

STEBEN COUNTY PUBLIC SAFETY & CORRECTIONS COMMITTEE

Monday, March 4, 2019

9:00 a.m.

Legislative Chambers

Steuben County Office Building

Bath, New York

****MINUTES****

COMMITTEE: John V. Malter, Chair Kelly H. Fitzpatrick, Vice Chair Steven P. Maio
Frederick G. Potter

STAFF: Jack K. Wheeler Tim Marshall Tina Goodwin
Brenda Aston Andy Morse Cheryl Crocker
Jennifer DeMonstoy Jennifer Prossick Shawn Sauro
James Allard John McNelis Matthew Whitmore
Noel Terwilliger Jenn Smith Brian Flynn
Brian Harrison Angelo Sciotti Daniel Cox
William Burd Brandon Owen Ryan Thompson
Brooks Baker Brenda Mori

ABSENT: Thomas J. Ryan

LEGISLATORS: Carol A. Ferratella Robert V. Nichols Frederick G. Potter
Gary B. Roush Gary D. Swackhamer Scott J. Van Etten

OTHERS: Mary Perham
Allison Hunt

I. CALL TO ORDER

Mr. Malter called the meeting to order at 9:00 a.m. and asked Mr. Marshall to lead the Pledge of Allegiance.

II. APPROVAL OF MINUTES

MOTION: APPROVING THE MINUTES OF THE FEBRUARY 4, 2019, MEETING MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 3-0. (MR. MAIO ABSENT FOR VOTE)

III. DEPARTMENTAL REQUESTS

A. Public Defender

1. **Approval of Contract for Statewide Expansion of Hurrell-Harring Reform** – Mr. Sauro presented the committee with year one of the contract for the Statewide Expansion of the Hurrell-Harring Reform. This is a dedicated five-year contract; initially we will do the first year now and it will be good for five years. The dollar amount for years two through five have not been calculated yet and will be based on what tasks or hires the state approves.

Ms. Fitzpatrick asked was this budgeted for the current year? Mr. Sauro replied the projected budget is based on what ILS (Indigent Legal Services) believes the five-year total will be. We will modify that year by year and the allocation is performance based. Mr. Wheeler commented the numbers are not set in stone.

Ms. Fitzpatrick asked the first year ends March 31st? Mr. Sauro replied yes. Traditionally these grants are quite late; the last distribution that pertained to the Conflict Defender was a three year grant and those funds were not released until the third year.

Ms. Fitzpatrick asked will you spend the funds first and then submit for reimbursement? Mr. Sauro replied yes.

MOTION: AUTHORIZING THE PUBLIC DEFENDER TO ENTER INTO A FIVE-YEAR CONTRACT WITH INDIGENT LEGAL SERVICES FOR THE STATEWIDE EXPANSION OF HURRELL-HARRING REFORM MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 3-0.

B. Personnel

1. **Conflict Defender – Reclassification** – Ms. Aston requested authorization to reclassify the part-time Assistant Conflict Defender position to full-time. Our office is overwhelmed with cases right now. Mr. Klepacz, in his current capacity as part-time Assistant Conflict Defender is paid \$35,500 and last year handled 52 cases at a per case cost of \$600. If he is reclassified to full-time and paid \$67,500, the per case cost increases to \$675. The cost per case for Assigned Counsel is now at \$1,200. By reclassifying Mr. Klepacz to full-time, we could greatly reduce the cost to the County by 44 percent. Additionally, we also have the possibility of using Distribution #9 ILS funds to cover the cost of his salary. We would front the money and hopefully have those funds reimbursed.

Mr. Wheeler commented we originally had submitted a request for another part-time Conflict Defender and after speaking with Ms. Aston and Mr. Sauro, we determined that making Mr. Klepacz’s position full-time was more efficient and we are hoping to get the ILS funds to reimburse the salary.

Mr. Swackhamer asked does the \$35,500 Mr. Klepacz currently receives include benefits? Ms. Aston replied it is plus benefits. Mr. Sauro explained another part-time position would get benefits. Doing this, we are keeping benefits on the same individual and doubling the output. ILS Distribution #6 funds were for the addition of a part-time Defender. We combined Distribution #6 and #9 and believe that this will cover the salary for potentially six years. Mr. Swackhamer stated that he would like to see the true cost with the benefits. Mr. Malter commented the only thing going up would be retirement because of the additional salary.

