

Regular Meeting of the  
Hillsborough County Board of Commissioners  
July 21, 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, P. Coughlin, M. Wageling, M. Montminy, C. Kirby, B. Moorehead, D. Reidy, E. Robinson, M. Rusch, G. Wenger, and L. Stonner.

**Also present:** Members of the public

**1. Pledge to the Flag**

Comm. Pappas called the meeting to order at 9:10 a.m., followed by the Pledge to the Flag led by M. Wageling.

**2. Administrative Business**

Minutes

June 10, 2009

**Motion:** To accept the minutes of June 10, 2009. By Comm. Holden, second by Comm. Pappas. Motion carried.

July 8, 2009

**Motion:** To approve the minutes of July 8, 2009. By Comm. Holden, second by Comm. Pappas. Motion carried.

June 24, 2009

**Motion:** To approve the minutes of June 24, 2009. By Comm. Holden, second by Comm. Pappas. Motion carried.

Approval of Payroll Registers

**Motion:** To approve the Payroll Register 7/9/2009 in the amount of \$1,193,051.21, subject to review and audit. By Comm. Holden, second by Comm. Pappas. Motion carried.

Approval of Accounts Payable Registers

**Motion:** To approve the Accounts Payable Register dated 7/20/09 in the amount of \$273,454.88, subject to review and audit. By Comm. Holden, second by Comm. Pappas. Motion carried.

**Motion:** To approve the Accounts Payable Register dated 7/20/09 in the amount of \$893,671.10, subject to review and audit. By Comm. Holden, second by Comm. Pappas. Motion carried.

### Bid # CIS-2-2010 – County Attorney-Damion Annual Software Maintenance

**Motion:** To approve Bid # CIS-2-2010 for the County Attorney for Damion Annual Software Maintenance Agreement, at the price of \$24,116.37, to Constellation Justice, Pittsford, NY, noting that this is a single source bid for annual contractual support costs approved consistent with RSA 28:8-e V. Motion by Comm. Holden, second by Comm. Pappas. Motion carried.

Mr. Wenger explained that the previous bid is for the annual maintenance agreement for the software that is used by the County Attorney.

### 3. Public Comment on Agenda items

Members of the public were present. No one indicated a desire to speak relative to the agenda.

### 4. Department of Corrections

Census

Comm. Pappas welcomed M. Montminy who represented the Department of Corrections.

Mr. Wenger presented the DOC Census, noting that as of July 17th, the Census was 559, and explained that there were 571 inmates in custody, which included 512 men of whom 350 are being held pre-trial, and 162 have been sentenced. There were 59 women of whom 32 are being held pre-trial and 27 have been sentenced.

### Bid FY10-09 – Facility Camera System Service Contract

**Motion:** To approve Bid # Bid FY10-09 for the DOC for the Facility Camera System Service Contract at the price of \$8,400 to Pelmac Industries, Auburn, NH, noting that this is a single source bidder consistent with RSA 28:8-e V, and the vendor is the manufacturer and installer of the equipment and is able to provide parts and service at a reduced rate. Motion by Comm. Holden, second by Comm. Pappas. Motion carried.

### Bid FY10-17 – Cleaning Services for the Bouchard Building

**Motion:** To approve Bid # FY10-17 for the DOC for cleaning services for the Bouchard Building, first floor, to R & W Cleaning Services, Goffstown, NH, at a price of \$16,640.40, noting it is the lowest responsible bidder. Motion by Comm. Holden, second by Comm. Pappas.

Comm. Holden noted that the low bidder was only \$4 less than the second lowest bidder. She inquired if the inmates will continue to work on the first floor of the Bouchard Building. Mr. Wenger responded that this bid is for the maintenance contract that was discussed and budgeted this past year; it is for cleaning of the first floor. He noted his understanding that inmates will continue to be at the Bouchard Building working at various tasks.

Motion carried.

Comm. Clemons joined the meeting; he had been delayed in traffic associated with a traffic accident.

#### Bid FY10-66 – Spork Kits

**Motion:** To approve Bid # FY10-66 for the DOC for Spork Kits (1250 cases) to Xpedx, Wilmington, Ma, at a unit cost of \$11.05/case for a total cost of \$13,812.50, noting it is the lowest responsible bidder. Motion by Comm. Holden, second by Comm. Pappas. Motion carried.

