

Regular Meeting of the
Hillsborough County Board of Commissioners
July 14, 2010
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. Pappas, Comm. C. Holden, Comm. M. Clemons, L. Movsesian, M. Pilotte, S. Vaillancourt, P. Flood, C. Kirby, B. Moorehead, J. O'Mara, D. Reidy, E. Robinson, M. Rusch, G. Wenger, and L. Stonner.

1. Pledge to the Flag

Comm. Pappas called the meeting to order at 10:05 a.m., followed by the Pledge to the Flag led by Comm. C. Holden.

2. Administrative Business

Commissioner Pappas noted that the Board would address administrative business at this time.

Minutes

April 13 Budget Meeting

Motion: To approve the minutes of the April 13, 2010, Board of Commissioner's Budget Meeting. By Comm. Clemons, second by Comm. Holden. Motion carried.

April 14 Budget Meeting

Motion: To approve the minutes of the April 14, 2010, Board of Commissioner's Budget Meeting. By Comm. Holden, second by Comm. Clemons. Motion carried.

April 23 Budget Meeting

Motion: To approve the minutes of the April 23, 2010, Board of Commissioner's Budget Meeting. By Comm. Holden, second by Comm. Clemons. Motion carried.

April 23 Public Hearing

Motion: To approve the minutes of the April 23, 2010, Board of Commissioner's Public Hearing. By Comm. Clemons, second by Comm. Holden. Motion carried.

June 16 Regular BOC Meeting

Motion: To approve the minutes of the June 16, 2010, Board of Commissioner's Meeting. By Comm. Holden, second by Comm. Clemons. Motion carried.

June 30 Regular BOC Meeting

Motion: To approve the minutes of the June 30, 2010, Board of Commissioner's Regular Meeting. By Comm. Clemons, second by Comm. Holden. Motion carried.

The Board discussed the need to approve the minutes of the Executive Committee meeting of April 23rd, and May 27th. Comm. Holden noted that a quorum of the Board was not present, thus minutes were not required.

Motion: To approve the minutes of the April 23, 2010 Executive Committee meeting. By Comm. Clemons, second by Comm. Holden. Motion carried.

Approval of Payroll Register

Motion: To approve the Payroll Register dated July 8, 2010 in the amount of \$1,159,996.40, subject to review and audit. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Approval of Accounts Payable Register

Motion: To approve the Accounts Payable Register dated July 13, 2010 in the amount of \$276,919.37, subject to review and audit. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To approve the Accounts Payable Register dated July 1, 2010 in the amount of \$1,262,479.94, subject to review and audit. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To approve the Accounts Payable Register dated July 13, 2010 in the amount of \$2,692,918.15, subject to review and audit. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Comm. Pappas noted that there are Budget Transfers for the Board to review. The Board considered the following transfers:

Budget Transfer No. FY 2010-47

Motion: To approve Budget Transfer No. FY 2010-47 to transfer the amount of \$1,600 from Sheriff's Department, Full Time Salaries, line 4211-7010 and to transfer the amount of \$1,600 to Sheriff's Department, Education & Conference, line 4211-7010; this is to provide tuition reimbursement for bargaining unit employees as stated in the union contract. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Mr. Wenger referred to the numbering of Budget Transfers 2010-48 and 2010-49 that were presented in the Board packet as 201-48 and 201-49; he explained that this was a scrivener's error and corrections will be made for the permanent record. He noted that both should be FY 2010 numbers.

Budget Transfer No. FY 2010-48

Motion: To approve Budget Transfer No. FY 2010-48 to transfer the amount of \$5,000 from Corrections Medical/Dental Males, line 4230-7590, and to transfer the amount of \$5,000 to Corrections Medical/Dental Females, line 4230-7588. Comm. Clemons noted that funds are available for transfer due there being no significant expenses incurred by the male inmate population. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Budget Transfer No. FY 2010-49

Motion: To approve Budget Transfer No. FY 2010-49 to transfer the amount of \$11,700 from Corrections Salaries/Wages, line 4230-7010, and to transfer the amount of \$11,700 to Corrections, New Equipment, line 4230-7970. Motion by Comm. Clemons, second by Comm. Holden.

Comm. Clemons noted that the money will be used for additional camera recording and video storage. Comm. Holden asked if the money was appropriated in the budget for this or is it because there is money left over. Supt O'Mara responded that when the previous camera purchase was made, the Department thought that it had sufficient recording storage capabilities, but have since found that it is not adequate. He noted that the money was not appropriated.

Motion carried

Budget Transfer No. FY 2010-50

Motion: To approve Budget Transfer No. FY 2010-50 to transfer the amount of \$23,000 to Nursing Home, Nursing Salaries & Wages, line 4414-7010, and to transfer the amount of \$23,000 to Nursing Home Pharmacy, line 4420-7330. Motion by Comm. Clemons, second by Comm. Holden.

Comm. Clemons noted that the request indicates that the Nursing Home is experiencing higher than anticipated drug and IV costs.

Motion carried.

Budget Transfer No. FY 2010-51

Motion: To approve Budget Transfer No. FY 2010-51 to transfer the amount \$1,477 from the Registry of Deeds Salary & Wages line, 4193-7010 and to transfer the amount of \$1,477 to Elected Officials Wages, line 4193-7020. By Comm. Holden, second by Comm. Clemons.

