gary D. Swackhamer	Carol A. Ferratella John V. Malter Scott J. Van Etten	Hilda T. Lando Robert V. Nichols
OTHERS:	Mark Ryckman, Corning City Manager Chief Jeff Spaulding, Corning City Police Department John Buckley, Hornell City Mayor Chief Ted Murray, Hornell City Police Department Judge Craig Doran, Administrative Judge, 7 th Judicial District, NYS Court System Judge Shannon Pero, 7 th Judicial District, NYS Court System Judge Amy Monachino, 7 th Judicial District, NYS Court System Chief Paul Griffith, Alfred Village Police Department		

I. CALL TO ORDER

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

II. APPROVAL OF MINUTES

MOTION: APPROVING THE MINUTES OF THE NOVEMBER 5, 2018, MEETING MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

III. DEPARTMENTAL REQUESTS

A. Sheriff's Office

1. **Commendations** – Sheriff Allard asked Captain Christopher Hand to come forward. Captain Hand is retiring with 30 years of service. He presented him with a certificate and the Career Achievement Medal in recognition of his retirement. Captain Hand commented he has enjoyed 99 percent of his time with the County. In his opinion we have the best Jail and Sheriff's Office in New York State.

Sheriff Allard asked Sgt. Shawn Shutt and Daimon to come forward. He also introduced Chief Griffith from the Alfred Village Police Department. On November 14, 2018, an armed robbery took place in the Town of Alfred and the suspect then drove into Steuben County and ended up in Westfield, PA. Sgt. Shutt and Daimon were brought in to assist with locating the suspect. He presented Sgt. Shutt and Daimon with a certificate of commendation for their leadership, professionalism, integrity and service.

Sheriff Allard asked Sgt. Brandon Scott to come forward. Sgt. Scott also assisted with the November 14, 2018 armed robbery that took place in the Town of Alfred and the suspect consequently drove into Steuben County and ended up in Westfield, PA. He was coming off his shift, heard the call and promptly responded and assisted with locating the suspect's vehicle. Sheriff Allard presented Sgt. Scott with a certificate of commendation for his leadership, professionalism, integrity and service.

2. **Acceptance of Uniform Bid** – Sheriff Allard stated they received bids from Bob Barker, Gall's, Ranger Outfitters and United Uniform. He recommended awarding to all bidders on a line item basis.

MOTION: AWARDING THE UNIFORM BID TO THE FOLLOWING BIDDERS ON A LINE ITEM BASIS: BOB BARKER, GALL'S, RANGER OUTFITTERS AND UNITED UNIFORM MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

B. Emergency Management Office

1. **Burn Building Bid** – Mr. Marshall reported the bids they received for the burn building came in high. He is recommending that they reject all bids and put out a bid next spring. Mr. Maio asked what was the budget for the burn building? Mr. Wheeler stated we had budgeted approximately \$100,000. Ms. Fitzpatrick asked what will you be doing to the building? Mr. Marshall explained we would bring in cargo containers and do controlled burns within them. We can attach those containers directly to the building.

MOTION: REJECTING THE BURN BUILDING BIDS AND AUTHORIZING THE DIRECTOR OF THE EMERGENCY MANAGEMENT OFFICE, IN CONJUNCTION WITH THE PURCHASING DIRECTOR TO BID THIS AGAIN IN THE SPRING MADE BY MS. FITZPATRICK. SECONDED BY MR. RYAN. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

2. **Approval to Bid for HVAC Units for the Tower Sites** – Mr. Marshall requested authorization to put out a bid for HVAC units for the tower sites.

MOTION: AUTHORIZING THE DIRECTOR OF THE EMERGENCY MANAGEMENT OFFICE, IN CONJUNCTION WITH THE PURCHASING DIRECTOR, TO SOLICIT BIDS FOR HVAC UNITS FOR THE TOWER SITES MADE BY MS. FITZPATRICK. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

C. 911

1. **Code Red Renewal** – Mrs. Goodwin requested authorization to renew their contract for Code Red. We have been with them since 2008 and they have done well. The price of \$21,656.25 for the year is the same as last year and we do have money available in our budget.

MOTION: AUTHORIZING THE 911 DIRECTOR TO RENEW THE CONTRACT FOR CODE RED FOR AN ANNUAL RATE OF \$21,656.25 MADE BY MR. RYAN. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

2. **UPS Maintenance Renewal** – Mrs. Goodwin stated they need to renew the maintenance of the UPS System for the 911 building. The contract we did last year was non-renewable. We worked with Mr. Morse and had to solicit informal quotes. She recommended contracting with D.C. Group for \$3,000 annually.