Mr. Van Etten asked with 100 cases per year, is that level in alignment with what the State is recommending? Ms. Aston replied the caseload cap will go into effect in 2023. Mr. Sauro stated we are gravitating toward the State’s numbers. The felony defined cap would be 120 cases per attorney, per year. Misdemeanor cases would be 300 per attorney, per year. Ms. Aston stated we tried to abide by the cap and we could not as people were going without representation. Mr. Maio commented you could double Mr. Klepacz’s caseload if he is full-time. Ms. Aston replied yes. Additionally, we are also handling parole cases and she, herself, has handled 95 percent of those. Mr. Maio asked with this reclassification, will you continue to butt up against what two full time positions can handle? Ms. Aston replied that will eventually happen.

MOTION: AUTHORIZING THE RECLASSIFICATION OF ONE PART-TIME ASSISTANT CONFLICT DEFENDER POSITION, MANAGEMENT GRADE E, TO ONE FULL-TIME ASSISTANT CONFLICT DEFENDER POSITION, MANAGEMENT GRADE E IN THE CONFLICT DEFENDER’S OFFICE MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0. Resolution Required.

Mr. Malter asked with regard to the Public Defender’s monthly report, it looks as though the numbers are increasing dramatically. Mr. Sauro replied yes; our caseloads ebb and flow. Over the past three years cases gradually have increased across the board.

C. Emergency Management Office

1. **Acceptance of FY17 State Interoperable Communications Grant** – Mr. Marshall requested authorization to accept \$804,996 in FY 17 State Interoperable Communications Grant funds. These funds will be used for the UPS Generator and HVAC units for the tower sites and the UPS Generator for the 911 building.

MOTION: AUTHORIZING THE DIRECTOR OF THE EMERGENCY MANAGEMENT OFFICE TO ACCEPT THE FY 17 STATE INTEROPERABLE COMMUNICATIONS GRANT IN THE AMOUNT OF \$804,996 MADE BY MS. FITZPATRICK. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

2. **Upgrades to Communication System** – Ms. Fitzpatrick stated that she has some concerns regarding the upgrades to the communication system; specifically talking about the equipment being digital versus not and how the digital does not work in this area. Mr. Marshall explained part of the grant requirement was that equipment needs to be P25 capable (digital). We are purchasing P25 equipment so we can use the digital, but we are using that equipment in analog mode. Mr. Wheeler stated P25 is a federal requirement.

Mr. Marshall stated we have asked the fire departments and others purchasing equipment to purchase P25 capable, and we are also purchasing P25 equipment. He stated his concern is that four or five years down the road the FCC will come out with a mandate stating that you have to go to digital. If they do that, we will be ready.

Mr. Malter asked is high band digital? Mr. Marshall replied no, high band can be either digital or analog. The Law Enforcement channels are digital. We have decided that for now, Fire and EMS channels will be analog. Mr. Malter stated there were some concerns voiced by the Wayland Fire Chief. Where are we at with that? Mr. Marshall replied the equipment has been ordered and is starting to come in. It still needs to be programmed and then the equipment will be distributed to the departments.

Ms. Fitzpatrick asked why doesn't the digital work? Mr. Marshall replied it does work; it is similar to cell phones. When we are on the edge of coverage, we cannot use the digital channels. With the analog, we can still use the channels. Mr. Wheeler explained there are some gaps in areas and this is an interactive process. Our topography makes it very challenging.

Ms. Fitzpatrick asked is the digital equipment more expensive? Mr. Marshall replied yes, and that is one of the concerns the departments have. Mr. Malter asked how long will this equipment last? Mr. Marshall stated we have radios that have been in service for upwards of 20 years. Mrs. Ferratella asked what is the timeframe for programming the units? Mr. Marshall replied Televate is licensing the tactical frequencies for the fire departments. Once we have those frequencies secured, then we can program and distribute the equipment. We are estimating the programming will occur in April/May with cutover to the new frequencies in July.

Mr. Van Etten asked is it common for the FCC to issue edicts like that? Mr. Marshall replied yes. Mr. Van Etten asked when they do that, do they provide funding? Mr. Marshall replied no; however, they give you three to five years to comply.

