

Regular Meeting of the
Hillsborough County Board of Commissioners
July 28, 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, P. Coughlin, C. Kirby, B. Moorehead, J. O'Mara, D. Reidy, E. Robinson, M. Rusch, G. Wenger, and L. Stonner.

Also Present: Attorneys E. Rice, Esq. J. Meyer, Esq., L. Moreau and members of the public.

1. Pledge to the Flag

Comm. Pappas called the meeting to order at 9:00 a.m., followed by the Pledge to the Flag led by Register P. Coughlin.

2. Rockingham Economic Development Corp.

Comm. Pappas recognized L. Bistany; the Commissioners introduced themselves to Ms. Bistany. Ms. Bistany informed the Board that she represents the Rockingham Economic Development Corporation (REDC); she noted that her company is one of ten in the State that represent all the cities and towns; it is a Non-Profit 501(c) (3) Corporation; its primary mission is economic development and job creation. REDC lends money to companies that cannot borrow through a traditional lender, or it may partner with a traditional lender to fill a gap; they also counsel businesses, do strategic planning in the form of looking for grants that can help municipalities for public infrastructure projects, but the main thrust is job creation, particularly for low income individuals in the five communities that they support in Hillsborough County. Ms. Bistany explained that she was present today to ask the Board's support in applying for Community Development Block Grant funds to support a growing company in Nashua. Ms. Bistany explained that normally the activity would be for a Town or City, but in this instance, the City of Nashua is an entitlement community that receives its own HUD funds, and her company does not have the ability to have the funds pass through it to the company. Nashua applies for its own funds and keeps them. In this instance, Ms. Bistany's company is required to request that the County support the project and be the applicant for the grant. She explained that the project is for a company called Resonetics that is looking to move to a larger leased space from a leased space that they have outgrown; the company will be creating approximately 25 additional jobs. Ms. Bistany explained that Resonetics manufactures micro components for the health industry such as heart stents. She went on to explain that while it has financing from TD Bank, it needs help for some of the soft costs associated with the move such as down time, time getting operational, a testing period, and some cash flow crunches that will occur during that down time; REDC is proposing lending them \$500,000 through the CDBG program. Ms. Bistany informed the Board that the money is granted to the County as the applicant, and then the money is sub-granted to REDC, who in turn lends the money to the client. She explained that there is a minimum number of jobs that Resonetics must create in order to keep all of that money; in this case, with a half million dollar grant, there will be 25 jobs created for people of low to moderate income who do not have a higher degree. She further explained that the money is then paid back into the REDC revolving loan fund where it remains and is lent out over and over again supporting future economic development.

In response to questions from Comm. Holden regarding County budget constraints, Ms. Bistany informed the Board that the State receives Community Block Development Grant funds of \$8,000,000 each year, \$4,000,000 of which goes to economic development; the agency that holds the funds is the Community Development Finance Authority in Concord. She explained that the County will not be providing the funds; it will be applying for the funds from another agency.

Comm. Holden referred to Ms. Bistany's letter, in which it states that the County will cut a check to REDC for \$475,000. Ms. Bistany responded that if the funding is approved, the funds will be given to the County by the Community Development Finance Authority (CDFA). Comm. Holden noted that the Board's approval would need to be subject to approval by the State. Ms. Bistany replied that the County is not approving giving REDC the money, it is approving applying for the money, so if the application is not approved, there is no money in question. Comm. Holden inquired about the \$25,000 grant administrative fee and noted that the County does not have a grant person; Ms. Bistany explained that the County will put out a bid for someone to do the grant administration, and the funding will cover the cost of that administration. Ms. Bistany explained that Donna Lane, who planned to be here today, does a great deal of the grant administration in New Hampshire; she is administering all of the CBDG grants that Ms. Bistany's company is currently handling.

