

Regular Meeting of the
Hillsborough County Board of Commissioners
April 15, 2009
Bouchard Building, Goffstown, NH

Minutes of the Public and Non- Public Session
(Not Official Until Approved by the Board and signed by the Clerk.)

Present: Comm. T. Pappas, Comm. C. Holden, Comm. M. Clemons, C. Kirby, B. Moorehead, J. O'Mara, M. Rusch, M. Wageling, G. Wenger, and L. Stonner.

Also Present: K. Covert, H. Bernier, S. Lyons, S. Naughton, C. Benner, S. Clement, S. Morin, L. Moniz, P. Martel, S. Ramsey,

1. Pledge to the Flag

Comm. Pappas called the meeting to order at 9:07 a.m., followed by the Pledge to the Flag led by J. O'Mara.

2. Administrative Business

Minutes

There were no minutes to approve at this time.

Approval of Payroll Register

Motion: To approve the Payroll Register dated 4/2/09 in the amount of \$1,124,516.34, subject to review and audit. By Comm Clemons, second by Comm. Holden. Motion carried.

Approval of Accounts Payable Register

Motion: To approve the Accounts Payable Register dated 4/10/09 in the amount of \$5,372,838.68, subject to review and audit. By Comm Clemons, second by Comm. Holden. Motion carried.

Motion: To approve the Accounts Payable Register dated 4/13/09 in the amount of \$162,238.31 subject to review and audit. By Comm. Holden, second by Comm. Clemons. Motion carried.

Sheriff's Extraditions

Motion: To approve the Sheriff's Extradition dated 2/20/09 in the Amount of \$469.34, noting that it was previously approved by the County Attorney. By Comm Clemons, second by Comm. Holden. Motion carried.

Approval of Transfers

Transfer # 2009-14 – Temple Street

Motion: To approve Transfer # 2009-14 for Temple Street, to move \$1,000 from line 4194-0297 and to move \$600 from line 4194-7390; and to transfer the amount of \$1,600 to line 4197-7650, Fuel. By Comm. Holden, second by Comm. Clemons. Motion carried.

Transfer # 2009-15 – Nursing Home

Motion: To approve Transfer # 2009-15, to transfer \$15,500 from line 34414000-7013, Nursing Home Outside Wages; to transfer \$15,500 to line 34418000-7010, Nursing Home Social Services, Salaries and Wages. By Comm. Holden, second by Comm. Clemons. Motion carried.

Transfer # 2009-16 – Nursing Home

Motion: To approve Transfer # 2009-16, to transfer \$50,500 from 34414000-7013, Nursing Outside Wages, to transfer \$50,000 from 34421000-7010, Rehab Salaries/Wages; and to transfer \$100,000 to 34420000-7330, Pharmacy (Drugs). By Comm Clemons, second by Comm. Holden. Motion carried.

Transfer # 2009-17 – Business Office Overtime to Unemployment

Motion: To approve Transfer # 2009-17, to transfer \$550 from 4150-7011, Business Office Overtime; and to transfer \$550 to 4150-7110 Unemployment Tax. By Comm Clemons, second by Comm. Holden. Motion carried.

Mr. Wenger noted that this request addresses an increase in the Unemployment Tax for the County.

Comm. Clemons inquired about the former Transfer 2006-16, asking if the fact that the large amount of money available for transfer from the Outside Wages line is an indication that the line was over-budgeted. Mr. Wenger responded that it could be a reflection of the times, noting that Mr. Moorehead indicated there is little turnover.

Transfer # 2009-18 – County Attorney & County Complex to DOC Insurance

Motion: To approve Transfer # 2009-18, to transfer \$10,000 from 4123-7140, County Attorney-Insurance and to transfer \$10,000 from 41987140, County Complex, and to transfer \$20,000 to the Department of Corrections line 4230-7140, Insurance.

Transfer # 2009-19 – Complex Fuel to Complex Auto Repair

Motion: To approve Transfer # 2009-19, to transfer \$750 from 4198-7650 County Complex Fuel (Heating), and to transfer \$750 to Complex, line 4198-7730, Auto Repairs. By Comm. Holden, second by Comm. Clemons. Motion carried.