D. Sheriff's Office

1. **Commendations** – Sheriff Allard introduced the members of C-Line of the Jail. They support each other tremendously. On February 7, 2019 an inmate in the Special Housing Unit attempted suicide by hanging. Officer Smith was the first on the scene, followed by Officer Flynn. They worked together to try to free the inmate. The other members of C-Line; Officers Cox, Harrison, Sciotti, Owen, Burd, and Sgt. Thompson all worked together to secure the unit. They acted very quickly and were able to save the life of an inmate. This is an example of the great teamwork of this shift.

2. **Contract Renewal – Swanson Inmate Commissary** – Sheriff Allard requested authorization to enter into a new contract with Swanson Inmate Commissary. We previously had a contract with them, but it had

lapsed. Part of the service includes kiosks for inmate to order things for themselves as long as they have funds in their account. There is no cost to the County.

Sheriff Allard commented that a certain percent is taken from the commissary funds and we can use that for any programs that benefit the inmates. Examples include the garden and the GED program.

MOTION: AUTHORIZING THE SHERIFF TO ENTER INTO A CONTRACT WITH SWANSON INMATE COMMISSARY TO PROVIDE COMMISSARY SERVICES TO THE STEUBEN COUNTY JAIL AT NO COST TO THE COUNTY MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

3. **Inter-Municipal Agreements for Inmate Housing** – Sheriff Allard requested authorization to renew the inter-municipal agreements with Chautauqua, Livingston, Ontario and Wyoming counties for inmate housing. The cost is \$87.00 per inmate, per day. This cost applies to housing in and housing out. Mr. Van Etten asked do we house more inmates out than in? Sheriff Allard replied it is rare that we house inmates out.

MOTION: AUTHORIZING THE SHERIFF TO RENEW THE INTER-MUNICIPAL AGREEMENTS WITH CHAUTAUQUA, LIVINGSTON, ONTARIO AND WYOMING COUNTIES FOR INMATE HOUSING AT A RATE OF \$87.00 PER INMATE, PER DAY MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

4. **Inmate Uniform Bid** – Sheriff Allard requested authorization to put out a bid for inmate uniforms.

MOTION: AUTHORIZING THE SHERIFF, IN CONJUNCTION WITH THE PURCHASING DIRECTOR, TO PUT OUT A BID FOR INMATE UNIFORMS MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

5. **Accept Additional STOP DWI Crackdown Funds** – Sheriff Allard requested authorization to accept an additional \$3,500.00 in STOP DWI Crackdown funds for 2019.

MOTION: AUTHORIZING THE SHERIFF TO ACCEPT AN ADDITIONAL \$3,500.00 IN STOP DWI CRACKDOWN FUNDS FOR 2019 MADE BY MR. POTTER. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

6. **Accept 2017 State Criminal Alien Assistance Program Grant Funds** – Sheriff Allard informed the committee that each year the Jail receives funds for the State Criminal Alien Assistance Program. This was presented to committee last month as a contract, when in effect it is actually a grant. He requested authorization to accept \$2,568 from the 2017 program.

Ms. Fitzpatrick asked what is this program? Sheriff Allard replied this is reimbursement for the wages we use for staff in the Jail.

MOTION: AUTHORIZING THE SHERIFF TO ACCEPT \$2,568.00 FROM THE 2017 STATE CRIMINAL ALIEN ASSISTANCE PROGRAM GRANT MADE BY MR. MAIO. SECONDED BY MR. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

7. **Certified Holding Facility** – Mr. Malter asked has the Jail been designated as a certified holding facility? Sheriff Allard replied yes, that has been approved. March 11th will be the CAP court kickoff.

E. **Personnel (Cont.)**

1. **Emergency Management – Reclassification and Transfer** – Mr. Marshall informed the committee that their Radio Technician, Fred Marvin, will be retiring at the end of this year. He has been with us

for twenty years and the amount of knowledge he has in unbelievable. Our goal is to bring an additional person on to mirror Mr. Marvin and transition to the Radio Technician position upon Mr. Marvin's retirement. Ms. DeMonstoy requested authorization to reclassify one zero-based Landfill Recycling Manager position, Grade XIII in the Public Works Department to one Radio Technician position, Grade XII in the Emergency Management Office. Once Mr. Marvin retires, his position will not be backfilled.

Mr. Malter asked how long is the training and when will the retirement happen? Mr. Marshall replied that Mr. Marvin has indicated that he will be retiring around Christmas. Mr. Wheeler commented it may be May before we get someone in place. We did something similar for Weights & Measures with a training position and that seemed to work very well.