Comm. Clemons inquired about what would happen if the business did not pay back the loans; Ms. Bistany responded that, in that event, REDC would go after any and all collateral, which in this case is a solid company with several million dollars in assets; her company would have a position behind the lead lender and would seek to liquidate, if necessary, to get the funds back. Comm. Clemons asked about the company location and loan approval; Ms. Bistany responded that they are currently located on Bud Way; they have not confirmed a new location yet because they are in the final stages of negotiation. She noted that the company initially planned to move to Massachusetts and this loan will keep it in New Hampshire, so this is a real win for New Hampshire...to keep the company, its employees and create new jobs in New Hampshire; she noted that they are not at the stage to approve the loan at this point, but there is a commitment on the part of Resonetics that they will remain in NH, and this is the stage where the application is made. In response to a question from Comm. Pappas, Ms. Bistany informed the Board that Resonetics currently employs 57 people.

Comm. Holden noted that there is a requirement for three Public Hearings and asked if they would all be held on the same day; Ms. Bistany responded that all three can occur on the same day. Ms. Bistany explained that it unusual to go through the County and that the loans usually are processed through the Towns. She spoke about Town requirements that include housing and displacement requirements that do not apply in the County's circumstances or with this project.

Mr. Wenger inquired about the time and when the loan would be processed, if granted; Ms. Bistany responded that money is allocated on an annual basis beginning in January; she noted that as August approaches, it is her expectation that the money will be used up shortly. Ms. Bistany explained that she would like to get the application in by mid-August in order to have a chance to receive the money this year. She further explained that while timing is an issue, once the loan is granted, it is typically processed in 3 or 4 months.

Mr. Wenger inquired about the County's exposure; Ms. Bistany responded that there is no exposure for the County; the business itself signs beneficiary agreements stating that they will provide the employment and that they will pay the money back; she noted that the County is the conduit that the money flows through, but it is not responsible, nor is it signing anything with CDFFA stating that the County is responsible. Mr. Wenger noted that he has some technical or procedural questions that could probably best be resolved in discussion with Ms. Bistany.

Ms. Bistany explained that her company has done this several times with the Rockingham County Commissioners, and she is certain that they could speak to the process and how it has done; Mr. Wenger responded that contact with those involved in Rockingham County would be very helpful.

Ms. Bistany noted that there is a 12-day notice required for the Public Hearing; the Public Hearing is a time when the Board will be once again asked to approve applying for the funds; she noted that Resonetics could be requested to attend should the Board so desire. Comm. Holden inquired if further research was necessary regarding the requirements of the process. Mr. Wenger responded that it was his expectation that he would be able to come to the Public Hearing with any issues or concerns resolved. Following discussion, the Board agreed to hold the Public Hearings prior to a Board meeting.

Motion: To hold a Public Hearing on August 25th at 9:00 a.m. as requested by the Rockingham Economic Development Corporation for the purpose of approving the application process. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Mr. Wenger suggested that the hearings be scheduled at the opening of the Board meeting. Ms. Bistany informed the Board that in order to make the application round for August, she would need to have the application in by August 20th.

Following further discussion relative to the scheduling the meeting and Ms. Bistany's request to hold the Public Hearings sooner, if possible, the Board agreed to reconsider its previous motion. The Board discussed an earlier time and date. Comm. Clemons offered to reconsider the previous motion.

Motion: To reconsider the previous motion. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Following discussion, Comm. Clemons suggested moving the meeting to an earlier date.

Motion: To amend the previous motion to change the date and time to 8:30 a.m. on Thursday, August 12th. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Comm. Holden noted that the motion had been brought to the table and reconsidered, and now a motion was in order to approve the motion, as amended.

Motion: To approve the motion, as amended. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Ms. Bistany thanked the Board for its support and excused herself from the meeting.

3. Administrative Business

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

Minutes

July 14 Board Meeting

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

Approval of Payroll Registers

Motion: To approve the Payroll Register dated July 22, 2010 in the amount of \$1,211,011.20, 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 19, 2010 in the amount of \$156,957.69, subject to review and audit. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To approve the Accounts Payable Register dated July 27, 2010 in the amount of \$851,310.03, subject to review and audit. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To approve the Accounts Payable Register dated July 27, 2010 in the amount of \$9,912.61, subject to review and audit. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Mr. Wenger explained that the first and last Accounts Payable Registers were expenses from FY2010, and the Accounts Payable Register for \$851,310.03 was for FY2011.