Comm. Holden noted that this Transfer is requested to reconcile the budget line for the end of the fiscal year; adjustments had been made in the Register's bi-weekly pay to pay her consistent with the annual salary, from January to December, set by the Delegation for this elected official. Comm. Clemons inquired as to the reason for this transfer, noting that this elected official's salary has not changed in years. Mr. Wenger responded that the Register, during the first year of her term, missed the first week of her salary; to reconcile that for the year, there was a change in her salary; however, those payments go over two fiscal years.

Motion carried.

Bid No. CIS-2-2011 – County Attorney-Damion Annual Software Maintenance

Motion: To approve Bid No. CIS-2-2011 for Software Maintenance to Constellation Justice, at a price of \$25,037, noting that this is a single source bid for annual support costs consistent with RSA 28:8-e V. By Comm. Holden, second by Comm. Clemons.

Comm. Clemons asked what this software was for. Mr. Wenger explained that this is for the County Attorney's office.

Motion carried.

Bid No. BO-2011-01 – Audit Services

Mr. Wenger explained that this bid is for the annual audit services for the County.

Motion: To approve Bid No. BO-2011-01 for the Business Office to Vachon, Cluckay & Co., PC, for Audit Services; the total is \$55,020; the firm is the lowest responsible bidder meeting the specifications. Motion by Comm. Clemons, second by Comm. Holden.

It was noted that the bid covers FY2010, FY2011, and FY2012; the costs per year for three years are \$17,820, \$18,350, and \$18,850 respectively.

Motion carried.

3. Public Comment on Agenda Items

There was no one present who wished to comment on Agenda Items.

4. Department of Corrections

Census

Supt. O'Mara presented the DOC Census, noting that as of July 12, 2010, the Census was 562, which included 497 men of whom 348 were being held pre-trial and 149 that had been sentenced. There were 65 women of whom 44 were being held pre-trial and 21 that had been sentenced.

Supt O'Mara requested that he be allowed to present information using Power Point to communicate his concerns with SB500 later in the meeting. It was agreed that he would do so.

5. Nursing Home

Census

Mr. Moorehead presented the Nursing Home Census and explained that as of July 8, 2010, there were 281 beds occupied, which included 205 Medicaid residents, 47 private pay residents, and 29 Medicare Part A residents.

Mr. Moorehead explained that he has three issues to address under Old/New Business. Comm. Pappas noted that the Board was ready to address Old/New Business.

6. Old/New Business

Year to Date Revenue

Mr. Moorehead presented an update for the year to date unaudited revenue information; he noted that it is an estimate through the end of June; the budgeted revenue for June was \$23,651,814, and the unaudited actual revenue for June is \$25,937,729; this represents estimated revenue over budget of \$2,285,915.

Mr. Moorehead provided an update for the Board relative to the Electronic Medical Record (EMR) project. He noted that the project is being developed with, among other actions, the following events have taken place. He explained that the EMR kick-off meeting took place in June and noted that the consultants met in February of this year with 42 staff, members of administration and the CIS Department; there were nine information gathering sessions; feedback was used to write specific software specs or requirements. Software demos took place in April, staff attended a financial demo, and the vendors provided access to software in May so the staff could have hands-on experience; a Teleconference is scheduled for July 23rd to discuss questions...primarily on the financial end. Nine bi-weekly meetings have taken place that included the Nursing Home team, CIS Department, the County Administrator, and Comm. Holden.

Mr. Moorehead distributed, for the Board's consideration, a revised draft Smoking Policy for the Nursing Home. He explained that a change was needed because of recent incidents at the Nursing Home. The revised draft policy contains several changes to the Federal F tags; they include: F156-Resident Rights, F242-Self-Determination & Participation, and F323-Accidents & Supervision. He explained that contained in the policy is the Policy Statement:

1. It is the facility's policy to provide a smoke free environment for residents while protecting resident rights.
2. Residents who currently reside at this facility after _____ will be grandfathered and will be permitted to smoke in the designated smoking area for residents.
3. New residents/patients admitted to this facility after _____ will not be permitted to smoke.

In response to a question from Comm. Clemons relative to the motivation behind the revised policy, Mr. Moorehead noted that on June 30, a resident who had been warned multiple times dropped a cigar into a mulch pile that created a small fire. The fire was extinguished, but was an example of why there is a risk and a concern that the policy needs to be changed. Additionally, a female resident was caught smoking in her room two days ago. He noted that the policy contains a safety assessment, which assesses whether a resident could be allowed to smoke without supervision, or if the person should be supervised when smoking; the care plan will be adjusted to include a plan that is safe, while protecting the patient's rights. The Board discussed the issue and concurred with the direction Mr. Moorehead is taking. Mr. Moorehead noted that at some point, there needs to be a discussion relative to staff and visitor smoking, particularly in light of the fact that this is a healthcare facility.

Supt. O'Mara noted that smoking is not allowed at the jail; they offer hard candy and carrot and celery sticks to help those who smoke when coming into the jail.

Ms. Robinson presented the Board with a copy of an email and letters from John Harrington at DHHS and rules relative to the allocation of Incentive Funds as well as email from Betsy Miller regarding the location of the selection committee meetings. Mr. Harrington has requested that all meetings take place in Concord over a week long period, but Ms. Miller has requested that the meetings take place in the respective Counties, suggesting that it makes no economic sense for a majority of committee members from each County to have to travel to Concord from a distant location. Each County's committee will be comprised of the County Commissioners, an elected Representative, a member of the United Way or

similar organization, a member of a faith-based organization, a consumer representative, a youth representative, a representative from the Division for Juvenile Justice Services (DJJS), and an individual from the DCYF central office. All Commissioners favored holding the meetings on the local level.