MOTION: AUTHORIZING THE RECLASSIFICATION AND TRANSFER OF ONE ZERO-BASED LANDFILL RECYCLING MANAGER POSITION, GRADE XIII IN THE PUBLIC WORKS DEPARTMENT TO ONE RADIO TECHNICIAN POSITION, GRADE XII IN THE EMERGENCY MANAGEMENT OFFICE MADE BY MS. FITZPATRICK. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 4-0. Resolution required.

Mr. Wheeler commented we have saved a significant amount of money having an in-house radio technician as he was able to work on a lot of things rather than having to contract that work out.

F. District Attorney

1. **Contract** – Mr. Terwilliger informed the committee that ADA Tunney had submitted a brief to the NYS Appellate Division and we were advised that it needed to be submitted in a PDF searchable form. We needed to be able to obtain software to do that, however, there was a timeline to get those briefs to the Appellate Division. We were able to have a local attorney do that for us for \$500; \$250 for each brief. They scanned the document and applied the Adobe software to make it a searchable document. We now have the software and will be training our paralegals on the use of it.

Mr. Malter asked what was the cost of the software? Mr. Terwilliger replied it was \$1,800 for eight licenses. Mr. Wheeler explained this was a one-time purchase. He requested the committee ratify the expenditure of the \$500 that the DA's office spent to have Thomas Pelych convert the documents. Additionally, in the interest of full disclosure, Thomas Pelych is the son of ADA Pelych.

MOTION: RATIFYING THE CONTRACT WITH THOMAS PELYCH, ESQ. TO CONVERT TWO BRIEFS INTO A PDF SEARCHABLE DOCUMENT FOR THE NYS APPELLATE DIVISION FOR A TOTAL COST OF \$500.00 MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

IV. **OTHER BUSINESS**

A. *Amendment to Minutes* – Mr. Maio stated that he arrived after the minutes had been approved. At last month's meeting the discussion regarding SCOPE's request for a memorializing resolution relative to the Second Amendment. He had mentioned that he thought it was premature to ask for something and not have a draft resolution to look at. Mr. Maio stated the minutes state that it was presumptuous and he asked that they be amended to reflect premature.

MOTION: AMENDING THE MINUTES OF THE FEBRUARY 4, 2019, TO CHANGE THE WORK PRESUMPTUOUS TO PREMATURE IN THE FIFTH PARAGRAPH UNDER THE SCOPE DISCUSSION MADE BY MS. FITZPATRICK. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

B. *Memorializing Resolution Relative to Continued Support of the Second Amendment* – Mr. Malter asked if there were any comments regarding the proposed resolution that Mr. Ryan sent out to the committee. Mr. Maio stated that he would like to amend the resolution to strike the fourth "Whereas". It has been shown time and again that increased

penalties doesn't technically have any effect on criminals. They either are doing the violent crime heedless of any consequences or are not planning to be caught in the first place. Additionally, if we tie the activity of gun violence to mental illness, we lose our focus. That muddies the water for the resolution. He stated that he can wholeheartedly support the other segments of the resolution.

MOTION: AMENDING THE PROPOSED RESOLUTION MEMORIALIZING CONTINUED SUPPORT OF THE SECOND AMENDMENT OF THE UNITED STATES CONSTITUTION TO REMOVE THE FOURTH WHEREAS PARAGRAPH AND ADOPTING AS AMENDED MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK FOR DISCUSSION.

Mr. Potter asked will this come back to haunt us in the future with regard to our ability to receive State funding? Mr. Wheeler replied no. Previous Legislatures of Steuben County have gone on record opposing the SAFE Act or supporting Second Amendment rights. This is just a continuation of that. This is a mechanism for you to voice your opinion to the State Legislature.

VOTE ON PREVIOUS MOTION: ALL BEING IN FAVOR. MOTION CARRIES 4-0. Resolution Required.

MOTION: TO ADJOURN MADE BY MR. POTTER. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 4-0.

Respectfully Submitted by,

Amanda L. Chapman
Deputy Clerk
Steuben County Legislature

****NEXT MEETING SCHEDULED FOR**
Monday, April 1, 2019
9:00 a.m.**

**PLEASE PROVIDE AGENDA ITEMS
NO LATER THAN NOON
Monday, March 25, 2019.**