4. Public Comment on Agenda Items

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

5. Department of Corrections

Census

Supt. O'Mara presented the DOC Census, noting that as of July 22, 2010, the Census was 568, which included 504 men of whom 348 were being held pre-trial and 156 that had been sentenced. There were 64 women of whom 40 were being held pre-trial and 24 that had been sentenced.

Bid # FY11-09 – Facility Camera System Service Contract

Supt. O'Mara informed the Board that Bid # FY11-09 is the renewal of a maintenance agreement for cameras, powers supplies and related items. He recommended that the bid be awarded to Pelmac Industries at a cost of \$9,000 consistent with RSA 28:8-e, V, noting that this vendor is the manufacturer and original installer of the equipment and is able to provide parts and service at a reduced rate.

Motion: To approve Bid # FY11-09 for the DOC Facility Camera System Service Contract as stated by Supt. O'Mara. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Comm. Pappas recognized Register Coughlin who presented a revenue update. Ms. Coughlin noted that the workload is down, and Tax Stamps are down approximately 23%. She informed the Board that the DRA has been reviewing and auditing transactions and has made a collection for mergers that happened in 2001 and 2003, which has resulted in the Registry receiving \$443,250 in revenue the previous day; she noted that this will make for a very favorable bottom line for the month of July.

Comm. Pappas suggested a change in the order of business and requested that the Board address Old/New Business at this time because three Department Heads would be arriving later in the meeting.

7. Old/New Business

FY 2009 Audit

The Board discussed the FY 2009 Audit that was presented at the last Board meeting. Comm. Pappas entertained a motion to accept the Audit.

Motion: To accept the FY 2009 Audit as submitted by Vachon, Cluckay and received by the Board at its last meeting. By Comm. Holden, second by Comm. Clemons. Motion carried.

8. Sheriff's Department

Sheriff's Office Bid # 2011-002 – equipment change over, new vehicles

Mr. Wenger referred the Board to the letter it received that morning from the Sheriff. Sheriff Hardy explained that, as noted in the letter, he is requesting that the Board reject the bid for reasons outlined in the letter and that the Sheriff's Department be allowed to put together another Bid Specification.

Motion: To recommend that the Board reject the Bid # 2011-002 related to the equipment change over, new vehicles, line 4211-7970. Motion by Comm. Holden, second by Comm. Clemons.

There was discussion about the procedure regarding the bid; Mr. Wenger offered that it is a good procedure to reject the bid since it has been received; he noted that since it is on the Board's meeting agenda; there is an assumption that it will proceed forward and that it is an item for the Board to consider. He noted that the motion to reject the bid shows that the Board has considered the bid and that it addresses the Sheriff's concerns by rejecting the bid.

Motion carried

Sheriff Hardy requested an opportunity to meet with the Board in Non-Public Session relative to a personnel issue.

Hillsborough County Domain Name

Mr. Wenger noted that discussion is ongoing relative to the use of the domain name hcnh.org. Comm. Clemons suggested that the request of the Nursing Home relative to email addresses be considered; Mr. Wenger suggested that it will need to be explored further.

Corrections Officer - \$1 positions

Supt. O'Mara informed the Board that the DOC has two positions funded at \$1 that it wishes to fill and asked for Board approval to do so. He explained that the two positions in question are currently filled by Correctional Officers who are being deployed; he is requesting permission to move these two employees into the \$1 positions so that he can fill the positions that are being vacated.

Motion: To approve filling the positions that will be vacated by the two Correctional Officers, that are being deployed and to move those officers into the \$1 positions. By Comm. Holden, second by Comm. Clemons. Motion carried.

Comm. Holden informed the Board that there were two bills that were signed by the Governor that impact the County budget. She explained that one bill provides an increase in the Sheriff's civil process fees and SB485 increases reimbursement for security functions performed by the Sheriff's Department employees to match the same increase as that received by Court employees who serve as Court security officers under a new State collective bargaining agreement. She explained that Hillsborough County anticipated this \$10 increase in what the State reimburses the County for; it is reflected in the budget, and it is important to make certain that funds are not transferred out of that budget line, and that it be understood that the increase is an increase in the State reimbursement, not in the what the County pays, and it is important to watch this. Mr. Wenger noted that it is his understanding that a motion was made during the budget process to reflect the increase in revenue from the State; he noted that he is not sure if the salary side was adjusted because it affects some employees and not others. He also noted that the point is well made that this is an item to watch.