Ms. Robinson noted that there has been a significant cut in the available grant money and the amount matched by the State has significantly decreased. The Board favored sending a letter to Mr. Harrington that would indicate that the County favors holding the meetings at the County level.

Mr. D. Reidy from the NH Cooperative Extension distributed pamphlets and a photo card relative to the spreading of the Asian Longhorned Beetle. He explained that while the beetle has not been found in New Hampshire yet, it has been found in Massachusetts, particularly in the Worcester area where it has forced the cutting of approximately 26,000 trees. The beetles bore holes in a tree, lay eggs, and then come out leaving a dime-sized hole in the tree. He explained that maples are a favorite tree for the beetles. He provided contact information for resources that could be notified in the event that one discovers an Asian Longhorned Beetle, and stressed the importance of reporting any sightings as soon as they are discovered.

Comm. Clemons noted that campgrounds in the northeast are not allowing firewood to be carried from one state to another. He remarked that this could be as serious as the Dutch Elm disease that killed elm trees many years ago. Mr. Reidy concurred, noting that an infestation of these beetles is pretty devastating. In response to a question, Mr. Reidy responded that infected trees are cut down, and the wood is destroyed.

Comm. Pappas recognized Supt. O'Mara who presented information relative to video arraignments; he explained that it would be possible to video arrestees from the jail. He explained that he was approached by Judge Berry from Nashua asking if the County would be interested in being hooked up electronically. Supt O'Mara explained that other Towns/Cities are using video for arraignments and suggested that Hillsborough County may wish to consider doing so as well; he further noted that the presiding judge at the Manchester District Court does not favor video and feels that arraignments are a Court function and are public functions that should be held in a public Court. He explained that it is safer for inmates to remain in the jail as opposed to traveling to and from Court. He also noted that it would reduce time and expense for the Court and for the Sheriff's Department because there would not be a transportation expense.

Comm. Holden suggested that the Board look into it, and that grant funding should be pursued. Supt O'Mara reported that there have been two assaults on a Court officer in Nashua in the last three weeks. Comm. Clemons asked for details relative to how the process would work, and if there would be cameras at the jail and in the Court. Supt O'Mara explained that a camera and a monitor would be needed so that an inmate may see and speak to the judge; the defendant's attorney can choose to be at the Court or at the jail with his/her client; at the Courthouse, the judge could see and speak to the defendant. Supt. O'Mara suggested that this might be done via a software program such as Skype, which is free. Supt O'Mara explained that this could be used for arraignments, bail reductions, and brief hearings. In response to a question for the Sheriff's Department, Chief Deputy Durette responded that it reduces costs for everyone involved and it saves time; it would also provide better security for the inmate, the public, and the officers because the inmate would not leave the facility. Chief Deputy Durette offered that there is a window of opportunity at this time to save money; the Court is scrambling to find ways to save money, and this can do that; a hearing can take place in a few minutes that might take hours to coordinate, and the Court has to reimburse the Sheriff's Department for the cost of securing prisoners within the Courthouse so cost will be reduced on both ends. He further explained that transportation costs are significant since Hillsborough County Superior Court North has moved to Nashua. Chief Deputy Durette noted that with the internet and increases in technology, it is inexpensive and fast to connect two locations. He noted that he favors moving in that direction.

Supt O'Mara offered that for the DOC, the time and expense would be about the same; the staff would still need to go to the housing unit and bring the prisoner to the area where the technology is set up, then stand there during the proceedings, and finally escort the prisoner to his/her cell.

Mr. Wenger informed the Board that he received communications from Laurel Bistany, who is the Executive Director for the Rockingham Economic Development Corporation; he noted that she is working on a Community Development Block Grant with Resonetics, a company in Nashua. Because Nashua is an entitlement community, Ms. Bistany's company must request that the County be the applicant. He explained that he requested that Ms. Bistany provide information relative to what the grant is, what the company is looking for, and then if the Board is open to it, they might come in and address any questions or concerns. He noted that the Board would be required to conduct a Public Hearing; and there is an application process. Mr. Wenger noted that if the Board wished to consider the request; he could make arrangements for them to come in for a discussion.

Comm. Clemons inquired about the need for the County's support; Mr. Wenger replied that it was his understanding that the only way Resonetics can get the grant they are looking at is with Hillsborough County's assistance. He noted that with approval of the Grant, the company is looking to add 25 jobs, of which at least 60% will be filled by persons of low to moderate income. Comm. Pappas asked Mr. Wenger if he saw a downside in this; he replied that he does not see a downside in discussing it with them, but he does see a couple of hurdles the County will have to go through because technically, the money will come through Hillsborough County; there is; however, an administrative fee the County will receive. He further noted that he sees it as positive to meet and discuss the potential grant as well as looking at any issues that the County may face.

Commissioner Clemons expressed an interest in supporting Ms. Bistany's request. Comm. Holden noted that it might be wise to take this under advisement and find out more about the County's role. She noted that it would make sense to meet with them. Mr. Wenger agreed to schedule a meeting on the Board's behalf.