#### Bid FY10-67 – 8 oz. Dart Foam Cups

**Motion:** To approve Bid # FY10-67 for the DOC for 8 oz Dart Foam Cups (1,100 cases), to Central Paper Products, Manchester, NH, at a unit cost of \$14.64/case for a total cost \$16,104, noting it is the lowest responsible bidder. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

#### Bid FY10-68 – Cellucap Hairnets

**Motion:** To approve Bid # FY10-68 for the DOC Cellucap Hairnets (50 cases), to Central Paper Products, Manchester, NH, at a unit cost of \$106.50/case for a total price of \$5,325, noting it is the lowest responsible bidder. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Comm. Clemons inquired if it were true that the DOC is losing guards at a higher rate than normal because of resignations. M. Montminy responded that she did not believe that was the case and that there will be 8 attending the upcoming Officer Training Academy. Comm. Clemons indicated that he spoke with Supt. O'Mara who had indicated that seven corrections officers have resigned since April, noting that the reason was that they were going to better jobs in law enforcement. M. Montminy responded that they were most likely going to higher paying jobs. Comm. Clemons noted that he wanted this on record.

Commissioner Holden gave M. Montminy information about CRS, a company managing inmate costs on inmate medical expenses. She asked her to pass on the information to Superintendent O'Mara.

Comm. Pappas recognized E. Robinson who indicated that she had received a Right to Know request from Comm. Holden. Ms. Robinson presented a packet with the letters in question for each of the Board members and for the permanent record. Ms. Robinson explained that there were 30 letters, and that they were not sent to every member of the House; they were targeted by area. She noted that part of the request relates to postage; she indicated that she had inquired about obtaining postage expenses by day for specific dates, and learned from the Business Office that that information is only available by month; she requested the information for FY09 for her Department and will provide that information to the Board when it becomes available.

The Board held a lengthy discussion relative to how an investigation could be conducted relative to the letters sent and the lobbying efforts of the Human Services Department that were discussed at a prior meeting. Comm. Pappas noted that it was her understanding that the Board would be provided policies developed by the Human Resources Department. Mr. Wenger stated that there were two separate issues; it is his understanding that the Board would look into policies with respect to lobbying and use of county funds in those efforts. He noted that he sees that as different from a formal investigation. Comm. Pappas explained that she was under the impression that Comm. Holden was satisfied that the County would move forward developing new policies and procedures. Comm. Holden noted that this is a Right to Know request for records because if you wait and do an investigation, records are lost and later you don't have them all. She indicated that she is keeping them together for when the Board is discussing the issue.

Mr. Wenger suggested that if the Board is interested in an investigation, he will bring recommendations to the next meeting as to how to proceed. Comm. Clemons indicated that it was his understanding that the Board would discuss what went on and the policies and procedures, and that if the Board found that any

policies and procedures were violated, then the Board would conduct the investigation, additionally, the Board would try to re-write the policies and procedures, if necessary, to make sure that it did not happen in the future. Comm. Pappas indicated that this was her understanding as well. Mr. Wenger confirmed that the Board wishes to move forward with developing revised policies.

Comm. Holden noted that the current policies and procedures do contain regulations on the personal use of County property, and the Board needs to look at that including internet and cell phone use. Comm. Clemons suggested that there are likely policies and procedures, and this issue has to be weighed against those policies and procedures, and that the Board cannot automatically say they were violated without looking at them.

Comm. Pappas asked Comm. Holden if she would be agreeable to having Human Resources provide the policies and procedures so the Board could weigh this issue against those policies and procedures, and then the Board could decide what to do next. Comm. Holden noted that she is taking it under advisement at this juncture. Comm. Clemons asked if there was no agreement, why the Board should proceed at all. Comm. Pappas noted that she understood at the last meeting that the Board had an agreement.

Comm. Holden remarked that the Board needs to do new policies and procedures and that it has been talking about it since 2005, and noted that this incident provides more impetus for the Board to do that. She indicated that, in her opinion, there are two separate issues; one is the need to do the policies and procedures, the other is the issue relative to the use of County property. She further indicated that she wished to look at the information before making a statement in open session. Comm. Pappas expressed her understanding that the Board was not in agreement to move forward with the policies and procedures and asked Mr. Wenger for his interpretation.

Mr. Wenger offered that it was intention to move forward with a review of all the policies and procedures, suggesting that perhaps the County policies could be clearer; he noted that the policy does make reference to the use of County property for personal use, and it is grounds for termination. He noted that in this situation, it is his understanding that the Department believed that what it was doing was the will of the Board; he further noted that in any case, there will be a total policy review, and part of that will be with suggestions in respect to situations such as this.