Transfer # 2009- 20 – Corrections Postage OT Supplies to Office Supplies

Motion: To approve Transfer # 2009-20, to transfer \$1,500 from 4230-7380, Corrections, to transfer \$500 from 4230-7310, OT Supplies; and to transfer \$2,000 to 4230-7360, Office Supplies. By Comm Clemons, second by Comm. Holden. Motion carried.

Transfer # 2009- 21 – Corrections Social Security to Miscellaneous lines

Motion: To approve Transfer # 2009-21, to transfer \$23,000 from 4230-7100, Corrections Social Security, and to transfer \$6,000 to 4230-7610 Electricity, and to transfer \$3,000 to 4230-7620 Gas-Heating/Cooking, and to transfer \$1,000 to 4230-7630 Water, and to transfer \$13,000 to 4230-7640 Sewer, for a total transfer of \$23,000. By Comm. Holden, second by Comm. Clemons. Motion carried.

Transfer # 2009- 22 – Human Services Medicaid to Temple St. Buildings

Motion: To approve Transfer # 2009-22, to transfer \$337,000 from 4444-7560 Human Services INC/Medicaid, and to transfer \$337,000 to 4197-7960 Temple Street, Buildings. By Comm Clemons, second by Comm. Holden. Motion carried.

Transfer #2009-23 – Human Services Medicaid to Corrections New Equipment

Motion: To approve Transfer # 2009-23 to transfer \$210,000 from 4444-7560 Human Services INC/Medicaid, and to transfer \$210,000 to 4230-7970 Department of Corrections, New Equipment. By Comm. Holden, second by Comm. Clemons. Motion carried.

3. Public Comment on Agenda Items

There was no one present from the public who wished to address the Board.

4. Department of Corrections

Comm. Pappas recognized Supt. O'Mara who presented the Department of Corrections' Census, noting that as of April 9, the Census was 584; he explained that this included 501 men of whom 308 are being held pre-trial, and 193 have been sentenced. There were 68 women of whom 34 are being held pre-trial and 34 have been sentenced.

Bid # FY09-90 - Carrier Fan Coil Thermostats.

Mr. O'Mara presented Bid # FY09-90, noting that this bid is for Carrier Fan Coil Thermostats. He recommended US Mechanical, Chelmsford, MA, as the lowest responsible bidder at a price of \$6,798.

Motion: To approve Bid # FY09-90 for the County Complex for Carrier Fan Coil Thermostats, noting that US Mechanical, Chelmsford, MA, is the lowest responsible bidder at a price of \$6,798. By Comm. Holden, second by Comm. Clemons. Motion carried.

5. Nursing Home

Census

Comm. Pappas recognized Mr. Moorehead who presented the Nursing Home Census. He noted that

as of April 2, the Census was 272, which included 207 Medicaid residents, 35 private pay residents, and 30 Medicare Part A residents.

Mr. Moorehead presented the March revenue report, and informed the Board that the budget for March was \$1,655,673, while the actual revenue was \$1,746,535, resulting in a positive variance of \$90,862 to the good.

Mr. Moorehead referred the Board to a recent audit review performed by the Social Security Administration that was included in today's packet. He noted that the Nursing Home received a very favorable review.

Mr. Moorehead informed the Board that the Nursing Home will be recognizing its employees with the Employee Service Awards in May, and asked for the Board's approval to purchase the awards at a cost of \$1,615.

Motion: To authorize Mr. Moorehead to purchase the awards for years of service at the Nursing Home at a cost of \$1,615. By Comm. Holden, second by Comm. Clemons. Motion carried.

6. Human Services

Travel Request

Mr. Wenger informed the Board that it had a request before it from the Human Services Director, E. Robinson. The request is to attend the NACo Annual Conference in Nashville, TN. The Board discussed the request.

Motion: To approve the request of the Human Services Director to attend the NACo Annual Conference in Nashville, TN, with a request that receipts be submitted. By Comm Clemons, second by Comm. Holden. Motion carried.

8. Old/New Business

County Attorney request to execute contract

Mr. Wenger referred the Board to the Law Intern contract discussed at the April 1st Board meeting, and inquired if the Board was ready to proceed with that.

Motion: To authorize the Chair to execute the Law Intern agreement. By Comm. Holden, second by Comm. Clemons. Motion carried.