Mr. Wenger informed the Board that the County is changing its email system; he noted that the CIS Department has requested that the County change its domain name; the current domain name is "hillsboroughcountynh.org," and there is a lot of interest in shrinking that down. The recommendation is to move to: "hcnh.org." He requested the authority to go forward with the change; there will be some transition and emails will be forwarded for a period of time. The Board agreed that it made sense to shorten the domain name and agreed to give the matter consideration and address it again at its next meeting. Mr. Moorehead noted that the Nursing Home has been using "hcnh" for many years for its email.

Mr. Wenger communicated that the Business Office has received the FY09 Audit; it is a draft document for the Board's consideration. He noted that the Audit is clear and straight forward; contained in the Audit is a statement that the County did not complete one of the Audit requirements, and therefore it is flagged. Again this year, the Delegation did not approve funding for that portion of the Audit, so it will again be an issue. Comm. Holden noted that it is important to find the funds to do that. The Board agreed to review the Audit and consider acceptance at its next meeting.

Comm. Holden shared her concern relative to the recent article in the Union Leader, which alleged that the Board was taking action outside its meetings, and noted that a Telephone Poll is a survey of the Board. She further noted that the Board could consider a discussion relating to the use of the word "action" concerning its Polls. Comm. Holden explained that she was concerned about some of the allegations; she noted that the article reflects one Representative's perception and noted that she was disappointed that the particular Representative did not speak to the Board first if he had a concern. She remarked that in his allegations, there was a concern relative to the Board's transparency.

Comm. Holden noted that the referenced Telephone Poll was conducted on June 1st relative to energy and explained that energy was previously discussed at the Board's April 7th meeting. On June 2nd, the day following the Telephone Poll, a motion to affirm the Telephone Poll was presented and seconded early in the meeting. The Board tabled the affirmation until later in the meeting so that it could gain further information from Mr. Lencki, who was involved in soliciting energy-related information. Once Mr. Lencki arrived, he informed the Board that the rate was going to go up and it would be wise to commit immediately; furthermore, Mr. Lencki assured the Board that there was a 30-day out clause that would give the County the opportunity to opt out of the agreement, should it so desire. Comm. Holden noted that the deliberation was not secret; it was done in open session.

Comm. Holden remarked that a Telephone Poll provides the Board the opportunity to move things forward in an expeditious manner; the majority of the Telephone Polls relate to the transfer and/or acceptance of prisoners to or from another facility. She noted that it might make sense to give this consideration and perhaps adopt a policy relative to Telephone Polls.

Comm. Pappas inquired as to whether the Right to Know Commission might give an opinion. Comm. Holden responded that she sits on the Commission and does not believe it will give an opinion; however, she noted that she would be happy to bring up the issue and review it. She further noted that the Commissioners were not acting in a sequential manner; in fact each Commissioner was contacted separately by Mr. Wenger and did not know how the other Commissioners voted. She noted that a Telephone Poll is a survey, a canvas of the Board, but at no time does one Commissioner know the feelings of the others. Comm. Clemons indicated that he favors looking into this further and explained that he likes the way the Telephone Polls are conducted because the Board has no contact with each other outside of Board meetings. He went on to say that the Commissioners never call each other or send emails to each other; everything done in a Telephone Poll is through the Business Office. He noted that he does not know how a particular Commissioner has voted until it is confirmed at the following Board meeting; he expressed his belief that this is an efficient way of doing things and it saves the taxpayers money.

Comm. Clemons went on to explain that he was upset by the article in the Union Leader that was prompted by one Representative...that is Rep. Rowe. He noted that he found it interesting that this particular Representative sent an email to Representative R. Mead earlier in the month in regard to the County Delegation meeting. It said, "Bob, on Friday at the County Delegation meeting, I intend to make the following motion: 'That all wages for Hillsborough County employees be frozen at the 2010 pay rate for 2011 year', would you second the motion? If your answer is yes, would you forward the motion to other Republicans, thank you, Bob Rowe?"

Comm. Clemons indicated that in his opinion, this is a violation of the Right to Know Law because they are conducting business outside of a meeting, and when Rep. Mead forwarded this to other members of the Delegation, not only did he forward it to the Republicans, he also forwarded it to the Democrats; Comm. Clemons noted that his wife, Rep. Clemons, received the email and forwarded it to him. Comm. Clemons suggested that if Rep. Rowe would like to get into a discussion about the Right to Know Law, he would gladly get into that discussion with him.

M. Rusch informed the Board that the issue will be discussed at the Executive Committee meeting the following Friday. She also noted that the Union Leader called her office and left a message. Comm. Pappas inquired if Rep. Rowe asked to have the issue put on the Executive Committee's meeting agenda: Ms. Rusch indicated not to her knowledge.

Executive Committee Chair Rep. M. Pilotte asked the Chair for an opportunity to speak. Rep. Pilotte noted that a letter was forwarded to him, which he in turn forwarded to the Coordinator; he noted that it is

obviously a matter of public record. He explained that the letter requested that the issue be placed on the agenda.

Commissioners Holden and Pappas indicated that they will be out of State attending the NACo Convention; Comm. Clemons indicated that he would be able to attend the Executive Committee meeting.

The Board took the matter of Telephone Polls under advisement; Comm. Holden noted that the Board could look at how it does the motions. Comm. Holden also noted that based on her experience in serving on the Right to Know commission, she does not believe that the Board violated the law; she indicated that if the Board had violated the law, it would change its policy; however, in her estimation, she does not believe that the law was violated.

