

Regular Meeting of the
Hillsborough County Board of Commissioners
May 7, 2008
Bouchard Building, Goffstown, NH

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

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

1. Pledge to the Flag

Comm. Holden called the meeting to order at 3:40 p.m. followed by the Pledge to the Flag led by E. Robinson.

2. Business Office

Approval of Payroll Register

Motion: To approve the Payroll Register dated 5/01/08 in the amount of \$1,103,568.91 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 5/06/08 in the amount of \$6,717,587.06 subject to review and audit. By Comm. Clemons, second by Comm. Holden. Motion carried.

Telephone Poll

Motion: To approve awarding a bid to outside Counsel to assist the Department of Corrections to the lowest responsible bidder. A Telephone Poll was conducted on Wednesday, May 7, 2008, at the request of Carolyn Kirby. The Board unanimously approved the bid by telephone. By Comm. Clemons, second by Comm. Holden. Motion carried.

4. Nursing Home

Mr. Moorehead was recognized. He presented the Nursing Home Census, noting that as of May 1, the Census was 281, which included 198 Medicaid residents, 44 private pay residents, and 39 Medicare Part A residents.

Bid # 33-2008 Cafeteria Tables & Chairs

Mr. Moorehead presented Bid # 33-2008 for replacement of 11 Cafeteria Tables & 50 Chairs. The lowest responsible bidder was Dallas Midwest of Dallas, Texas, for a bid of \$6,630.98.

Motion: To approve Bid # 33-2008 for the Nursing Home, which includes 11 Cafeteria Tables & 50 Chairs, the lowest responsible bidder was Dallas Midwest of Dallas, Texas, for a total bid of \$6,630.98. By Comm. Clemons, second by Comm. Holden. Motion carried.

Bid # 34-2008 - Optometry Services

Mr. Moorehead presented Bid # 34-2008 for Optometry Services, noting the lowest responsible bidder is Healthdrive Eye Care Group, Newton, Mass. The price, as listed, is at no cost pending insurance. This provider is Medicaid only. Medicaid will cover one pair per year if medically necessary for the resident to have

eyeglasses. Mr. Moorehead noted his doubts that many people with Medicare will receive eyeglass coverage because they are usually short-term residents, and if they do get eyeglasses, typically, when they change to Medicaid or Self-pay, Part B will cover a portion of the exams and the glasses. He noted that transportation for Optometry/Ophthalmologist services has been running at about 198-200 trips a year. He explained that even if it does cost the County a little bit, pending insurance, it is his opinion that a great deal of money will be saved on transportation, which includes the cost of driver, vehicle, gas, etc.

Motion: To approve Bid # 34-2008 for the Nursing Home for Optometry Services, a three-year contract to Healthdrive Eye Care Group, Newton, Mass. at no cost, noting that the contractor bills the resident and/or their health insurance carrier. By Comm. Clemons, second by Comm. Holden.

Comm. Holden inquired if there were other vendors that provide the same service. Mr. Moorehead replied that the current provider, Dr. Quimby, did not bid. Comm. Clemons inquired about what would happen if a provider did not meet the terms of their contract, and what options the County has. Comm. Holden replied that the contracts do have a 30-day Opt-out clause. Mr. Moorehead and Comm. Holden informed the Board that the Opt-out clause would allow the County to opt out of the contract, with or without cause; the provider would be given a 30-day notice and the contract terminated. Mr. Moorehead noted that this contract provides for service at the facility, and if this contract were to be terminated, it is likely that the residents would have to be transported outside the facility to another provider. Mr. Moorehead noted that this vendor would bring all their equipment with them, which has not been an option with Dr. Quimby. There being no further discussion the vote was taken.

Motion carried.

Bid # 36-2008 – Medicare/Medicaid Cost Report

Mr. Moorehead presented Bid # 36-2008, explaining that this bid is for preparation of the Annual Medicare/Medicaid Cost Reports. The lowest responsible bidder, and only bidder, is Robin R. Grill, CPA, PC, who provides this service for other Counties. He noted that Vachon & Cluckay responded indicating they are not qualified to provide this service. He explained that the annual fee of \$4,400 is the current fee. This contract would keep it at the same level for the next three years.