Ms. Robinson re-iterated her suggestion that the policies be reviewed relative to this issue because at the last meeting she expressed her belief that the Department was following the vote of the majority of the Board, noting that every Department lobbies in some way, whether at Sub-Committee meetings or other instances.

M. Wageling asked about the roof replacement at Temple Street and asked to keep this item on the agenda until it is complete, so that she can receive meeting-by-meeting updates. Ms. Robinson responded that the roofing project will begin on August 3<sup>rd</sup>. Once the roof project is complete, the interior repairs will be addressed.

Mr. Robinson informed the Board that she is still working to resolve the security issue at Temple Street and is attempting to finalize a contract for that.

## **5. Nursing Home**

### Census

Comm. Pappas recognized Mr. Moorehead who presented the Nursing Home Census. He noted that as of July 16th, the Census was 266, which included 104 Medicaid residents, 39 private pay residents, and 23 Medicare Part A residents. Mr. Moorehead noted that the census was up to 269 as of the previous day; he explained that the he recently contacted the competition and reported that almost every facility that he called indicated that their census was also down. Mr. Moorehead noted that in past history, the census is

typically down in July; physicians are frequently on vacation in July, and the number of elective surgeries is down, and this results in less Nursing Home admissions.

## 2009 Revenue

Mr. Moorehead presented the un-audited revenue for fiscal year 2009 by category. He noted that the numbers are broken down by Room & Board, Ancillary Services involving Therapy, Flu Vaccine, and other items as well as miscellaneous vending, employee meals, and donations. He explained that the projected revenue for the year was \$23,818,488 and the actual was \$24,515,603 resulting in a positive variance of \$697,115 (unaudited). Mr. Moorehead explained that much of the surplus came as a result of being over budget on the revenue side in the bed tax as well as receiving a higher Medicare rate than budgeted.

Mr. Moorehead informed the Board that the Department of Health and Human Services conducted its annual certification and licensure visit the previous week from Monday through Thursday. The Nursing Home received four deficiencies, which is good; none of the issues were quality care issues. He noted that two of the deficiencies were related to a "med pass;" medications are required to be kept under a double lock system, and a staff person neglected to lock one of the locks. He went on to explain that one deficiency related to technique and the other related to infection control.

Comm. Clemons inquired about what happens after the inspection, and he congratulated the Nursing Home for the newspaper article relating to its activities. He mentioned that he recently was given a tour of the pauper's cemetery behind the complex and also observed how much the Nursing Home has grown and changed since his wife attended nursing school at the old Moore General Hospital, which was located on County property; he recognized that the present Nursing Home's success reflects well on the efforts of the Nursing Home employees, the Commissioners, Executive Committee, and Administration.

Comm. Holden noted that she was at the Nursing Home during the "Grow project;" she suggested that it might be nice to have a greenhouse at the Nursing Home so that those who come for the different planting projects don't have to carry all the plants with them, further suggesting that perhaps there would be someone willing to donate a greenhouse. Mr. Moorehead noted that he could look into it. He went on to say that Maddy Perron from the Cooperative Extension has developed an excellent program that was featured on the front page of Section C of the Union Leader, which is phenomenal. He expressed his appreciation of her efforts on behalf of the patients.

M. Rusch informed the Board that the cookout was very successful; she noted that the next Executive Committee meeting will be September 25<sup>th</sup> at 9:00 a.m.

## 6. Old/New Business

Mr. Wenger informed the Board that the Attorney General issued a new and revised memorandum on July 15<sup>th</sup> relative to New Hampshire's Right to Know Law; it has 125 pages, so it has not been printed but it can be viewed on their web link. Mr. Wenger noted that Comm. Holden suggested that the County put a link to the State's site on the County website, to which Comm. Pappas agreed that would be a good idea. Mr. Wenger explained that in the discussion of what constitutes a public meeting, the memo suggests that "attendance by a quorum of a public body at a meeting being held by a different public body to discuss or act upon a matter within the first body's jurisdiction should be treated as a meeting for Right to Know Law purposes for both public bodies." Mr. Wenger noted that would suggest, for example, that when a quorum of the Board attends a meeting of the Executive Committee, Delegation, or a Sub Committee of the Executive Committee or Delegation, that the meeting needs to also be posted on behalf of the Board, and minutes need to be maintained; however, it does suggest that the same minutes may be maintained and approved for both groups.