Comm. Holden spoke briefly about the Federal Extenders bill and the FMAP funds and noted that there are mixed feelings whether FMAP funds will be received. Ms. Robinson noted that she received an email the previous day; she noted that the lobbyist's position is that with certain pieces pulled out, those that remain will be fully funded and it will be passed.

Comm. Holden informed the Board that the NH Association of Counties will meet on Friday, August 6th. Mr. Wenger informed the Board that immediately following that meeting, there will be two meetings with potential energy vendors; he noted that he responded to Betsey Miller that Hillsborough County would be represented; he will attend. At the suggestion of Comm. Holden, Mr. Wenger offered to contact Mr. Moorehead to see if the Nursing Home would like to be represented.

Mr. Wenger informed the Board that as a result of the Energy Grant, an energy consultant and an engineer were at the County the previous Monday; they reviewed the Nursing Home, the energy plant at the Bouchard Building and the Department of Corrections; they will be presenting thoughts and input relative to the projects the County has planned going forward; they will also provide some insight relative to wind energy. Mr. Wenger explained that this will not likely provide all the detail that may be needed, but it will provide the County with good insight with respect to energy.

Comm. Pappas entertained a motion relative to Non-Public Sessions.

Motion: To enter Non Public Session:

- with Supt. O'Mara from the DOC consistent with RSA 91-A:3 II (a) regarding a personnel issue,
- with Sheriff Hardy consistent with RSA 91-A:3 II (a) regarding a personnel issue in the Sheriff's Department,

Motion by Comm. Holden, second by Comm. Clemons. Pappas-yes, Clemons-yes, Holden-yes. Motion carried.

The Board moved into Non-Public Session at 9:50 a.m.

The Board met with:

- Supt. O'Mara regarding a personnel issue,
- Sheriff Hardy regarding a personnel issue in the Sheriff's Department.

The Board moved out of Non-Public Session.

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

Motion: To move into recess to consult with Counsel and Supt. O'Mara consistent with RSA 91-A:2 (b) relative to potential litigation.

The Board moved into recess.

The Board moved out of Recess at 11:14 a.m.

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

Comm. Holden acknowledged receipt of a communication relative to Ms. Houle, a former inmate, and noted that Legal Counsel is aware of the communication.

9. Hearing: L. Moreau

Comm. Pappas recognized Ms. L. Moreau and her Attorney, J. Meyer, as well as Register P. Coughlin and her Attorney, E. Rice. Comm. Pappas requested that those involved in the hearing come to the table for discussion.

Comm. Pappas asked if Ms. Moreau wished the hearing to be held in Public or Non-Public Session. Attorney Myer responded that Ms. Moreau's preference was that it be held in Public Session.

The Commissioners introduced themselves to those who joined the Board for the hearing. Attorney Meyer addressed the Board on behalf of Ms. Moreau.

Attorney Meyer distributed a "Memorandum of Louise Moreau in Support of Her Appeal of the Termination of Her Employment by the Hillsborough County Registry of Deeds," which will become a part of the public record. Attorney Meyer's key points were:

- the Hillsborough County Policies & Procedures contemplate only two types of involuntary removal, either "discharge or dismissal" as defined in 2-9:S or layoffs as defined in 2-18:S
- no claim has been made against her performance, in fact she received consistent excellent performance evaluations
- she is not contesting the Register's or the Board's right to eliminate her position
- considering that she is one of the most senior employees in terms of longevity, she had a right to be assigned to another position
- if it were necessary to terminate a full time employee, County policy mandates that it be done in reverse order of service
- during her first period of employment, she worked at the Registry for 16 years, and later returned for an additional 14 years
- even if her first 16 years of employment are ignored, her 14 years of continuous full time employment give her far more seniority than many other Registry employees
- the termination of Ms. Moreau also violated RSA 28-10(A) pertaining to the rights of County employees
- Ms. Moreau requests that the Commission, in conformity with its policies, reinstate her employment with retroactive back pay, and reimburse her for her attorney's fees.