Motion: To approve Bid # 36-2008 for the Nursing Home for annual Medicare/Medicaid Cost Reports-a three-year contract, the vendor is Robin R. Grill, CPA, PC, Concord, NH, at a cost of \$4,400 per year, noting it is the lowest responsible bidder, and only bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

The Nursing Home service awards ceremony will be held Thursday, May 15.

5. Human Services

E. Robinson requested to present her report under Old/New Business since it relates to the budget.

6. Public Comments

No members of the public were present at the time.

7. Old/New Business

M. Wageling joined the meeting.

Bouchard Building

Mr. Wenger informed the Board that the Executive Committee met the prior week to consider the proposed lease agreement for the second floor. He noted that extensive discussion took place regarding the relative merits of a fifteen-year lease versus a five-year lease. He explained that a motion was made and seconded to approve the fifteen-year proposal presented by the Board, which was subsequently amended to a five-year proposal. The amendment was passed as was the underlying motion approving the lease but with a five-year term. Mr. Wenger noted that he has forwarded the revised lease language, including the issues raised by Attorney Kirby and the five-year schedule, Exhibit B, to the State where it is under final review. He noted that the State is happy with a five-year term and that he anticipates that the remaining language issues will be resolved.

Comm. Holden expressed her belief that the County's interests are not protected with a five-year lease. She noted that with a fifteen-year lease, the County would have recovered its costs. She asked if the Executive Committee had any explanation of how they would explain it to the Delegation. She opined that if she were on the Delegation, she would not want to put the County in jeopardy. Mr. Wenger noted that there was a lively debate in relation to risks associated with the various lease lengths. He noted that his sense of the room was that the Executive Committee felt that a good decision would be to have the opportunity to go back and re-visit the lease terms in five years given the economic conditions we are presently operating in and was more comfortable with that option than being tied in to a fifteen-year agreement.

Comm. Clemons noted that fuel oil might go up so much that it may exceed the 3%. Comm. Holden added that it would be better to have someone occupying the second floor than to have it empty, and once the Courthouse occupies the space, it will be difficult for it to move.

Motion: To approve the five-year lease proposal for the second floor of the Bouchard Building as presented by the County Administrator, on this seventh day of May, 2008. By Comm. Clemons, second by Comm. Holden. Motion carried.

Mr. Wenger noted that there would be a meeting with the contractor, Mr. D. Anderson the following morning at 10:30 to discuss details of the bid and impending cost increases and invited a Commissioner and executive Committee representative to attend. He suggested that the Architect and Capt. Cusson were also expected. He also noted that the project is on a timeline to be presented to the Governor and Council in May and assuming all approvals are obtained a construction start prior to July 1 of this year. Mr. Wenger expressed his appreciation to the Building Committee and Executive Committee for holding the special meeting last week to address the issue and keep it on track.

Mr. O'Mara joined the meeting.

3. Department of Corrections

Mr. O'Mara presented the census. He informed the Board that as of April 21, 2008, there are 550 Inmates in custody. There are 493 men, including 340 that are being held pre-trial and 153 that have been sentenced. There are 57 women, including 44 that are being held pre-trial, and 13 that have been sentenced.

7. Return to Old/New Business

Mr. Wenger informed the Board that the group reviewing plans for the Superior Court North abatement project met again Tuesday. Chief Justice Broderick recently communicated by email that the plan is to move out of the present facility, gut the facility, abate the asbestos, and renovate the building. The building is scheduled to be vacated in November or December of 2009. They have asked the County for additional input with respect to any

expenses that the County may anticipate incurring; they would like a response by the May 19, therefore it should consider how it would address this.

Under the current plan the majority of the facility will be moving to Hillsborough County Courthouse South in Nashua; the Family Court will be moving to the Manchester District Court, and some criminal trials would be held in the Manchester District Court. Mr. Wenger noted that the County needs to consider how it will handle the Sheriff's Office and County Attorney operations during this interim time of approximately one year to eighteen months.

Mr. Wenger suggested that the money in the budget be maintained in the event of any emergency event that would require the Courthouse staff to move out immediately. The County needs to be prepared to do that.