Mr. Mullen commented on the Gruber Power Services attachment, it states they will service past end of life. Would that save us money in the future to keep them? Mrs. Goodwin explained there is end of life and end of serviceable life. Companies will stop making parts after a certain point. Then they charge time and materials. The UPS is our power support and bridge between municipal power and our general 911 equipment including telephones and CAD.

Mr. Wheeler commented it is a calculation of the equipment and how it can be serviced. Mrs. Goodwin stated Mr. Marshall is looking at possible replacement of the UPS using grant funding in the future.

MOTION: AUTHORIZING THE DIRECTOR OF 911 TO CONTRACT WITH THE D.C. GROUP FOR THE MAINTENANCE OF THE UPS FOR AN ANNUAL COST OF \$3,000 MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

3. **Regional Phones Solution Discussion** – Mrs. Goodwin informed the committee that Steuben, Schuyler and Chemung are part of a phone solution contract that is expiring in 2019. We also all participate in the five-county fiber ring. We are getting together to start to look at a regional phone solution, including getting numbers from vendors and also looking at whether we want to do this ourselves or regionally. This will be a cooperative effort.

Mr. Wheeler explained Mrs. Goodwin has done a good write-up and will send that out this week for discussion at next month's meeting. We would be leveraging the over \$2 million investment in the fiber. This could decrease the costs for infrastructure. He noted this is not without risk, however, there is good potential with this. These are the types of things we had envisioned when we did the fiber project; being able to cut our costs for infrastructure.

D. County Manager

MOTION: TO ADJOURN REGULAR SESSION AND RECONVENE IN EXECUTIVE SESSION PURSUANT TO PUBLIC OFFICERS' LAW, ARTICLE 7 105.1.D. DISCUSSIONS REGARDING PROPOSED, PENDING OR CURRENT LITIGATION MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

MOTION: TO ADJOURN EXECUTIVE SESSION AND RECONVENE IN REGULAR SESSION MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

Mr. Mullen stated that he would like Mr. Baker and Mr. Sauro to review the Counsel at Arraignment Plan (CAP) and our options.

Mr. Baker stated the current plan is with the cities opting out. The cities have said that the CAP with the cities is untenable as that would leave their jurisdictions unprotected. With the cities opting out, there would be arraignments each morning and late afternoon in Hornell, Corning and the central arraignment part at the Jail. For any individuals outside of the two cities, they would be transported to Bath and the arraignment would happen here. The costs for the magistrates are covered by the Office of Court Administration (OCA). The cities would create two, 2 – 2 ½ hour blocks that would mirror Bath and we would have to have staff at all three locations. Staff would be on-call twice per day, 24 hours per day, 365 days per year. Mr. Baker stated he has looked specifically at his office, and he would need four additional full-time attorneys as well as additional per diem funds. They essentially would be staffing six locations per day.

Mr. Sauro stated his numbers are slightly different and he would need more attorneys. For the public defenders, we have to have time to consult with the clients and to make joint decisions. His figures are five additional full-time attorneys and additional per diem funds. That would bring the total number of attorneys between our two offices, to nine.

Mr. Mullen stated he thinks it would be worthwhile to address why we are looking at the CAP. The other option is running the Public Defender and District Attorney all over the County. How many attorneys would be required for that option? Mr. Baker replied there are 42 courts with 48 judges. Most of the courts are in session a couple of hours per week, or a couple of hours per month. You would be staffing continuously to cover 24/7 and we would be looking at adding 10 - 15 attorneys.

Mr. Sauro stated we have anticipated that CAP part and the cities of Hornell and Corning all running their arraignments at the same time of day. Mr. Baker stated the times will be pretty close as arraignments have to be held within 12 hours of arrest.

Mr. Maio stated so you would have someone in three locations at the same time, plus if court is in the morning, then you have to deal with courts running in Bath as well as the local courts having court. Mr. Baker stated that is correct. Mr. Sauro stated the issue with the timing structure for CAP for Bath is because if you spread the times apart any further, then you are looking at shift work.

Mr. Maio asked if the cities participate in the CAP, how would that lower your needs? Mr. Baker replied now there is a factor of three. If the cities participate, then he is looking at one attorney and Mr. Sauro would be looking at 1 ½.