UNH Cooperative Extension – Request to use Complex Parking Lot

Supt. O'Mara presented the Board with a request from UNH Cooperative Extension to use the Complex parking lot on Saturday, June 13th from 7:00 a.m. to 3:00 p.m. for a Yard Sale, noting that the Cooperative Extension has done this in the past. Mr. Wenger recommended that the Cooperative Extension speak with the Sheriff's Office relative to any security issues.

Motion: To approve the request of the Cooperative Extension to use the Complex parking lot on Saturday, June 13th from 7:00 a.m. to 3:00 p.m. for a Yard Sale. By Comm. Holden, second by Comm. Clemons. Motion carried.

Supt. O'Mara reported that the access road to the Piscataquog River is open, and noted that he is not sure if the stocking of fish has been done to date. He further noted that there is a second access road to the river off Henry Bridge Road, and said that for the last two years, the solid gate near the road has been closed because three years ago, someone dumped 66 empty paint cans and roofing debris.

Comm. Holden inquired if there has been continued dialogue relative to competing applications between Rockingham County and Hillsborough County for a Mental Health grant that was submitted, noting that she favors continuing the dialogue, and making sure that in the initial phase, the County is not competing; however in the second phase, the County is competing. Attorney Wageling responded that the County is in competition if it gets to the second phase. She offered to contact the Attorney General's office to determine if it has heard anything that warrants further dialogue; she further noted that she will attend a meeting today in Nashua relative to this and to a Byrne Justice grant. Comm. Holden favored continued communication, to which Attorney Wageling noted that she will continue to participate in her role as a prosecutor.

Mr. Wenger informed the Board that the State Fire Marshall was here the previous day, and the County now has an Occupancy Permit for the Goffstown District Court on the second floor of the Bouchard Building.

Mr. Wenger communicated that with respect to Chestnut Street; the State has provided a document, which is essentially an extension to the existing lease. The intention of the State is to extend the present lease under the present terms through March, 2010. This will prevent having to go back to Governor and Council if the move scheduled for December is delayed. Mr. Wenger noted that under the present terms of the lease, the County can give 30 days notice of the intent to move out. He noted that the proposal that he received changes that term to 60 days, but it is up to the County which option it prefers; he suggested leaving it at 30 days, noting that the County can always give 60 days notice if it wishes to do so. Mr. Wenger explained that the State also added an option that gives the State the right to terminate in 30 days, noting that the intent would be that the lease is terminated as soon as the County moves out, further noting that under the present terms, the State does not have the ability to terminate the lease. He noted that he will present the document to the Board once the changes have been made. The Board agreed with Mr. Wenger's recommendation.

Mr. Wenger explained that in discussion earlier in the day, he became aware that the "trigger" for the move will be when the Family Court moves to the District Court, at that point, the Hillsborough County Superior Court will move to Nashua. Mr. Wenger noted that if the Family Court move is delayed, then the Superior Court move will be delayed; he explained that he has communicated the County's need for information and that it is currently seeking space for the Court, and it needs to make arrangements for space. Mr. Wenger requested the opportunity to speak with the Board in Non-Public session relative to a potential lease.

Mr. Moorehead informed the Board that the Volunteer Appreciation Dinner will be held Thursday, April 23rd, at 6:00 p.m., and invited the Commissioners to attend.

Supt. O'Mara invited the Board to attend the graduation of the 40th Hillsborough County Corrections Academy; it will be held on Friday, April 24th at 1:30 p.m.

9. Non-Public Session

Following a motion the Board moved into Non-Public session at 9:43 a.m.

Motion: To move into Non-Public session under RSA 91-A:3 II (d) for the purpose of discussing a potential lease with Mr. Wenger and Attorney Kirby. By Comm. Clemons, second by Comm. Holden. Clemons-yes; Holden-yes; Pappas-yes. Motion carried.

The Board met with Attorney Kirby and Mr. Wenger

No action was taken during Non-Public session.

The Board moved out of Non-Public Session and returned to its regular meeting at 10:05 a.m.

Motion: To come out of Non-Public Session. By Comm. Clemons, second by Comm. Holden. Motion carried.

Comm. Pappas asked the Board and others present if they were ready to address the grievances.