Discussion ensued regarding whether there was adequate office space in the Nashua location. M. Wageling informed the Board that there is not enough space. E. Robinson indicated that there might be space in the Registry of Deeds area on Temple Street if some of the records were consolidated. M. Wageling informed the Board that one issue to address is mileage. Justice Broderick has indicated that he intends to include in the budget, money to fund mileage for State employees who will be traveling to Nashua. She noted that this will be an issue for the Manchester employees and the County needs to address how it will treat its employees, whether it will treat its employees the same, and how the decision will reflect on the County employees. Ms. Wageling noted that the action the State is proposing will provide the fastest solution, and the least expensive.

Mr. Wenger noted that one major expense will be the relocation of the Sheriff's dispatch system. The "brains" of the dispatch communications system is located in that building. He will be working with the Chief Deputy to determine if the system will need to be removed from that building. Consideration will be given to the most cost effective solution, whether it be moving the system or replacing it.

HB 2 Update

Comm. Holden informed the Board that HB 2 was addressed at two recent meetings: the Association of Counties met last Friday and the HB 2 Commission on Monday. The MOU (Memorandum of Understanding) has not been signed. She noted that it appears that HB 2 will go into affect and that there will be no injunction to keep things as they are. E. Robinson noted that there may be an appeal and informed the board that part of the provisions of the MOU is that Counties may choose to do parental reimbursement for six months until January 1, continue to collect the 15% administration fee, and after January 1, receive 25% share of what you spent and 5% for the prior administration work. She recommended that the County Human Services continue parental reimbursement for the next six months to insure receiving the 25%. She noted that if the County intends to continue parental reimbursement, it must send a letter to the State indicating its intent by May 15. She distributed a budget proposal to the board based on that recommendation. Comm. Holden noted that there is no guarantee that the State will not take it all over on July 1, emphasizing that the MOU has not been signed, to which Ms. Robinson agreed that this could occur.

Motion: To accept the recommendation of the Human Services Director and send a letter to the State indicating that we would like to continue parental reimbursement until January 1, 2009. By Comm. Clemons.

Motion failed for lack of a second.

Comm. Holden asked Ms. Robinson if she had any other proposals. Ms. Robinson responded her proposal was contingent upon continuing parental reimbursement. Ms. Robinson referred the Board to the last page of her handout, which highlighted the salaries, noting that that this proposal leaves her position and one other employee

intact for all of FY09 (document attached). For parental reimbursement purposes, she has illustrated retaining the Assistant Administrator, and one other person who has seniority, until February 1, 2009. This will permit them to finalize transfer of records and documentation to the State, tracking of parental reimbursement once the State takes it over, noting there is a significant amount of work to be done. This plan includes leaving Social Workers in place for thirteen pay weeks, noting that she is very concerned about what might happen to the fragile youths and families they serve should they terminate without the appropriate phase-out period. She noted that this plan significantly reduces her department's budget from \$645,872 to \$277,952. Ms. Robinson further recommended that the Board increase the Public Welfare part of her budget.

Comm. Pappas joined the meeting.

Comm. Holden noted that the problem would be if the State ends the program on July 1. Ms. Robinson indicated her belief that the State will allow those Counties who wish to continue parental reimbursement for six months to do so. Both Comm. Holden and Ms. Robinson concurred that another budget adjustment could be made before the end of June. Ms. Robinson noted that her department is on track this year to bring in about \$800,000 and if we do not continue, we put at risk well over \$300,000 in revenue. Ms. Robinson noted that she has reduced Postage, Telephone and In-State Travel, but has kept Office Supplies because additional storage boxes will be needed to store records. Budget reductions will result in her budget decreasing in FY09 from \$917,851 to \$400,261.

Motion: To give the Human Services Department the authority to collect parental reimbursement until January 1, 2009. By Comm. Clemons, second by Comm. Pappas. Clemons, yes; Pappas, yes; Holden, opposed. Motion carried.

Mr. Wenger discussed the ramifications of the previous motion in reference to the intent of the motion, and if the positions recommended by Ms. Robinson included COLA, noting it may be more appropriate to have a motion to approve the positions as recommended by the Human Services Director, for the term recommended. There was discussion to clarify that the Social Workers would continue until September 30. Comm. Clemons asked why she would eliminate the Social Workers at that time if she wishes to continue collecting until 2009. Ms. Robinson responded that she had committed to the Board that she would end the Social Worker positions on September 30, and this proposal was based on that. She noted that the need continues, but it is unrelated to parental reimbursement, it is related to the fact that we will no longer be paying for children's services. More discussion ensued about the program and that the County was never required to have this program, which had been started in 1993 with a grant.