Attorney Meyer noted that Ms. Moreau received a letter of termination that was delivered by the Sheriff's Department on April 7th; the reason given for the termination was that Ms. Moreau's position was being eliminated as a result of a reorganization; the letter went on to say that she was being terminated consistent with County policy as the least senior of the supervisors. Attorney Meyer explained that from a legal perspective, the seniority should not have been based on her three years as a supervisor, but her seniority within the department, further noting that there were five employees with less than one and one-half years of employment at the Registry, and that the termination was a clear and direct violation of County Policy.

Attorney Rice informed the Board that she was not planning to make a presentation to the Commissioners; and noted that Ms. Coughlin would explain the decision-making process; which will perhaps help clear the air.

Register P. Coughlin explained that it was her understanding that this meeting was for the purpose of discussion of the reorganization of the Registry of Deeds only; which includes the abolishing of the position and layoff of an employee; she noted that she would describe the process that she went through.

Ms. Coughlin explained that starting with the first part of the budget cycle, she was given information and direction from both the Commissioners and the Delegation that there was a need to reduce their budgets, to reduce the bottom line, and to reduce staff. She explained that consequently, she spent about ten to twelve

months evaluating the process at the Registry of Deeds. Ms. Coughlin noted that her first step was to meet with Human Resources to review all the job descriptions; each staff member was then given an opportunity to review his/her job description, changes were made; staff reviewed them again and then signed to confirm that the job description accurately reflected the duties of his/her job. She went on to note that once the job descriptions were executed, she sent them to Human Resources.

Ms. Coughlin informed the Board that in January, she met with the Director of Human Resources to review County Policies and RSA's.

Ms. Coughlin offered to distribute exhibits that had been previously given to the Board while meeting with the Board relative to this issue.

Ms. Coughlin distributed:

- Exhibit 1, "Title II, Counties, Chapter 28, County Commissioners, Section 28:10-a, which is the statute that relates to the discharge or suspension of County employees, and page 18:S of the County Policies manual, section 8-4S Separation.
- Exhibit 2, "Hillsborough County Registry of Deeds, Revenue Summary 2009-2010" dated 4/2/2010.
- Exhibit 3, an email from pcoughlin@nhdeeds.com to gchangler@hillsboroughcountynh.org, in which Ms. Coughlin refers to a change of a job title and job functions at the Registry of Deeds
- Exhibit 5, a memo dated April 2, 2010, to the Hillsborough County Commissioners from Ms. Coughlin relative to Budget FY 2010 that outlines the Registry's budget focus and explanation of line items.
- Exhibit 6, a memo dated April 7, 2010, to the Hillsborough County Commissioners from Ms. Coughlin with a report of the March, 2010 Revenues, a memo dated April 7, 2010, to the Hillsborough County Commissioners from Ms. Coughlin with that outlines the proposed budget for line 7010, Salaries & Wages, a copy of pages 3 and four of the Hillsborough County Board of Commissioners meeting minutes of April 7, 2010, and the Hillsborough County Registry of Deeds Revenue Comparison from 2003-2004, 2005-2006, and 2007-2008, and lastly, a memo dated April 7, 2010, to the Hillsborough County Commissioners from Ms. Coughlin with an illustration of the projected organization restructuring at the Registry.

Ms. Coughlin reviewed the exhibits and noted that the tax stamp revenue trend at the Registry was down for the thirteen months, it went up for three months, then down for 39 months, followed by a slow incline for approximately one year and more recently has been in a downward trend once again.

Ms. Coughlin explained that she met again with the Human Resources Administrator on March 12th to discuss the positions the Registry of Deeds, reviewed job description again, and discussed how the County could reorganize the positions and make the Registry flow in a more circular fashion to better follow the documents as they proceed through the Registry. She noted that they were referring to positions, not names. Following discussion with the HR Administrator, Ms. Coughlin asked about the process of eliminating positions, should it be necessary to do so. Ms. Coughlin noted that Mr. Wenger, the County Administrator, was brought into the discussion; he suggested a process that would meet the Register's reorganizational goals relative to what she believed the organizations structure should be; he then recommended that Ms. Coughlin address the issue with the Board in Non-Public session, which was the next step she did; Ms. Coughlin explained that Mr. Wenger suggested that the next step would be a Public Hearing at which time she would report the more particular details and documents.