7. Grievances

NH AFSME

Comm. Pappas called the pending grievance matters. She inquired of the grievants and Union representatives regarding their preference for public or non-public meetings. They requested to proceed in public session.

PM-0571 – Naughton

The bargaining unit's position is that this grievance addressed an issue relative to a one day suspension given as a result of an alleged pattern of abuse of sick time and repeated call-outs after a day off. The Union's position is that many of the sick days taken were accompanied by a Doctor's note, and that use of sick time does not necessarily constitute abuse. The Grievant claims that she did not receive any pay for the day she came to work and was suspended. The Union's position is that she be paid a minimum of four hours for the day she was suspended, and that the employee's suspension be removed from her file, that she be compensated for her loss of pay, that all documents be expunged, and that the Grievant be made whole.

Administration's position is that there is a pattern of many sick days being taken following a day off going back to 2003, and even without those that had a Doctor's note, there remains a pattern of abuse of sick time and call-outs following a day off that did not have a Doctor's note. K. Covert, Director of Nursing, noted that the Grievant has received verbal and written warnings in the past for call-outs and noted that it is very difficult to maintain staffing with continued call-outs, further noting that two of her last three evaluations showed that further growth was expected for calling out, and that the issue has been addressed many times with the Grievant, as well as offering FMLA. Ms. Covert noted that attempts were made to work with the Grievant relative to her schedule. Ms. Covert will review whether the Grievant was paid. Administration recommended that the grievance be denied.

Comm. Clemons asked the Grievant how many sick days an employee receives in a given year as well as how many she used, to which the Grievant responded that there are 16 sick days per year and she used 14 days. There was discussion about Doctor's notes, whether they might be easily accessible in some cases, and whether the note alone should be used as the sole criteria for excusing an absence when there is a pattern of sick days following a day off, and whether it should always excuse an absence. Further discussion ensued relative to suspensions being given on a day when there is adequate staffing.

Comm. Pappas thanked the participants for their presentations and indicated that the Board would take the matter under advisement and make a decision.

PM 0570 – Clement - Drivers

The bargaining unit's position is that this grievance relates to the scheduling of a Driver for the purpose of taking the residents to view the Christmas lights at holiday time. It is based on the job classification of a non-bargaining employee doing the work of a bargaining unit employee. A non-bargaining employee was scheduled to drive the residents to view the holiday lights instead of following the customary practice of using the Grievant who is a member of the bargaining unit. The Union requested that the Nursing Home cease and desist using the job classifications inappropriately, and to pay the Grievant for the five trips she was denied at a four-hour minimum plus overtime at time and one-half for evening hours.

Administration's position is that management has the ability to schedule the work force; he noted that there are other instances when non-bargaining employees do the work of bargaining unit employees, citing the example of when per diem or part-time staff is scheduled for work in the Nursing Department. Mr. Moorehead noted that the driver who was given the hours is the only other person at the Nursing Home who has a CDL driver's license. He further noted that there has been other occasions when the non-bargaining employee has driven when the Grievant is not available, noting that on those occasions, a grievance was not filed. Mr. Moorehead informed the Board that he requested that the Grievant's hours be changed so that she could drive the residents on the holiday trips, but the Union denied that request. Mr. Moorehead explained that the facility has the right to have qualified drivers driving residents to the Doctors and to activities.

The Union responded that the only reason that the Nursing Home did not allow the Grievant to drive for the holiday trips was to avoid the payment of overtime, they were willing to allow the Grievant to drive the evening trips if the Union were willing to allow a change in the hours, but not otherwise. The Union's opinion is that this grievance should be upheld and that the employee should be paid the loss of hours, which would have been 20 hours at the time and one-half overtime rate. The Union maintains that this is bargaining work, and that the bargaining unit employee should have been given the hours. The grievant provided the Nursing Home with the dates that she was willing to drive. She informed the Board that every year she was assigned to do the lighting trips. She indicated that she was told that they were using the other drive because of the overtime.

Mr. Moorehead suggested that this is not different than a per diem RN covering a full time RN slot if there was an open slot on the schedule, and that is a practice that would be implemented before overtime is utilized.