Each of the Commissioners indicated that he/she is very careful at meetings; in fact they often are on different sides of the room and barely speak. They all indicated that they never call each other; each of the commissioners indicated that they wish to have legal counsel review this and to be very clear about the interpretation of the law. Attorney Wageling noted that it would be difficult to have minutes every time two Board members are at the same meeting and gave an example of them attending a meeting in Concord. Mr. Wenger said that the issues that will affect the Board are where the Board is involved with issues over which it has authority and when another body, such as the Delegation, also has authority. The Board agreed to have Attorney C. Kirby review the memorandum, and Comm. Holden noted that she could contact Jim Kennedy from the Attorney General's office, who serves on the Right to Know Commission.

#### State Budget Retirement Cost Downshift

Comm. Pappas observed that the Association of Counties is joining with the School Board Association and the Municipal Association to oppose the downshifting. She noted that she heard from Betsy Miller the previous day, at which time she indicated that four of the Counties are supporting this; she asked for Board discussion relative to the issue. Comm. Clemons noted that he would not normally comment on issues relative to the Retirement System because he is a beneficiary, but in this case he believes that it would be appropriate for him to comment and vote because he has already started receiving his benefits, and has nothing to gain by supporting this. He expressed his support for the lawsuit, and that the County should not allow the State to mandate this action, which would take the State tax burden and move it to the Counties. Comm. Holden asked how much this was projected to cost the County; she noted that the Counties have not had great success in its lawsuits against the State. Comm. Holden indicated an interest in knowing which four counties support the action before the County takes any action. There was discussion about the cost to the County; Comm. Pappas explained that Hillsborough County's contribution toward the lawsuit would be \$8,543.29.

Comm. Clemons inquired about the cost to the County if this downshift goes through. Mr. Wenger responded that he is unsure at this point, but he could estimate that the cost would be somewhere between \$30,000 and \$50,000 a year, and next year it would be going up another 5%, which would double the cost. Mr. Wenger went on to explain that it is his understanding that they are looking for a commitment from municipalities, school districts and Counties that equals  $\frac{1}{2}$  of 1% of the retirement contribution made by that entity in 2007. Comm. Clemons noted that considering that this expense will have to be paid year after year if it is passed, then the \$8,543.29 is probably not too high a price to pay for the opportunity of overturning this. He indicated that in his opinion, the State is trying to shift its responsibility onto the municipalities and the Counties and he does not believe that is right. He suggested that this is government battling government. Comm. Holden asked if there was a deadline, to which Mr. Wenger responded that he is not aware of a deadline. Comm. Pappas noted that Betsy Miller has been asking the County for a decision for some time now.

Mr. Wenger offered that the Board may wish to consider two motions; one decision would be whether the Board wishes to support the concept and the action that is being taken, and in conjunction with that, the Board may wish to speak with Counsel relative to the issue; the second decision would be with respect to the money, and he explained that the Commissioners do not have the funds appropriated under their domain for this purpose, and it would have to look to the County Convention and Legal Counsel to support this.

Mr. Wenger explained that if the downshift remains in place, there will likely be a need to transfer funds by the end of the year to cover the retirement lines, noting that the Sheriff's Office and the Department of Corrections each have Group 2 employees that are affected. Comm. Holden noted that if the Board had \$10,000 in its own Legal line, those funds could be used for this purpose. Mr. Wenger agreed with Comm. Clemon's earlier comment about government fighting government, but noted that this is the reason the County has the three Commissioners; it is to protect the voters of the districts from the untoward acts of the State. Comm. Clemons indicated that he would like to find out if there is a deadline, and if so, a Telephone

Poll could be conducted; he expressed his willingness to postpone a decision until more information becomes available. There was discussion about the fact that the Board will meet again prior to the next Association of Counties Executive Committee meeting.

Mr. Moorehead explained to the Board that he received a phone call last week from the Rockingham County Nursing Home Administrator, Steven Woods, with a request for help in their Business Office. Both their Business Office Manager and Assistant Business Office Manager have tendered their resignations; he asked for short-term assistance to review their systems and make sure things don't fall through the cracks, primarily on the billing end. Mr. Moorehead expressed his wish to support this request and suggested sending Sheila Morin for three or four days during the following week; he asked the Board if it wished to support this action. The Board was in full agreement to support this action in the spirit of cooperation, and as a professional courtesy.

Comm. Holden reported that the Design Charrette Committee will be meeting the following day at 3:00 p.m. in the Commissioner's Conference Room.

Comm. Holden reported that she attended a recent Rails to Trails meeting, and she will be meeting with them again the following Friday. Comm. Holden informed the Board that she will be discussing deed information with Attorney Kirby relative to Rails to Trails coming behind the County property.