Comm. Clemons expressed his belief that it was very important to continue Human Services programs. Comm. Holden noted that she thought there was an agreement with the Director to end the Social Worker positions on September 30, and that she will be addressing this issue at upcoming Committee and Delegation meetings.

Comm. Holden asked if the outside agency that is selected to sit in on the hearings can include different people at different hearings, to which Ms. Robinson responded that she believes that the rules say that there will be one outside person selected. Comm. Pappas noted that the majority wants to continue this program and is unsure of how many positions to continue. Comm. Holden would like the program to cease, noting that she is willing to compromise to allow the program to continue to September 30.

There was discussion of alternative methods that could address changes to the Human Services budget, including sending a letter of recommendation to the Executive Committee, making a change later this week, and conducting a Telephone Poll. Ms. Robinson noted that unless someone moves to change the current budget, it would remain as it is. Ms. Robinson was asked to rework her budget and salary sheet to reflect the cost of the proposed employees and the rollups based on continuing parental reimbursements through January 1, continuing two

positions to February 1, eliminating the billing people on September 30, and continuing the Social Workers for the next fiscal year, noting that there are two vacant positions. The budget will include leaving the revenue from the Incentive Funds. Ms. Robinson will work with the Business Office and have that information available tomorrow.

Mr. Wenger noted that proposed changes to Line 4444 have not yet been addressed.

Motion: To reduce Line 7540, Old Age Assistance to \$1, to reduce Line 7551 APTD to \$1, to reduce Line 7580, Board and Care of Children (DCYF) to \$1, and to increase Line 7560, Medicaid to \$30,772,000, for a total in Line 4444 of \$30,772,003. By Comm. Clemons, second by Comm. Pappas. Clemons, yes; Pappas, yes; Holden, opposed. Motion carried.

Mr. O'Mara requested an opportunity to discuss an issue relating to insurance coverage with the Board. Comm. Holden asked to have the discussion in Non-public session to consult with Counsel.

M. Rusch informed the Board that the Blue Ribbon Committee will be meeting and the Delegation will meet on May 20.

Mr. Wenger requested a non-public discussion with the Board under RSA 91-A:3 II (a), compensation of employees.

Non-Public Session

Motion: To move into Non-Public session to discuss compensation under RSA 91-A:3 II (a), and to meet with Mr. O'Mara and Counsel under RSA 29-A to discuss defense and indemnification of County officers. By Comm. Holden, second by Comm. Clemons. Motion carried. Pappas-yes, Clemons-yes, Holden-yes. Motion carried.

The Board moved into Non-Public session at 4:53 p.m.

The Board met with Mr. Wenger to review employee compensation as contemplated in its budget recommendation. No action was taken.

The Board met with Legal Counsel and Mr. O'Mara to review pending litigation issues. No action was taken at that time.

The Board returned to public session at 5:03 p.m.

Motion: To return to public session. By Comm. Holden, second by Comm. Clemons. Holden-yes, Clemons-yes, Pappas-yes. Motion carried.

The Board moved into recess at 5:04 p.m.

Motion: To go into recess. By Comm. Holden, second by Comm. Clemons. Holden-yes, Clemons-yes, Pappas-yes. Motion carried.

The Board moved out of recess and returned to regular session at 5:30 p.m.