Mr. Wenger noted that in relation to the use of the word "action" in the Telephone Poll memo, he appreciated the Reporter bringing it to his attention. He noted that if one reviews the previous Telephone Polls, one would note that in past Polls, the word "status" is used. He noted that the word "action" is misleading because it is not an action that is taken, and that he will refrain from using the word action in the future.

Comm. Holden explained that when she spoke with the reporter, she indicated that the Poll was taken on June 1st and the "action" was taken on June 2nd at the Board meeting; however, that was not reflected in the article. Mr. Wenger noted that it is his understanding that the purpose of that Telephone Poll was to send an indication of the Board's position with respect to locking in the County's electric rates, and it is his understanding that those rates went up significantly after that day. He further noted that it was his understanding that it was in the County's best interest to lock the rates that day, subject to the Board's subsequent approval.

Supt O'Mara observed for the record that, regarding transparency, information relative to inmate transfers is one of the exceptions that can be excluded from public knowledge under the Right to Know law because it is a "security-related issue" at a County Correctional facility. He explained that all movement of prisoners outside the facility creates a "security-related issue;" he noted that for as long the law has applied, those matters have been addressed in Non-Public session. Supt O'Mara further observed that the use of a Telephone Poll for the transfer of inmates does not have any bearing relative to transparency since that information is expressly excluded by statute. In response to a question from Comm. Clemons, Supt. O'Mara responded that Board approval is required by statute if the DOC will be incurring the burden of board and care of an inmate.

Rep. Pilotte was recognized; he explained that he was copied on a letter sent to the Board of Commissioners from Legal Counsel; he noted that he feels extremely uncomfortable bringing the letter to the Committee the following Friday unless the Board officially accepts the letter or acknowledges receipt of the letter. He asked what the Board's intentions were relative to the letter.

Comm. Pappas remarked that there was a letter sent to the Board from County Legal Counsel, Attorney C. Kirby with her opinion regarding an issue. Comm. Holden noted that the letter was copied to the Executive Committee and suggested that the Board take no action at this meeting, but take it under advisement because the Board will be reviewing the issue to see what steps may or may not come next. Commissioners Pappas and Clemons concurred. Rep. Pilotte thanked the Board for its consideration. Comm. Pappas noted that she does not believe that Legal Counsel will be available the following Friday. Comm. Clemons and Comm. Holden indicated that they have questions to address with Attorney Kirby.

7. Public Comments

There was no one present from the public who indicated a wish to speak.

8. Non-Public Session

Comm. Pappas noted that no one had requested a Non-Public Session.

Senate Bill 500

Comm. Pappas recognized Supt. O'Mara, who had previously requested time to speak relative to the affects of New Hampshire Senate Bill 500 (SB500).

Supt. O'Mara conducted a Power Point presentation relative to SB500. Supt. O'Mara informed the Board that prior to SB500, the Courts had the overall responsibility for prisoners, the Courts would send people to the County Jails, the NH State Prison or directly to the Division of Field Services for those who were given a sentence of probation or parole. The State might also send people to a halfway house. He noted that a new, Amendment RSA 651:2 V, reads:

- (i) The Court may include, as a condition of probation for a felony offense, a jail sentence of 1 to 5 days that a probation/parole officer may impose in response to a violation of a condition of probation, in lieu of a violation of probation hearing. Such jail sanction shall be served at the county jail facility closest to or in reasonable proximity to where the probationer is under supervision.

He noted that the aforementioned amendment gives probation officers a tool to execute a sentence of 1 to 5 days for anything that does not involve a new crime. An amendment to RSA 504-A:4 is paragraph III, which refers to that action. It reads:

- III. A probation or parole officer may require any probationer, whose sentence includes a 1 to 5 day sanction pursuant to RSA 651:2 V (i), to serve a county house of corrections sanction or a portion thereof, provided that the probationer is advised of and waives his or her right to counsel and to a preliminary hearing under RSA 504-A:5 and violation of probation hearing. If the probation officer intends to impose this sanction, the officer shall advise the offender of the violations alleged, the date or dates of the violation and the number of days the offender shall serve. If the offender objects to the imposition of the jail sanction, a violation of probation hearing shall be held. This short jail stay may not be issued for any violation of probation which could warrant an additional, separate felony charge.

Supt. O'Mara explained that SB500 begins with intermediate sanctions that are new in that they include 1 to 5 days in a house of corrections for probationers at the discretion of the parole or probation officers; he noted that another piece of the bill includes parolees; there is the option to agree to an intermediate sanction rather than a full revocation through the hearing process, or to go to the halfway houses for up to 7 days. These 2 intermediate sanctions are meant to reduce the number of revocations of individuals on parole or probation.

Supt. O'Mara explained that the violations process has not changed. Typically when violations occur, a parolee or probationer that violates goes to court and is sentenced to 12 months. The original sentence could have been a 3 to 5 year sentence in the State Prison, but if on probation, if they violate, they go to the County house of corrections, not the NH State Prison. Under the new bill, violators don't go to the prison any longer; they go to a program designed by this bill, which has to be outside the walls of the prison. The focus is to rehabilitate and get these people back on track during a period not-to-exceed 90 days.