Comm. Holden noted that she received a note from Dan Reidy thanking the Department of Corrections for sending a couple of officers to his mother's wake. She expressed her condolences on her passing and noted that Mrs. Reidy was member of Guild at the Nursing Home, and her husband served in the House of Representatives with Comm. Holden, and was on the Executive Committee.

Comm. Holden informed the Board that Public Health Initiative held a meeting on June 25<sup>th</sup>. The next meeting will be in February, 2010.

Mr. Wenger explained that there is an Energy Independence and Security Stimulus Act, and under that there are energy efficiency and conservation block grants that may be available; the Counties in New Hampshire have been determined to be ineligible, but Senator Shaheen's office has been working with Betsy Miller to pursue an appeal of this determination. He noted that an appeal is due this Friday that basically will state that the County has energy issues and is pursuing plans to resolve those issues. Mr. Wenger explained that there is approximately \$600,000 that may be available to Hillsborough County, and noted that he can complete the paperwork to start the appeal to determine whether the County is eligible. He asked for the Board's approval to initiate the process.

**Motion:** To authorize Mr. Wenger to sign the appeal form. By Comm. Clemons, second by Comm. Holden. Motion carried.

Mr. Wenger inquired of the Board if it still were agreeable to giving up some of the Commissioner Office space, as discussed at the last meeting, and suggested exploring suggestions for additional office space as a result of the Sheriff's Office central transportation group moving from the Chestnut Street space to the Bouchard Building. He went on to explain that a consideration would be to take some of the space in the rear of the Business Office; the plan includes leaving a shared office for the Commissioners and a shared Conference Room. This plan involves moving the Human Resources Department to part of the Business Office, dividing the space in two, thus freeing up the current Human Resources space for the Sheriff's office staff. He noted that if there is a commitment from the Board to go forward with that space, he will move forward; otherwise, he will look at the rear of the Human Services space again.

Comm. Holden indicated that she has all her files in her office, she uses her office and she would not want to give it up. Commissioners Pappas indicated her willingness to give us her office as long as she can have

access to a phone. Mr. Wenger suggested that there be consideration given to having one private office and one that is a conference room that can be shared. Comm. Holden indicated her belief that Human Resources should stay where it is. Mr. Wenger noted that he will focus his energy based on the wishes of the Board. Comm. Holden suggested that there might be a Plan A and a Plan B. Mr. Wenger responded that he could do that for the Board. Comm. Clemons indicated that he would guess that his own office could probably be more efficiently used, and encouraged Mr. Wenger to proceed with his plans.

Comm. Holden suggested that the Board consider future Commissioners who may wish to use the offices more frequently than is done currently. She gave examples of Commissioner offices that have been given up in the past, and noted that once it is given up, it will not be available at a later date. Comm. Holden noted that the Human Resources Department was recently renovated so that privacy is available to those coming in and out. Comm. Holden noted that she appreciated the "heads up," further noting that she is not ready to make a decision at this meeting. Mr. Wenger responded that he appreciated the Commissioner's concerns, noting that future Commissioners may wish to use office space and the plan would be able to accommodate them. He further offered that one of his considerations will be flexibility and the ability to return to "where we were." Mr. Wenger suggested that he has no plans to take away anything that already exists.

## 7. Public Comments

Comm. Pappas recognized Rep. S. Vaillancourt who wished to address the Board. Rep. Vaillancourt expressed opposition to the County spending \$8,500 of the previously mentioned lawsuit, noting that there is no basis for this lawsuit and suggested that the Counties are not going to win this lawsuit, so "you might as well bite the bullet and bear the cost." He further noted that it is not a good example for the County to be suing the State and it will be a waste of money and suggested that "we have to become a less litigious society, especially when it comes to the State being sued by the Counties.

Rep. Vaillancourt also mentioned writing to the Diocese relative to the cost of having a priest come to the Nursing Home. He indicated that he is in his seventh term and thirteenth year as a State Representative, and he is trying to be fair, but further noted that he has never had lobbying done to him the way it was done for the Human Services budget this year. He noted that he has never seen such a concerted effort and suggested that thousands of dollars were stolen from the County in this enterprise. Rep. Vaillancourt summed up his comments by suggesting that it is not fair to the taxpayers to have a nine to ten percent surplus every year.

## 8. Non-Public Session

There were no requests for a Non-Public Session.

## 9. Adjourn

There was no further business for consideration; the Chair entertained a motion to adjourn.

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

The meeting adjourned at 10:20 a.m.

*(SIGNED 8/5/2009)*

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Comm. Michael Clemons, Clerk  
Hillsborough County Board of Commissioners

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Date