Comm. Clemons asked the Grievant if she had done the holiday trips in the past, and if she was paid overtime, to which she responded that she has organized the bus trips for over 12 years, and has driven for four of them, and she was paid overtime. S. Morin indicated that the Grievant had approached her with a request to change her hours, to which she agreed because it was for the benefit of the residents; however, she was told that the bargaining unit would not allow the change in hours. Ms. Morin noted that the Grievant has requested that her hours be changed in the past so that she could take the residents to the beach, a ballgame, or to the fair, and Ms. Morin indicated that she granted those requests, but recently she discovered that the bargaining unit would not allow this change in hours.

Mr. Moorehead noted that he did not believe that overtime was an issue in terms of the budget at that time, and he does not believe that management violated the contract. He recommended that this grievance be denied.

Comm. Pappas thanked the participants for their presentations and indicated that the Board would take the matter under advisement and make a decision.

PM-0573 – Moniz

The bargaining unit's position is that this grievance is based on a violation of the disciplinary procedure without just cause when she was given a written warning. The Grievant, a Social Worker, was in a group at lunch in a discussion; it is alleged that she inappropriately spoke to another employee when she said, "You are nuts!"

Mr. Moorehead informed the Board that the Grievant was in a public place, and that statements taken from others in the group indicated that the Grievant's statement was inappropriate. Those present made four similar, but different statements. Two indicated that the Grievant said, "You are a mental case;" another indicated that the Grievant said, "(name withheld) is a nut," and the fourth indicated that the Grievant said, "(name withheld) is a nut or a nutcase." He indicated that the Grievant has attended two seminars on Conflict Management and other training before this occurred, and noted that she had been given a prior written warning for unprofessional behavior. S. Ramsey, on behalf of management, informed the Board that the grievant is obligated to follow a Social Worker's Code of Ethics which addresses appropriate conduct. She further indicated that she has always provided staff with an opportunity to come to her with its issues.

Comm. Holden asked clarifying questions to which the Grievant responded. He further asked if the other person involved was disciplined. Mr. Moorehead responded that the other worker was given a verbal warning, but the Grievant was given a written warning because this is her second warning. Ms. Ramsey noted that the Grievant's work with patients is good; the issue is her behavior with other Social Workers when she is frustrated.

Mr. Moorehead recommended that this grievance be denied, and commented that the written warning was appropriate.

Comm. Pappas thanked the participants for their presentations and indicated that the Board would take the matter under advisement and make a decision.

PM-0572 – Howard

The bargaining unit's position is that this grievance is based on inappropriate discipline given as a result of sick leave use. The Grievant was not present. The Union's position is that Doctor's notes were not considered, and that this grievance does not rise to the level of abuse. There was a request that the employee be made whole.

Mr. Moorehead informed the Board that it is a challenge for management to staff the units and provide care when staff is calls in sick on the day prior to, or after a day off. He noted that several past evaluations cited issues with attendance. Management's position is that this grievance relates to a pattern of abusing sick time.

Comm. Pappas thanked the participants for their presentations and indicated that the Board would take the matter under advisement and make a decision.

10. Public Comments

There was no one present from the public who wished to address the Board.

Comm. Pappas asked the Board if it wished to move into Non-Public session to consider the grievances.

Motion: To move into Non-Public session to consider the grievances consistent with RSA 91-A:3 II (a). By Comm. Holden, second by Comm. Clemons. Pappas-yes; Clemons-yes; Holden-yes. Motion carried.

The Board moved into Non-Public Session at 11:34 a.m.

The Board considered the pending grievance matters.

No action was taken during Non-Public session.

The Board returned to regular session at 12:22 p.m. The Board considered the following action:

Motion: To return to Public session. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To deny grievance PM 0570. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To deny grievance PM 0571. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To deny grievance PM 0572. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To deny grievance PM 0573. By Comm. Clemons, second by Comm. Holden. Motion carried.

11. Adjourn

There being no further business before the Board, the Chairman entertained a motion to adjourn.

Motion: To adjourn the meeting. Motion by Comm. Clemons, second by Comm. Holden. Motion carried

The meeting adjourned at 12:25 p.m.

(SIGNED 5/13/2009)

Comm. Michael Clemons, Clerk
Hillsborough County Board of Commissioners

Date