

STEBEN COUNTY ADMINISTRATION COMMITTEE

Tuesday, September 8, 2020

9:00 a.m.

*Legislative Chambers, 3rd Floor, Annex Building
Bath, New York*

****MINUTES****

COMMITTEE:	Brian C. Schu, Chair Kelly H. Fitzpatrick	Robin K. Lattimer, Vice Chair Gary D. Swackhamer	Carol A. Ferratella
STAFF:	Jack K. Wheeler Rob Wolverton Shawn Sauro Wendy Jordan Tina Goodwin	Christopher Brewer Brooks Baker Jennifer Prossick Andy Morse Tammy Hurd-Harvey	Brenda Scotchmer Amy Dlugos Nate Alderman Jennifer DeMonstoy Kathy Muller
LEGISLATORS:	Scott J. Van Etten John V. Malter	Jeffrey P. Horton Robert V. Nichols	Hilda T. Lando
OTHERS:	Mary Perham Steve Manning, Southern Tier Network Tony Marzolino, Southern Tier Network		

I. CALL TO ORDER

Mr. Schu called the meeting to order at 9:30 a.m. and asked Mrs. Ferratella to lead the Pledge of Allegiance.

II. APPROVAL OF MINUTES

MOTION: APPROVING THE MINUTES OF THE AUGUST 11, 2020, MEETING MADE BY MS. FITZPATRICK. SECONDED BY MRS. FERRATELLA. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

III. DEPARTMENT REQUESTS

A. Purchasing

1. **2020 Surplus Auction** – Mr. Morse requested authorization to proceed with the 2020 surplus auction using the low bidder, Roy Teitsworth, Inc. and next year we will issue another RFP. There will be a 10 percent buyer’s premium and for those using a credit card, there will be an additional 2 percent fee. For purchases over \$5,000, the buyer’s fee percentage will drop. Ms. Lattimer asked will this be an online auction? Mr. Morse replied yes, this will be online only and will be held later in October. Mrs. Ferratella asked will the towns be participating? Mr. Morse replied no. Mrs. Ferratella asked is there any reason for us not to go forward with this? Mr. Morse replied no. I just wanted to make sure you were okay proceeding.

MOTION: AUTHORIZING THE PURCHASING DIRECTOR TO HOLD THE 2020 SURPLUS AUCTION ONLINE ONLY USING ROY TEITSWORTH, INC. MADE BY MRS. FERRATELLA. SECONDED BY MS. LATTIMER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

B. Information Technology

1. **IT Vehicle Lease** – Mr. Wolverton stated the 2020 budget had included a new vehicle. We did not purchase the vehicle prior to COVID and our current vehicle broke down. The estimated cost to repair is \$2,400. He requested authorization to lease a vehicle for 2021, but to actually start the lease now. I do have \$2,000 in the current operation of vehicles line item which would cover the lease for the remainder of this year.

MOTION: AUTHORIZING THE DIRECTOR OF INFORMATION TECHNOLOGY TO LEASE A VEHICLE FOR 2021 WITH THE LEASE STARTING IMMEDIATELY MADE BY MR. SWACKHAMER. SECONDED BY MRS. FERRATELLA FOR DISCUSSION.

Mr. Malter asked are we getting the current vehicle fixed and then selling it? Mr. Wheeler replied the current vehicle is 12 years old and is in rough shape. Mr. Horton asked could we send it to auction? Mr. Wheeler replied yes, we could do that.

VOTE ON PREVIOUS MOTION. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

C. Clerk of the Legislature

1. **Adopting the LGS-1 Retention Schedule** – Mrs. Scotchmer informed the committee that New York State Archives has adopted a new records retention schedule which is now called LGS-1. Before we can dispose of any records, the Legislature needs to formally adopt the new schedule.

MOTION: ADOPTING THE RETENTION AND DISPOSITION SCHEDULE FOR NEW YORK LOCAL GOVERNMENT RECORDS (LGS-1) MADE BY MS. FITZPATRICK. SECONDED BY MS. LATTIMER. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

2. **Updating the FOIL Subject Matter List** – Mrs. Scotchmer stated the Subject Matter List for FOIL needs to be amended to match the new records retention schedule, LGS-1.