Motion: To come out of recess. By Comm. Holden, second by Comm. Clemons. Holden-yes, Clemons-yes, Pappas-yes. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Cabrera v. LeVierge et al:*
James M. O'Mara, Jr.
Ryan LeVierge
Matthew Poulicakos
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Dixon v. Antilus et al:*
James M. O'Mara, Jr.
George Antilus
David Archambault
Larry Ellis
Todd Gordon
Ryan LeVierge
Ronald Potter
Jason Riley
Cesar Rivas
Vincent Williams
Michael Cooper
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Glenn v. Hillsborough County Department of Corrections:*
Hillsborough County Department of Corrections
James M. O'Mara, Jr.
Dave Dionne
Marc Cusson
Todd Gordon
Bonnie Ives
Roger Copp
Willie Scurry
David Archambault
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Hurd v. Granville, et al:*
James M. O'Mara, Jr.
Nicholas Granville
Vincent Williams
Donna Lacerte
David Dionne
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Lang v. Gordon, et al:*
James M. O'Mara, Jr.
Todd Gordon
David Archambault
Ronald Potter
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Ledger v. LeVierge et al:*
James M. O'Mara, Jr.
Ryan LeVierge
John Doe
George Antilus
Nicholas Granville
Jason Riley
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Pierce v. Hillsborough County Department of Corrections et al:*
Hillsborough County
Hillsborough County Department of Corrections
Michael Bernier
Angela Boyer
Carl Brown
Ferdinand Cruz
Todd Gordon
John Kowack
Alfred Pucci
John Sullivan
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: I move to indemnify, pursuant to NH RSA 29-A, in the matter of *Vosburgh v. Bourassa et al:*
James M. O'Mara, Jr.
Shane Bourassa
Motion made by Comm. Clemons, second by Comm. Holden. Motion carried.

Comm. Pappas advised that a motion is needed to approve the budget.

Motion: To instruct the County Administrator to take from Surplus the amount of money necessary to lower the tax rate 2%, to be approximately \$880,000. By Comm. Clemons. Motion failed for lack of a second.

Mr. Wenger noted that today's figure, with the Line 4444 adjustments, results in a slightly different figure than presented at the Public Hearing. Currently he calculates that figure at \$85,354,123, which results in County Tax revenue of \$46,639,616 and is a 5.04% increase in the taxes.

Motion: To instruct the County Administrator to reduce the Tax Rate charges to the Towns to 4%, and to make the necessary adjustments to the Surplus. By Comm. Clemons, second by Comm. Pappas.

Comm. Holden expressed her disagreement with the motion and her disappointment that the Board did not avail itself of the opportunity it had today to make approximately \$500,000 in budget cuts in several parts of the budget. She expressed her belief that the County needs to develop a different culture, consider doing some business in other ways such as by conference call. She also noted her concerns regarding increased travel expense. She is not in favor of taking this much money from the surplus and believes the County needs to work together to try to reduce budgets and not to expand. She expressed her concern in reference to continuing the Human Services program, and her willingness to phase the program out gradually so the employees could find jobs in other areas and noted that she has not seen any indication that the Hillsborough County program is unique and believes it could be handled by the private organizations.

Comm. Clemons expressed his belief that the County is still in good financial shape and today's action will bring the surplus to approximately 10%, noting that most accountants who work with Counties and States recommend a 7 to 15% balance, further noting that this surplus is a rainy day fund and using the surplus is a way to keep the tax rate down. Comm. Holden noted that there are several issues that are before the Legislature currently that may affect the County. She noted that some Counties have increased taxes as much as 15% this year. In past years, the Board has tried to keep the tax rate level, to be conservative and make cuts in the budget while still providing services.

Comm. Pappas thanked the Department Heads for working very cooperatively with the Board to cut their budgets, noting that they came in with reductions on two different occasions. She noted that the budget would now move through the Sub Committees, Executive Committee and Delegation, so the budget is not final yet.

Mr. Wenger provided updated figures; he indicated that the additional surplus Line would be \$6,444,000. He noted that on June 30, 2007 there was \$21,652,000. That was reduced by \$6,422,950 that was used in the FY08 budget to reduce taxes, leaving a balance of \$15,229,080, which is where we start FY08. He noted, as we get closer to the end of the current year, we would know how much of the \$6,422,950 is being used this year.

The Board voted the motion made earlier by Comm. Clemons to reduce the tax rate to 4%, and adjust the surplus budget accordingly. Clemons, yes; Pappas, yes; Holden, opposed. Motion carried.

Mr. Wenger noted that the Board needed to vote to approve the budget.

Motion: To approve the budget of \$ 85,354,123 and forward it to the Delegation Office. By Comm. Holden, second by Comm. Clemons. Motion carried.

Comm. Pappas informed the Board that she would not be here for the May 20 meeting.

8. Adjourn

There being no further business for the Board's consideration at this time, a motion to adjourn was accepted.

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

The meeting adjourned at 5:45 p.m.

(SIGNED 7/16/08)

Comm. Michael Clemons, Clerk
Hillsborough County Board of Commissioners

Date