Supt. O'Mara noted that the sentence of 1 to 5 days does not apply to new crimes; once the probationer or parolee commits a new crime, the violation process will apply; the people won't go to the prison; they will go to the 90-day program or from the courts to the house of corrections for 12 months. Supt. O'Mara noted that an initial concern when he learned of the 1 to 5 day sentence was that it was not known how many of these violators would be sent to Hillsborough County's Department of Corrections, but based on 2009 data from the Justice Department, there were 27 people that entered the DOC for violations. He noted that the Superintendents were told that with SB500, the 1 to 5 day sanctions will go up; as a result of the intermediate sanctions, the full violations will drop. Supt. O'Mara noted that the problem with that logic is that the intermediate sanctions are for the technical violations such as missing work two times, a bad urine screen, a missed AA meeting or like violations of parole or probation. He explained that anything involving a crime is still a violation; and there is nothing in the bill to address crime reduction that results in a violation that comes to the a house of corrections for 12 months. Supt. O'Mara noted that the actual number of parolees that had revocations in 2009 was 170, not 29. He explained that the revocation process simply entitles people to a hearing; this will only occur if there is a felony; the bill states that "this commission shall not apply to a parolee who has accepted, as an option, the intermediate sanction." He noted that they can serve the 7 days in the halfway house, if they elect to do so, to avoid the revocation process, reducing the number of people going to the State Prison. A person with a technical violation can opt to go to a halfway house for 7 days or go through the revocation process and go to the 90-day program; he noted that a person would obviously choose the 7-day program.

Supt. O'Mara noted that in looking at why parolees re-commit, it is because they commit a new crime. He further noted that once that happens, there will not be an option for intermediate sanctions; they will go directly to the 90-day program. He emphasized that the 90-day program is in a building outside the State Prison; the person would not go back to the State Prison. He explained that the language reads: "A person who has recommitted shall serve 90 days in prison before being place back on parole for the remainder of his/her maximum sentence, whichever is shorter. He noted that this change is significant.

Supt. O'Mara presented a slide illustrating RSA 651-A:17, noting that it will apply to the 170 parole revocations. It reads:

"651-A:17 Parole Revocation – Any parolee arrested under RSA 651-A:15-a shall be entitled to a hearing before the board within 45 days, in addition to any preliminary hearing which is required under RSA 504-A:6. The parolee shall have the right to appear and be heard at the revocation hearing. The board shall have the power to subpoena witnesses, pay said witnesses such fees and expenses as allowed under RSA 516:16, and administer oaths in any proceeding or examination instituted before or conducted by it, and to compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda, papers or tangible objects of any kind. If the board, after a hearing, finds that the parolee has violated the conditions of parole, violated the law, or associated with criminal companions and in its judgment should be returned to the custody of the commissioner of corrections, the board shall revoke the parole. A prisoner whose parole is revoked shall be recommitted to the custody of the commissioner of corrections. This provision shall not apply to a parolee who has accepted an option, offered by a probation/parole officer, to participate in an intermediate sanction program and has waived his right to counsel and to a preliminary hearing under RSA 504-A:5.

Supt. O'Mara gave an example of inmate Mr. V .who has four more years of parole. He explained that Mr. V would normally be placed under the supervision of the Division of Field Services to serve four more years of parole; SB500 now says that once your are paroled, the most you will serve is 90 days in that building outside the walls of the State Prison minus any time spent during arrest or otherwise detained. He explained that a person with only 6 months parole remaining would still make out better with the 90-day maximum. Supt. O'Mara went on to refer to the case of Mr. V who has four more years of parole, and who violates again...3 years and 9 months of the original 4-year parole period disappears

because of the phrase that reads: “whichever is shorter, 90 days or the maximum sentence.” Supt. O'Mara suggested that this is horrifying. He explained that with the change in SB500, if there were a person with 10 years parole, and they violate by committing a new crime, the person would serve 90 days or less...the nine years is gone.

Mr. Wenger asked for verification regarding parole when a new crime is committed; Supt. O'Mara responded that if a new crime is committed, an existing case is pending, the person will go through the violation process under RSA 504, and the most the person would go away for is 90 days, the remainder of the parole is eliminated.

Supt. O'Mara presented slides relative to what happens to a parolee when he/she is committed and the effect of recommittal. The statutes are listed with the following: {Words that are struck through have been removed from the statute}. Italicized text represents new wording in the statute.

The subject and applicable statutes in the presentation are:

“What happens to a parolee when he/she is recommitted?”

“NH RSA 651:19 I

I. A prisoner who is recommitted {~~may, at any time before the expiration~~} *shall serve 90 days in prison before being placed back on parole or the remainder* of his *or her* maximum sentence, {~~except as provided in RSA 651-A:18, be paroled again. If not paroled, a prisoner who is recommitted shall serve the remainder of his maximum sentence minus any credits to which he may thereafter become entitled under RSA 651-A:22 and 23 and less the period of time the prisoner was at liberty in satisfactory compliance with the terms and conditions of this parole~~} *whichever is shorter*. The time between the return of the parolee to prison after {~~his~~} arrest and revocation of parole shall be considered as time served as a portion of the maximum sentence.”

NH RSA 651:19

“10. Parole of Prisoners; Effect of Recommittal. Amend RSA 651-A:19 to read as follows:

- I. A prisoner who is recommitted {~~may, at any time before the expiration~~} *shall serve 90 days in prison before being placed back on parole or the remainder of his or her* maximum sentence, {~~except as provided in RSA 651-A:18, be paroled again. If not paroled, a prisoner who is recommitted shall serve the remainder of his maximum sentence minus any credits to which he may thereafter become entitled under RSA 651-A:22 and 23 and less the period of time the prisoner was at liberty in satisfactory compliance with the terms and conditions of his parole~~} *whichever is shorter*. The time between the return of the parolee to prison after {~~his~~} arrest and revocation of parole shall be considered as time served as a portion of the maximum sentence.