MOTION: AMENDING RESOLUTION NO. 110-12 RELATIVE TO THE FREEDOM OF INFORMATION LAW AND, IN PARTICULAR, THE SUBJECT MATTER LIST MADE BY MS. LATTIMER. SECONDED BY MRS. FERRATELLA. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

D. County Manager

1. **USDA Broadband Grant Discussion** – Mr. Wheeler explained Southern Tier Network (STN) has been working with the three counties, Schuyler, Chemung, and Steuben, on the USDA Reconnect Grant. There is \$25 million that is available. Hunt Engineers was contracted by STN to come up with a design path. The maps that were emailed to you last week show the most significant portion of it. We wanted to discuss this with the committee and there will be more details in the future as it is still under evaluation. We don't know if or when the USDA will make a decision on the award. No formal action is needed today, this discussion is just to gauge the support of the Legislature as a whole as this is still under review.

Mr. Manning stated we went for the maximum amount of the grant for \$25 million. This mapping identifies the areas that Hunt determined met the USDA eligibility criteria. There are nine sectors in the three counties. The maximum speed in order to submit for the grant needed to be less than 10 megabytes down and 1 megabyte up. For today's discussion we are focusing on Steuben sections 5, 1, 2, 9, 3 and 4. We will review the financials and the assumptions we made in submitting the USDA grant. We have worked very closely with the county and Hunt to define where these addresses are in these sectors.

Mr. Potter asked what are the USDA requirements? Mr. Manning replied internet service is a key focus. We are getting into the rural underserved areas with limited or no internet access. The USDA is saying any home that has less than 10 megabytes (slower speed than DSL). We identified that level of service as any home that did not have 100 megabytes of internet speed as underserved. We are looking to future proof for the next four years.

Ms. Fitzpatrick stated with the Town of Bath; I live in Savona off of SR 415 and the only internet is satellite internet and it is extremely limited. Our other access is through Verizon and that is very limited. That whole area is underserved as well. Mr. Manning stated you are a great example of the challenge across the country to identify the underserved. Under FCC data collection they require service providers to self-submit and do that every two years. There is no audit check. There are many census blocks in rural areas that Spectrum has built out and those are supposed to be completed by 2021. However, they may only be building out to two or three homes,

but there are many other homes in that census block. The Federal government and the counties are stepping up and applying for this grant.

Mrs. Ferratella asked since this is still under review, do we have any idea when it will be completed? Mr. Manning replied it should be completed this quarter. We are expecting to hear from the USDA in late October or November. Mrs. Ferratella asked if you don't get the grant, will you have the ability to contract with providers to do the build out? Mr. Wheeler replied not for the amount of investment. This grant is a 25 percent match. It will cost \$20 million to do a build out with the local cost of \$5 million. If this is not successful, this dovetails with the Fujitsu study and we could drive investment into the broadband here. In order to do that, significant local dollars would be needed. For the amount we would put up, we would not be able to get that much bang for the buck.

Mr. Malter commented I am assuming that those sectors that are not listed in these districts have internet service that is adequate. Mr. Wheeler replied not necessarily. A large portion does. That is a policy decision on where these things are built out and I don't want to choose an area on your behalf. We asked Hunt and Fujitsu to make the decision where to start the build out to maximize the investment. There are more, but these sectors have clearly met the USDA requirements. Mr. Manning explained as a comparison, there are 2,794 address points in Steuben County under this grant. The Fujitsu study total number of addresses with less than 100 megabytes was 7,828 in Steuben County. Mr. Wheeler stated the Fujitsu study is still being worked out and we anticipate being able to share that in October.

Mr. Van Etten stated given the new way we are educating kids, it is critical that we try to help people that don't have internet service or have very poor service. If we are lucky enough to get the grant, what is the timing for completion? Mr. Wheeler replied the goal would be to do these things through the USDA grants. When the State has more economic development money, we will apply for that. To really accomplish this it would require a large investment on a municipal or co-op model.

Mr. Manning stated the USDA grant we applied for was for a 100 percent fiber build to those addresses and we are looking at future proofing for the next four years. Mr. Marzolino reviewed the financial breakdown for the committee. He stated the region has a PFSA classification and Steuben County comprises 81 percent of the total grant. He explained assuming we get federal funding of \$15 million, the County would contribute \$5 million. If the County paid that local match 50 percent cash and 50 percent borrowing then any revenues would be paid back by STN. With 2,794 subscribers there would be different take rates and that is calculated by STN. It costs STN \$700 per mile to maintain the dark fiber network. The revenue is then broken down between the service providers and STN. If a subscriber paid \$50 - \$70 per month for 100 megabyte service, that would be split with the internet service providers. In this scenario we would need to see either a 50 percent or 60 percent take rate and both would generate revenue. The second scenario would assume 100 percent debt for the local match and the take rate would need to be at 60 percent. The third scenario is assuming 100 percent cash payment of the local match and both a 50 percent or 60 percent take rate would result in revenue. He commented that a 50 percent take rate is pretty common in the industry. Mr. Marzolino stated we would use dark fiber to get to these addresses as well and that will help reduce the buildouts.