Ms. Coughlin noted that on March 15, she held interviews for positions that had recently become vacant; she hired two people who agreed to start a month later. Ms. Coughlin explained that her next action was to review all the budget reviews that she had, all the numbers that were presented, all her summaries, and all the job descriptions. She noted that she had been observing staff to see if the work they were performing matched the job descriptions or if they were picking up additional tasks; she explained that staff will often cover for those

out of vacation. Ms. Coughlin explained that she also reviewed the NH RSA's and the County Policies and as a result of these efforts, she decided that in order to make the Registry a circular organization, she concluded that she did not need four supervisory positions because there were many redundancies and that there was a need to reorganize the Department. Ms. Coughlin explained that she then approached the Board in Non-Public Session on March 24th, at which time she provided the Board with all the same information. She explained that she requested meeting with the Board in Non-Public Session because the request was based on a personnel issue and a potential security issue going forward. Ms. Coughlin explained that her goal in doing the reorganization was to make the Registry operate more smoothly, have it function as one organization-not different departments here and there, and to meet the budget instructions of eliminating positions and to reduce the budget by 1%, as well as eliminating redundancies in the tasks/duties at the Registry. Ms. Coughlin referred the Board to a flow chart that illustrates her goal of a more circular operation at the Registry.

Following the meeting with the Board, Ms. Coughlin noted that the Board approved her moving ahead to get more information and requested that she develop new job descriptions and an improved Flow Chart; she did that and requested that the Human Resources Department help her update the job descriptions regarding the particular position that is being discussed today and to rename the other positions to make them consistent. Ms. Coughlin noted that during the budget meetings, she addressed increases related to a binding project and a document restoration project. She explained that she continued to present the Board with revenue updates; Ms. Coughlin explained that she felt that it was her obligation and responsibility during these difficult economic times to make a restructuring plan; a plan that would benefit the taxpayers of Hillsborough County and allow the Registry to operate more effectively and efficiently.

Ms. Coughlin informed the Board that after the motion was made and approved by the Board on April 7th (*to approve the recommendations and request of the Register of Deeds to restructure the Registry, rename two positions, and eliminate a third position*), she met with Mr. Wenger and Ms. Chandler, and a letter of termination was drafted. She noted that because the action was public knowledge, she wanted to make sure Ms. Moreau was notified immediately; Ms. Coughlin then returned to the Registry, typed the letter on Registry letterhead, and had the letter delivered to Ms. Moreau at her home by a Sheriff's Department Deputy.

Attorney Meyer noted that everything Ms. Coughlin said was correct, and he had no reason to question revenue; however, a number of employees were hired during the last one and one-half years, which in his opinion would be upsizing. Attorney Meyer noted that if one looks at Ms. Moreau's evaluations, the most recent of which was signed by Ms. Coughlin, one would observe that it is a very positive evaluation; he gave several positive examples and noted that in terms of score, she scores the highest under the rating system. He further noted that in reference to the County's layoff policy, there is no category of Supervisor and observed that she was hired as a regular employee, and that to use the category of Supervisor as a reason for the layoff is contrary to County Policy. Attorney Meyer stated that in his opinion, the decision to terminate Ms. Moreau is clearly a violation of County Policy. Attorney Meyer requested that Ms. Moreau be reinstated with back pay and Attorney fees.

Attorney Rice informed the Board that it was not her position to give the Board legal advice, but that she believes that it is fair to say that Ms. Coughlin made every effort to have a full and complete understanding of the Policies & Procedures that apply here, both from a written policy point of view and also from seeking expert advice both from Human Resources and from the Administrator. She noted that she wished to make it clear that the decision here was not performance-based, it was based on very good information, and a decision was made to eliminate the position and that subsequently, to eliminate the funding. She went on to note that she believes that there is clearly a difference of opinion regarding the seniority issue, and noted that from Ms. Coughlin's calculation, Ms. Moreau was in fact the person the least senior person in the Supervisor position and that she had correctly informed the Commission of that fact, so to the extent that it is a legal issue, they are going to depend on the Commission to do what it thinks appropriate vis a vis the advice of its Counsel; she explained that this was not a performance based-decision.