Mr. Maio stated earlier we heard the concerns of the Mayor Buckley regarding staffing. Have you heard anything from the other police departments? Mr. Baker replied the other police departments do not have that option as they do not have holding facilities. The other local police departments would have to transport to Bath anyway.

Mr. Maio stated Corning has a certified holding facility. Mr. Baker replied yes and they are ready to go. We could go with the three location model if they wanted to.

Mr. Mullen stated so the District Attorney would need 1 ½ attorneys and the Public Defender would need 2 ½ attorneys if we went to a one CAP court. Mr. Sauro explained ideally that is where he would like to be. In terms of getting this done by January, we could get by with 1 ½ attorneys. That is the bare minimum. Mr. Baker stated if we are going to add nine attorneys, they will be arraignment attorneys only. They will not be handling much of anything else and will not be helping to reduce our workload. This will be a huge expense and it will be difficult to find nine attorneys.

Mr. Maio asked what about using part-time attorneys? Mr. Baker replied if they are part-time, we would need double the number of people. We will not be able to ask a part-time attorney to work holidays, nights and weekends. We also don't have the staff to hire part-time attorneys.

Mrs. Lando commented other counties are currently doing this. Have we talked to them to find out how it is working for them? Mr. Wheeler replied we can contact them, but we are different as we are a larger county. Mr. Baker commented Schuyler County has a part-time attorney handling their arraignments, however, they also have the capacity to add a stipend.

Mrs. Lando stated earlier we heard from Mayor Buckley and she would like to hear from Mr. Ryckman why the City of Corning wants to opt out. Mr. Mullen replied that he would first like Mr. Baker to continue to explain the other options.

Mr. Baker stated at one of our stakeholder meetings, concern was expressed about public safety and that there would be two uncovered communities if they cities had to transport to and from Bath. Our Plan B would be to hire more police officers. We talked with the Sheriff and deputies are cheaper than attorneys and they also add value. If we hire five deputies, we would hire two of those under Raise the Age. You would be left with three deputies and we could assign one deputy full-time to each of the Hornell and Corning zones to be able to be on call and if a transport were needed, they could do that. So, we would be looking at hiring 1 ½ attorneys for my department, 2 ½ attorneys for the Public Defender and three deputies. When the deputies are not doing transport, they are still patrolling and helping the community by increasing public safety.

Mr. Van Etten commented he likes this option better because of the problem with the County taking on \$700,000 - \$800,000 additional cost, but also because it provides the cities with police coverage. Is there any guess on whether this would be approved as it goes through the system? Judge Pero replied we cannot guarantee, but she believes this plan would be acceptable.

Mr. Mullen asked what about the logistics of this. If we have this are each of the arraignment parts 3 hours? Mr. Sauro replied the arraignment parts would be 2 ½ hours. Mr. Mullen asked if we had a deputy stationed in Hornell or Corning and they worked their way to Corning and back to Bath, could we cut down on the number of deputies needed? Mr. Wheeler replied that would be true if they were only covering 2 ½ hours in the am and pm. The Jail has been approved as a holding facility. If someone is arrested, then they are bringing them to the Jail until the am arraignment. We are transporting 24/7.

Mr. Maio asked what happens if someone is arrested at 6am in the City of Corning and court will be held at 8:30 a.m.? Sheriff Allard replied if that is a day when the Public Defender and the District Attorney are scheduled to be at court at 9:00 a.m., the city may elect to hold them. Mr. Maio asked how long can someone sit in holding before they are transported to Bath for arraignment? If they are arrested in Painted Post, how much time needs to pass before they are transported? Sheriff Allard replied no individual can be held longer than twelve hours without being arraigned. The law is that you can hold individuals for up to 48 hours if you have a certified holding agency, however, the agency would need to make that decision. Mr. Maio asked is it possible that not everyone would go to the CAP part as their court may happen to have a session? Mr. Baker replied that is correct. We are talking about after-hours arraignment.

Mr. Mullen stated he does not understand why you need to have an immediate pickup. Sheriff Allard explained if you are holding an individual during mealtime, you have to offer food. Another example is if you arrest a female, you have to have a female officer on the unit. This presents significantly increased challenges as well as overtime. If someone is not certified to observe a holding cell, then you would have to call someone in to do that. He stated he understands the challenges of lockup and the challenges of running a jail. The challenge is how do we comply with the constitutional requirements. With regard to staffing, the deputies are already maxed out on what they are doing. If we add this responsibility, we will need to add staff.