Mr. Malter asked so would we be doing \$2,400,000 cash and then borrowing the balance of the \$5 million? Mr. Wheeler replied you could do all by bond, half cash and half bond or all cash. Mr. Malter stated if we don't take the revenue into offset then that would be the County's responsibility? Mr. Schu replied yes as you would not be recovering the money to cover the debt. This is being presented to get the general sense of the committee going forward. Mr. Wheeler stated if the grant is awarded, we would come back to you and have a discussion about how to finance it. We think this is a very good project and it shows the three counties working closely together, but a lot of communities across the country are also applying for funding.

Mr. Van Etten commented the other two counties both are very interested in this. Mr. Wheeler commented both Chemung and Schuyler took this to their Boards. Mr. Manning stated Schuyler has indicated they are moving forward with cash for their match. Chemung did not have final approval yet, but are very optimistic to use cash.

Ms. Fitzpatrick commented if we have learned anything from the situation we have been in the last six months, we desperately need this infrastructure and moving forward with the project is absolutely critical. Mr. Van Etten stated I agree and for us this is the next phase of when we signed up with STN to do the backbone and towers. We knew that would come in handy and now is the time to utilize that. We are looking at a concentrated area and this is not across the county. We are starting with the low-hanging fruit and with the Fujitsu study we will do the next phase. Ms. Fitzpatrick commented not having internet is like not having electricity and most people cannot comprehend that.

Ms. Lattimer stated the Legislature made a commitment to STN more than two years ago. The function of county government is to serve the overall good of the county. Our constituency will not be competitive unless we are able to do this. With online learning we have to have these dark areas lighted and give them the services. That is what county government is for.

Mr. Manning stated we have worked with the Community Foundation Group, United Way, Corning-Painted Post School District, and Corning, Inc. over the past two weeks. They did a regional survey to identify those homes that do not have internet and there are 170. We are still working as a group to see where they are and what services are available to those homes. We are also trying to address the needs of the K-12 students. With this USDA competitive grant there are at least four counties/towns in our region that are applying. If we knew collectively that all three counties were supportive, we could be more aggressive in applying for this.

Mr. Wheeler stated that was one of the reasons to have a discussion with all the counties so that STN or I can work with our representatives to help advocate for us. I think we push forward if that is your wish. Mr. Malter asked is there a timeframe for when the application will be approved or disapproved? Mr. Wheeler replied it will probably be this quarter.

Mrs. Ferratella asked what is the timing for looking at something wireless? Mr. Manning replied wireless is easier to get up and running operationally. With fiber, we have to pull it to the homes and there is an application process from the pole owner. Wireless is much quicker, but our terrain makes it very challenging. Discussion followed.

2. **Full-Time and Part-Time Positions Discussion** – Mr. Wheeler stated this discussion relates to full-time and part-time positions in the District Attorney's Office, along with those that fall somewhere in between. We do have one legacy position, Joe Pelych, but the remainder of the employees are either 50 percent or 100 percent. In the District Attorney's Office when an employee cannot practice as extensively as others based upon their requirements, that makes recruitment somewhat of an issue. For discussion today is the 80 – 90 percent positions and those are getting pretty complicated. A 50 percent position on average is working on average 20 hours per week; some are working more than 20 hours. A 75 percent position would be 30 hours. We are trying to find other alternatives for discussion purposes. Our recommendation would be for some to hire 50 percent, 75 percent or 100 percent and if the salary is more than that percent on Step 5 of the salary schedule that would come to the committee. This is another option that we had discussed internally.

Mr. Swackhamer stated I cannot be in favor of this; it is 50 percent or 100 percent, very simple. If it is 75 percent, who would judge the workload? Mr. Van Etten replied the department head would. I am not sure why you would be so strict in not giving flexibility. How does it hurt us to allow a department to make a decision to fund someone for 30 hours? What justification do you have to limit it? Mr. Swackhamer stated I don't see why we need another category. If they work 30 hours, what do they do with their extra time? How do we stop their extra job from running into their County job? Mr. Van Etten replied that is the department head's responsibility to manage. The employee has to get 30 hours. How do we manage that when they are 50 percent? We trust the department heads to manage. Mr. Swackhamer asked do we want to give them more responsibility? Why are we talking about this for basically one person at this point? Mr. Wheeler stated in my view we are not talking about the 80 percent person as they are already on the books. We are talking about the future.