- II. *Prisoners who are recommitted shall be housed separately in a prison housing unit that provides focused, evidence-based programming aimed at reengaging parolees in their parole plan.*

Supt. O'Mara noted that SB500 was signed prior to July 1st; he anticipates that implementation will take some time.

Comm. Clemons asked if there were a way to track related costs; Supt. O'Mara responded that the costs could in fact be tracked based on any occasions when the Sheriff's Department is sent to pick up a prisoner. Comm. Clemons inquired if there was any action that the Superintendent needed from the Board; he responded that it is reasonable to expect costs to double and that it may be necessary to budget

the additional expense. He summarized by saying that the bill is nothing more than one more attempt by the State to shift costs to the County.

Comm. Pappas thanked Supt. O'Mara for his presentation and suggested that the Board recess for a few minutes prior to entering into a discussion relative to land and facilities.

Motion: To enter into a recess. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

The Board entered recess at 11:50 a.m.

The Board moved out of recess at 12:00 p.m.

Motion: To come out of recess. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Attending this portion of the meeting were Mr. Reidy, Chief Deputy Durette, Supt. O'Mara, J. Vacca and Mr. Wenger.

Mr. Wenger informed the Board that 100 copies of the Charrette Report have been printed. He noted that at this point he might recommend that the Board have discussion relative to the report. He suggested the following:

1. a discussion among the Board to see where it would like to go regarding land and buildings
2. a discussion of short and long term plans/priorities

Mr. Wenger offered that consideration could be given to how the information is distributed to the Executive Committee, how the information is distributed to the Building Committee, the impact of property planning on the Department of Corrections, which is responsible for the upkeep of the property, and how the information is distributed to the Departments, and the impact on the Departments

Supt. O'Mara inquired if approval were needed for a project under \$5,000; Mr. Wenger responded that it was unclear if there were to be a change of use of the property. There was discussion of projects that could be implemented with little difficulty such as reclamation of the ball field.

Comm. Holden indicated her pleasure in noting that the Design Charrette report is on the County website. She referred the Board to the recommendations contained in the report, and noted the following recommendations:

- “County Government should be consolidated on County land.
- Full use of existing structures and increased energy independence should be sought.
 - The existing county buildings are valued, and should be made more inviting.

Comm. Holden suggested that, based on the report, the Board should first look at making the County facility more inviting, noting that is not necessarily a large cost item. She noted that she endorses the recommendations in the report and asked for input from the other Commissioners.

Comm. Clemons agreed with the recommendations contained in the report and noted that he would like to see full use of existing structures and increased energy independence, noting that there may be a potential for wind power on the land; he indicated that he would also like to see the County make use of the building in the front portion of the property, perhaps integrating other County Departments/agencies. He further noted that it is a historical building and he would like to see the County honor the history of the building.

Comm. Pappas suggested that using that building could illustrate success in using a historic building and she noted that she would like to see the County move in that direction. She further noted that her next priority would be to see it improved to a point where it could be used, whether it is for the Registry of Deeds or for other use. Mr. Wenger noted that the building is fully gutted and ready to be developed although there is no money in the budget for this purpose. He further noted that it would be wise to consider uses for the building, whether it be for use in the near future or to relocate the building if Route 114 were to be widened.

Comm. Clemons noted that he would like to see consideration given to securing grants for restoring that building and to developing wind energy. He also noted that there might be companies that would develop the energy project by using grants and noted that it might be possible to sell the energy to PSNH, for example, and that it might be possible to get an outside company to do the development work and then sell them the energy.

Mr. Wenger informed the Board that a wind study was done at the Nursing Home, and it is his understanding that the result was negative; he did not know if consideration was given to areas beyond the Nursing Home. Mr. Wenger noted that an energy consultant will be brought in to provide an energy evaluation as a part of the energy grant that the County received; an initial meeting was held the previous week and more will be scheduled. The result could be an Energy Master Plan; the study of wind could be a part of the study.

Mr. Reidy spoke relative to energy conferences that he has attended recently; he noted that there are UNH staff who are working with sustainable energy projects. He explained that there are companies that have done the development in municipalities and schools, and this might apply to the County. Mr. Reidy spoke about a company that is basically an energy provider that does the entire development process and receives all the energy credits and noted that it is worth looking into.

Chief Deputy Durette noted that an offer could be made to any energy provider; he further noted that he has contacts that he could be in touch with, and explained that with any project, leadership and management of the project is a concern because everyone is busy. Comm. Holden suggested that she could see what resources or grants might be available through NACo.

Supt. O'Mara noted that the inmates could assist with projects; Mr. Wenger suggested that the Board consider what the Department of Correction's role is, particularly with respect to upkeep and maintenance, but there is also the next step of leadership and management and who is going to go out and seek grants

Chief Deputy Durette explained that the administrative process is a huge burden for the person writing a grant, but a grant writer could be sought whose administrative fee would be paid under the grant, and at no cost to the County.