Mr. Baker stated there are three arraignment pieces. We are talking about a “Plan B” which is not having the cities opt out and goes back to having centralized arraignments. Arraignments would be held for 2 ½ hours twice a day and would be staffed with someone from the District Attorney’s Office and Public Defender’s Office. If Hornell or Corning picks someone up, the Sheriff will go and do the transport and bring them to Bath. That is what would happen under this “Plan B”. This would require the addition of 3 attorneys total and 3 deputies.

Mr. Van Etten asked who are the judges doing the arraignments? Mr. Baker replied it will cycle and the judges will do a calendar and schedule. Bringing the city court judges into the mix will reduce that.

Mr. Maio stated currently, if he is arrested in the City of Corning, his judge has to be an attorney. If the cities opt into this plan, now a resident of the city would be arraigned by someone who is not an attorney judge. Judge Doran stated he is unaware of any precedent that says you have a constitutional right to an attorney judge. Mr. Maio stated the State of New York says that. Judge Doran stated he is unaware of a precedent that says you have a right to an attorney judge based on where you live. We are doing this in Ontario County and it depends on how it is rotating through the CAP. There is a Court of Appeals case that says you are not entitled to have an attorney judge and that would be a binding case. Mr. Baker commented as it currently stands, if the city judge cannot appear, then the individual is taken to a town judge for arraignment. The case will go back to the City of Corning. We already do this on felony cases.

Mr. Doran commented the question has been vetted and answered. There are some very specific areas of law that talk about who can sit within the boundaries of the city. We do not have a CAP part in this district that runs within the geographic boundary of a city. There were chapter amendments.

Mrs. Lando asked the “Plan B” would require 3 full time attorneys? Mr. Baker replied approximately. Mr. Wheeler stated we budgeted for an attorney and clerical position for the Public Defender and an attorney for the District Attorney. Your actual incremental add is closer to 1 – 1 ½ positions.

Mr. Sauro commented he will be continually requesting to add on attorneys as we have the quality improvement and caseload cap requirements to meet and ILS will assist with funding. This will not be the end of the attorney ask. As we add folks, we will be able to use for the CAP as the need arises.

Mr. Mullen asked talking specifically about counsel at arraignment, will you need additional attorneys? Mr. Baker replied we have looked hard at our numbers and it will take what we have presented, assuming that we are covering five hours per day. That should not change. Mr. Swackhamer asked will there be additional staff other than attorneys? Mr. Baker replied similar to the Public Defender, he will also need a clerical position.

Mrs. Lando stated it will cost money to realign the Jail and where will we put the new staff? Sheriff Allard replied in the Jail we will use the booking facility. We are using the Livingston County model where they use their booking facility as a temporary holding facility. Being a temporary holding facility may increase our staffing needs at the Jail, but we will need to assess if we can handle that with the current staff. Sheriff Allard stated the five new deputies will be on the road and doing transports. We will need new vehicles for each of them.

Mr. Mullen asked the Sheriff to explain the process. Will two deputies be doing each pickup? Sheriff Allard replied only one deputy will be required on a transport unless it is a high risk individual or a member of the opposite sex. Mr. Van Etten asked if the New York State Police make an arrest, will they transport to the Jail? Sheriff Allard replied yes. The second part of the "Plan B" that we talked about was reimbursement with the cities. We would do a chargeback for the time deputies spend doing transports and mileage. He stated that Chief Spaulding estimated that they do 200 transports a year that would equate to about \$16,000 - \$20,000 in reimbursement.

Judge Doran stated he wanted to thank the committee for giving your attention to this. The Governor signed the legislation allowing the Sheriff to hold these individuals and we could not do any of this until that happened. That also contributed to the momentum for getting this in place. With the Sheriff, District Attorney, Public Defender and Assigned Counsel, this is how these things are supposed to happen. The way this plan is coming together and being discussed is how it is supposed to happen and you should be very proud. Judge Doran provided his cell number to the committee and asked if anyone had any further questions to please contact him. He appreciates the respect you have shown to us and we hold the same for you.

Mr. Nichols asked where will the additional attorneys be located? Mr. Wheeler replied we built in the increase for staff when we did the space study, however, we cannot accommodate nine additional attorneys.

Mr. Potter commented his understanding is that the local judges who are covering the arraignments will be reimbursed \$100 per day. Mr. Baker stated they will be reimbursed \$150.00 per session or two-hour block. Mr. Sauro stated if they are not called in, they do not get paid and that reimbursement is a State cost. Mr. Baker stated there will be zero additional cost for the local municipalities for the judge cost as the Office of Court Administration will be covering that. Mr. Potter asked does that include mileage? Mr. Baker stated he thinks they just get a flat rate.