Ms. Fitzpatrick stated are there other departments that take advantage of these situations with part-time and full-time? Mr. Wheeler replied the Public Defender and the District Attorney have part-time and full-time. We also have part-time staff out at the Jail, Sheriff's Office and Buildings & Grounds.

Ms. Fitzpatrick asked if there is a part-time Sheriff's Deputy, are we not concerned with what they do with their other hours? Are we having this conversation because of the outside attorneys? Mr. Wheeler replied yes, we are talking about managing that and recruitment.

Mr. Potter commented it is frustrating that we have to keep going to this conversation. There is a recruitment issue in getting experienced attorneys. If the department head is willing to take on that responsibility and it gives you experience in that department and they are a good employee, it is a good idea. The more flexible we can be, the more flexibility we have to bring in talent.

Mr. Malter commented of all the departments, the only one I know is the District Attorney that is not dealing with 50 percenters and 100 percenters. Mr. Wheeler replied that is correct. We have had intermittent discussions and this would formalize the process and would provide the options.

Mr. Malter commented I have no problem with the three options as long as we can control it. Ms. Lattimer stated the concern is not with the three options; the issue is the policing of it and having confidence in that person to actually control it. Mr. Wheeler stated it comes down to the department head to make sure there are sufficient hours and that they are getting the work done.

Mr. Potter stated I thought the concern was some part-time attorney and conflicts. Can we strictly define that? Mr. Baker replied we have done that and gone with a more strict position on conflicts. We have said that as an Assistant District Attorney, the County is not your client, but we have gone back to our staff and updated that to say that we treat the County as a client. If we have a client conflict with Steuben County, then they cannot defend under a private practice. That should eliminate the problems with the conflicts. I will write a more formal policy and that policy will apply to part-time and more than part-time. Ms. Prossick commented the revisions to the Ethics Local Law also makes that a little clearer.

Mr. Malter asked do we need to formally adopt the three tiers? Mr. Wheeler replied it will require a change in the *Administrative Code*. Mr. Van Etten commented this would affect all positions with the exception of the existing legacy employee. If we trust our department heads to manage the 50 and 100 percenters, we should trust them with the 75 percenters.

Ms. Prossick stated with the 50 percenters, they typically do not have office space and they do not report at a building. The full-timers are in the building. One of the problems with the 75 percenters is do they get an office and do they report to a building. That is the blurred line. Mr. Van Etten commented that is up to the department head and it is wrong to limit their flexibility because of the trouble they have finding attorneys.

Mr. Baker stated the advantage of getting a 75 percenter is that we can hire people with a lot more experience. This gives us the ability to bring people in that we don't have right now. We just cannot find experienced attorneys. As an example, Mr. Pelych is doing more than I will get from someone newer.

Mr. Swackhamer asked how do we handle the benefits for these positions? Mr. Wheeler replied this does not change the benefit structure for the 50 percenters. We can write up the changes to the *Administrative Code* and bring that to committee for next month.

MOTION: TO ADJOURN REGULAR SESSION AND RECONVENE IN EXECUTIVE SESSION PURSUANT TO PUBLIC OFFICERS' LAW, ARTICLE 7§ 105.1.F. THE MEDICAL, FINANCIAL, CREDIT OR EMPLOYMENT HISTORY OF A PARTICULAR PERSON OR CORPORATION, OR MATTERS LEADING TO THE APPOINTMENT, EMPLOYMENT, PROMOTION, DEMOTION, DISCIPLINE, SUSPENSION, DISMISSAL OR REMOVAL OF A PARTICULAR PERSON OR CORPORATION MADE BY MS. FITZPATRICK. SECONDED BY MS. LATTIMER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

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

MOTION: TO ADJOURN MADE BY MR. SWACKHAMER. SECONDED BY MRS. FERRATELLA. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

Respectfully Submitted by

Amanda L. Chapman
Deputy Clerk
Steuben County Legislature

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

Tuesday, October 13, 2020

9:00 a.m.

Please send agenda items to the Clerk of the Legislature's Office

NO LATER THAN NOON

Wednesday, October 7, 2020