Comm. Clemons inquired about the bidding process; Mr. Wenger noted that such a project would have to go out to bid. Mr. Reidy referred the Board to the report's recommendation on page 9:

- "Streamlining methods for the development process, so that the County might seek specific development proposals and base awards on factors other than short-term initial lease rates
- Developing specific site and overall design guidelines and specifications"

Mr. Reidy noted that in light of the aforementioned recommendations, he would suggest that the Board would want to be clear about the items mentioned before going out to seek options. Comm. Clemons noted that a concern he has is that he would not want to stifle creative ideas, and he is not sure that the Board has all the answers.

Mr. Wenger explained that the professionals involved in the Design Charrette process made it clear that the word on the street is that the Hillsborough County property is off limits. He noted that perhaps a first step is changing that perception and getting the word out there that the County is open to doing something, but there should be a determination as to what portion of County property is open for discussion, for example, is there a section of property for which the County wants to invite developers to submit proposals so the Board can then evaluate the options, subject to bid specifications, etc. Another example would be to identify number of acres that could be used for a continuum of care. Mr. Wenger noted that part of the leadership of this is to determine how to get the word out and go forward.

Comm. Holden noted that the first step could be the administration building at the Complex, then development of the cow barn. Supt. O'Mara noted that there has also been discussion of using the piggery for the UNH Cooperative Extension. Comm. Holden noted that the Charrette professionals recommended developing what it already has at the County Complex before developing other parcels; she suggested that it would be appropriate to first focus on a couple of items.

Mr. Wenger offered that the Board could focus on the short term, the mid term, and the long term. Discussion ensued relative to items that could be addressed this year as well as in the future. Comm. Holden noted that timbering is something that was planned, but never done, and this is something that could be done this year. Mr. Wenger explained that this is an example of who is responsible for managing the project and go forward with it. Comm. Holden suggested that the ball field could be a project; Mr. Wenger noted that reclaiming the ball field could be done for little cost.

Supt. O'Mara added that the ball field reclamation is a project that not only could be done, but one that will show good faith that the Board is following the professional's recommendations and that their efforts are being taken seriously and it could provide an opportunity to build relationships with the Towns or Cities that might use the ball field. Mr. Wenger noted that taking this step may lead to other opportunities and relationships, such as perhaps developing a trail to connect with the Rails to Trail biking trail; he noted that there are recreational opportunities for land between the river and the biking trail; there is money in this year's budget to gravel the dirt parking lot located behind the cow barn and the Board may wish to promote its use in the evenings for recreational purposes. Mr. Reidy provided information relative to the scope of the Rails to Trails project.

Mr. Wenger raised the issue of the lease at the Women's Prison; he noted that the lease extension for the Women's Prison is a mutual extension and the County is nearing the end of the lease term. He offered that consideration should be given to whether the County wishes to extend the lease further. Comm. Pappas noted that the City of Manchester is very nervous about this issue and is involved in discussion as to where they feel the Prison should be located. Mr. Wenger noted that the issue is:

1. does the County wish to have the Prison at this location
2. does the County wish to have them leave
3. does the County favor entering into discussions with them relative to an enlarged facility.

Comm. Holden noted that it would be nice to not have a facility surrounded with barbed wire, and suggested that this was a bad deal for Hillsborough County.

Mr. Reidy suggested that the Board may wish to consider if having the Women's Prison at this location creates any restrictions relative to the property on the corner because that land probably has tremendous value. Mr. Wenger noted that this brings back the issue of the Registry of Deeds; included in that is the legal issue related to it being located at the County seat, and the facility logistics issue of the Registry's need to have vaults, which in turn means that there are enhanced technology and construction requirements needed to meet statutory requirements.

Supt. O'Mara noted that there would also be a negative economic impact to the Nashua area on local businesses such as the restaurants, variety stores, law offices, realtors and others should the Registry move from its present location. There was discussion relative to the fact that there is always resistance to change in the beginning.

There was discussion about grants and looking for potential grant writers. Mr. Wenger noted that with the Economic Development Grant, the County could receive \$25,000 for its administrative work. He explained that a good grant writer can do a great job for the County, such as the work done by Ms. Stearns for the Mental Health grant. Comm. Clemons suggested that it might be wise to consider including the position of grant writer in next year's budget. Mr. Wenger responded that the County is not set up at this time to capitalize on grants; each of the Departments that do grants have someone in the Department that does the grant application; he noted that now that the County is obtaining more grants, there needs to be attention focused on grant requirements.

Mr. Wenger noted that it is his understanding that Merrimack County has a grant writer; the Departments either approach him with information regarding a prospective grant they are aware of or with a request to go out and find a grant for a particular purpose; he noted that the person pays for himself every year.

There was a general agreement relative to beginning with visible projects.

There was discussion of the Charrette Report serving as a road map as well as potential uses for the existing structures. The opportunity to look at exploring the former kennel and piggery for the Cooperative Extension was discussed favorably.

Mr. Reidy provided the Board with information about a grant that is funding research relative to connecting all the Cooperative Extension offices to high speed internet

Mr. Wenger suggested that he is hearing that the Board wishes to continue to meet to discuss proposals for developing the ball field and buildings, and to continue discussions for the long term; the Board will need to decide how to get to the next step, bring ideas to the Executive Committee, and meet with the Building Committee to keep them in the loop and get feedback. The Board agreed that it was important to keep moving forward with the Charrette recommendations.

Adjourn

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

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

The meeting adjourned at 12:50 p.m.

Signed 7/28/2010

Comm. Michael Clemons, Clerk
Hillsborough County Board of Commissioners

Date