Mr. Mullen stated as a point of order, we are running late and he would like to give the cities the option to speak.

Mr. Ryckman stated as Corning City Manager, we have put our issues on the table and they have been fairly well vetted this morning. In summary, counsel at arraignment needs to happen and the County cannot possibly afford to hire all those attorneys. Likewise, we are in the same boat. We only have two officers and a civilian dispatcher on duty per shift in the city. To take an officer off the road to transport to Bath and return just is not practical for us. Prior to me, we had 33 officers on the force, and now we have 21 officers. We just do not have the staffing to handle transports. The Sheriff came up with a practical solution that benefits both parties. There is a cost to do this, but we have talked about reimbursing the County on a per transport basis. This is the most practical way to accommodate that issue. The numbers would be received on a quarterly or semi-annual basis and we would likely have the expense deducted from our sales tax. The County would keep a running total and then true it up. Mr.

Ryckman stated he understands the costs involved and we all need to share in that. He has not talked to the City Council yet, but he is sure that they will understand this. He would like to say that Judge Doran is being very flexible. If we do not solve this locally, then it will be imposed upon us. He would like to say we have always had a good relationship with the County with the sales tax and the Land Bank, and he would like to continue that and he applauds all you have done for the cities over the years. This will be a huge lift on the County's part and he appreciates the committee's consideration of the Sheriff's proposal. If you approve, we would look to negotiate an inter-municipal agreement and we could revisit it after a period of time to make sure everything is working the way we want it to.

Mr. Maio asked if the Sheriff does the transports, you would opt in? Mr. Ryckman replied yes, that would be the decision of the City Council. The Council is aware of the CAP requirement and knows that we would be talking with the committee. He will contact the council within the next few days to bring them up to speed. He would ask the County to come down and provide a similar presentation to the Council.

Mr. Wheeler stated the process would be a letter of authorization on the Legislature's behalf. The CAP is the County's. In terms of approving the CAP, we do not require any action from the cities. If the cities said no, our CAP still gets submitted, so the cities do not need to formally take any action, but we obviously want their feedback and buy-in.

Mr. Van Etten commented to him, this seems like the best option and it can actually be implemented. However, what is the downside of doing this? Mr. Wheeler replied the financial impact. This "Plan B" is better than the other options. The downside is that you could be overstaffed, but you are providing more public safety. Mr. Van Etten stated the \$500,000 for five deputies and equipment, to him is the first year cost. There will also be a reduction in that going forward. Mr. Wheeler stated that is correct. It is likely that we will have to pay for the first year costs out of the Contingent Fund. Mr. Sauro commented the other benefit is you are improving the quality of Public Defender services. By consolidating arraignments at one location, it is more efficient as my attorneys will be spending their time litigating rather than driving.

Mayor Buckley stated he thinks it is a practical solution that the Sheriff came up with. We cannot afford to take our police out of the city and be a taxi service. This is something that both cities can get on board with. He still needs to go through City Council, but thinks this is the path forward.

Chief Murray of the Hornell City Police Department explained how they currently handle this in the city. We have a holding facility and we hold until a judge is available, then the Sheriff does the transport post-arraignment. We have the capacity to hold individuals until a particular time. We could also hold for the Sheriff to come and pick up. The Sheriff does the post-arraignment transport and under this new plan, that will no longer be needed and the cost to the Sheriff will be marginal.

Mr. Mullen asked will we need a special meeting to continue discussion on this? Mr. Wheeler replied you have a few options. If you are prepared and like the option presented to you, you could approve it today. If not, then we could hold a special meeting prior to the December 17th Legislative meeting. Mr. Mullen commented his preference is to move forward with the planning for this option, but he would like more information on why we need this, as well as the Sheriff's numbers on the anticipated revenue. He also would like the mechanics of how that reimbursement would work and hash out the agreements with the cities. This will give the cities a chance to talk before we give our final approval.

Secretary's Note: A Special Public Safety & Corrections Committee meeting will be scheduled for Monday, December 17, 2018, at 9:00 a.m.

MOTION: TO ADJOURN MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

Respectfully Submitted by Amanda L. Chapman, Deputy Clerk, Steuben County Legislature

****NEXT MEETING SCHEDULED FOR****

Monday, January 7, 2019

9:00 a.m.

PLEASE PROVIDE AGENDA ITEMS

NO LATER THAN NOON

Monday, December 31, 2018.