Comm. Pappas noted that the Board would take the issue under advisement. Comm. Holden noted that the Board did waive the ten-day requirement for holding a Public Hearing so as to allow the hearing to occur at this Board meeting.

6. Nursing Home

Comm. Pappas welcomed Mr. Moorehead, who will provide the Census.

Census

Mr. Moorehead presented the Nursing Home Census and explained that as of July 22, 2010, there were 283 beds occupied, which included 206 Medicaid residents, 48 private pay residents, and 29 Medicare Part A residents.

Mr. Moorehead requested an opportunity to address an item under New Business, but asked for time to hold a discussion with Mr. Wenger prior to doing so. Mr. Wenger agreed to speak with Moorehead relative to an issue that has arisen.

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

The Board moved into recess at 10:45 a.m.

The Board moved out of recess at 11:10 a.m.

Motion: To move out of Recess. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Comm. Pappas asked the Board if it wished to address any further business. Comm. Clemons made the following statement and motion:

Motion: Although the Commission believes that there is no ill will on behalf of the Registry of Deeds, I move that in conformity with County Policies, that the Commission re-instates Louise Moreau to her employment with retroactive back pay and benefits. Motion by Comm. Clemons, second by Comm. Holden. Motion carried.

Comm. Clemons inquired about how Ms. Moreau would be notified of the Board's action. Mr. Wenger indicated that he will speak to Attorney Kirby, but he noted that the practice has been to develop a letter to include the action taken by the Board. He noted that arrangements can be made with the Register of Deeds to transition Ms. Moreau back into the position and the Business Office will make arrangements for the payment of back pay and benefits. He noted that he will also follow up with Ms. Coughlin.

Mr. Moorehead informed the Board that there was a safety concern at the Nursing Home the previous Sunday that Mr. Wenger and he are addressing.

Mr. Wenger informed the Board that Mr. Moorehead would like Board approval to fill two \$1 positions at the Nursing Home; Mr. Wenger noted that this is a matter that the Board had previously agreed to handle by Telephone Poll. Mr. Wenger noted that he suggested to Mr. Moorehead that it was perhaps in the County's best interest at this time that a Telephone Poll not be done. Mr. Wenger noted that there are two part-time positions that were funded at \$1 that Mr. Moorehead is looking to fill.

Motion: To authorize the Nursing Home Administrator to fill two part-time positions that budgeted at \$1. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Mr. Wenger referred to the concern regarding Telephone Polls and asked for clarification relative to the direction the Board wishes to follow going forward. He suggested that future positions be filled contingent upon the action being discussed and approved at the next Board meeting. Comm. Holden noted that the Board had agreed that it would conduct Telephone Polls occasionally to facilitate County operation, but perhaps it could use the same method as done with Mr. Moorehead, which is to authorize the County Administrator to approve an action subsequent to Board approval at its next regularly scheduled Board meeting. Mr. Wenger noted that he would make certain that such an action was placed on the agenda for the Board's next meeting. He noted that he will notify Supt O'Mara of the Board's preference.

Comm. Pappas suggested that it was an appropriate time to meet with the County Administrator in Non-Public session.

- **Motion:** To enter Non Public Session with Mr. Wenger from the Business Office consistent with RSA 91-A:3 II (a) regarding a personnel issue. Motion by Comm. Holden, second by Comm. Clemons. Pappas-yes, Clemons-yes, Holden-yes. Motion carried.

The Board moved into Non-Public Session at 11:21 a.m.

The Board met with Mr. Wenger regarding a personnel issue.

The Board moved out of Non-Public Session at 11:36 a.m.

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

12. Adjourn

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

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

The meeting adjourned at 11:38 a.m.

Signed on August 12, 2010

Comm. Michael Clemons, Clerk
Hillsborough County Board of Commissioners

Date