

Regular Meeting of the
Hillsborough County Board of Commissioners
July 31, 2008
Bouchard Building, Goffstown, NH

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

Present: Comm. T. Pappas, Comm. C. Holden, Comm. M. Clemons, G. Wenger, M. Cusson, M. Montminy, P. Flood, B. Moorehead, M. Rusch, and D. Reidy.

1. Pledge to the Flag

Comm. Pappas called the meeting to order at 9:03 a.m. followed by the Pledge to the Flag led by G. Wenger.

2. Minutes

Motion: To approve the Board meeting minutes of July 2, 2008. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To approve the Board meeting minutes of July 16, 2008. By Comm. Clemons, second by Comm. Holden. Motion carried.

3. Business Office

Approval of Payroll Registers

Motion: To approve the Payroll Register dated 7/24/08 in the amount of \$1,087,219.15, subject to review and audit. By Comm. Holden, second by Comm. Clemons. Motion carried.

Approval of Accounts Payable Registers

Motion: To approve the Accounts Payable Register dated 7/24/08, in the amount of \$37,689.74, subject to review and audit, noting that it is for FY08. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To approve the Accounts Payable Register dated 7/29/08, in the amount of \$922,337.24, subject to review and audit, noting that it is for FY09. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To approve the Accounts Payable Register dated 7/30/08, in the amount of \$235,654.93, subject to review and audit, noting that it is for FY09. By Comm. Clemons, second by Comm. Holden. Motion carried.

Telephone Polls

Motion: To accept a Telephone Poll of the Board that was conducted on Tuesday, July 22, 2008, at the Department of Corrections' request seeking approval to accept the transfer of a male inmate from the Sullivan County Department of Corrections. The Commissioners were reached and expressed support for the proposed action. By Comm. Holden, second by Comm. Clemons. Motion carried.

4. Department of Corrections

Census

Capt. Cusson presented the Department of Corrections' Census dated July 31, 2008. Capt. Cusson reported that the DOC is holding 567 Inmates in custody. There are 510 men, which includes 179 that have been sentenced and 331 that are being held pre-trial. There are 57 women, which includes 14 that have been sentenced and 43 that are being held pre-trial.

Bid #FY09-09 – Facility Camera System Service Contract

Motion: To accept Bid #FY09-09 for a Facility Camera System Service Contract to Pelmac Industries for a total of \$8,400, noting that a request is being made to waive competitive bidding under RSA 28:8-e, V, further noting that the vendor is the manufacturer and installer of the existing equipment and is able to provide parts and service at a reduced rate. By Comm. Clemons, second by Comm. Holden. Motion carried.

Bid #FY09-15 – Facility Filing System Service Contract

Motion: To accept Bid #FY09-15 for the Department of Corrections for a Facility Filing System Service Contract, to Systematics, Westboro, MA, noting that a request is being made to waive competitive bidding under RSA 28:8-e, V, further noting that the vendor is the manufacturer and installer of the existing equipment and is able to provide parts and service at a reduced rate. The total bid is \$3,750. By Comm. Holden, second by Comm. Clemons. Motion carried.

Bid #FY09-19 – Infectious Waste Disposal

Motion: To accept Bid #FY09-19 for the Department of Corrections for Infectious Waste Disposal to Northeast Medical Waste Service, Shelburne, VT, noting that a request is being made to waive competitive bidding under RSA 28:8-e, VI, further noting that the vendor is the current holder of the State contract through June 2010. The total bid is \$3,750. By Comm. Clemons, second by Comm. Holden. Motion carried.

Bid #FY09-44 to Bid #FY09-64 with attached list of items for the Department of Corrections

Motion: To accept Bid #FY09-44 for Tampax to Central Paper at a price of \$47.90 per case, noting it is only bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-45 for Sanitary Napkins to Central Paper at a price of \$22.35 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-46 for Powder Free Exam Gloves to Central Paper at a price of \$27.90 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-47 for Brown Paper Towel Rolls to Central Paper at a price of \$14.35 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-48 for 2-Ply Toilet Paper to Central Paper at a price of \$31.68 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-49 for Black Trash Can Liners to Central Paper at a price of \$17.59 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-50 for Clear Trash Can Liners to Central Paper at a price of \$11.79 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-51 for Aluminum Foil to Central Paper at a price of \$19.69 per roll, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-52 for Seal Wrap to Central Paper at a price of \$15.96 per roll, noting it is only bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-53 for Dart Vent Lids to Central Paper at a price of \$9.48 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-54 for Dart Foam 12 oz. Bowls to Central Paper at a price of \$14.29 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-55 for North River Luncheon Napkins to Central Paper at a price of \$24.69 per case, noting it is the only bidder meeting the specifications. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-56 for Bun Rack Covers to Central Paper at a price of \$17.75 per case, noting it is the lowest responsible bidder. By Comm. Holden, second by Comm. Clemons. Motion carried.

Motion: To accept Bid #FY09-57 for Medium Weight Plastic Teaspoons to Central Paper at a price of \$6.59 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-58 for Solo Portion Cups, 1 oz., to Central Paper at a price of \$25.80 per case, noting it is the lowest responsible bidder that met the specifications. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-59 for Kraft Brown Lunch Bags to Central Paper at a price of \$37.68 per 3,000, noting it is the lowest responsible bidder meeting the specifications. By Comm. Holden, second by Comm. Clemons. Motion carried

Motion: To accept Bid #FY09-60 for McNairn Wet Waxed Sandwich Bags to Central Paper at a price of \$71.90 per case, noting it is the lowest responsible bidder meeting the specifications. By Comm. Holden, second by Comm. Clemons. Motion carried

Motion: To accept Bid #FY09-61 for Heavy Weight Plastic Knives to Central Paper at a price of \$24.49 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-62 for Guardsman Sub Wraps to Central Paper at a price of \$45.80 per case, noting it is the lowest responsible bidder meeting the specifications. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-63 for Pitco Friolator Filter Paper to Hallsmith-Sysco at a price of \$65.98 per case, noting it is the lowest responsible bidder meeting the specifications. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-64 for Dart Foam 9 inch Plates to Central Paper at a price of \$13.79 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-66 for Heavy Weight Plastic Spoons to Central Paper at a price of \$24.49 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-67 for Solo Portion Cups, 2 oz., to Central Paper at a price of \$54.80 per 5000, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-68 for Dart Foam Hinged Container to Central Paper at a price of \$16.40 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-69 for Spork Kits to Central Paper at a price of \$16.50 per case, noting it is the only bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-70 for Dart Foam 8 oz. Cups to Central Paper at a price of \$15.83 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-71 for Ploy Disposable Gloves to Central Paper at a price of \$5.60 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-72 for Cellucap Hair Nets to Central Paper at a price of \$113.25 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-73 for McNairn Pan Liners to Central Paper at a price of \$29.90 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-74 for Baking Cups to Central Paper at a price of \$46.90 per 10,000, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-75 for Powder Free Disposable Gloves to Central Paper at a price of \$24.70 per case, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Motion: To accept Bid #FY09-76 for Coffee Stirrers to Central Paper at a price of \$11.80 per 10,000, noting it is the lowest responsible bidder. By Comm. Clemons, second by Comm. Holden. Motion carried.

Mr. Wenger reported that he has received the collective bargaining agreement between the County and the Teamster unit at the DOC, executed by the Union, for the Board's execution. The Commissioners executed the agreement and agreed to implementation of the terms as soon as possible. Mr. Wenger noted that the agreement with the AFSCME group in the Sheriff's Office continues to be reviewed.

Comm. Holden requested brochures from the Department of Corrections and an update on the work of the Community Service program.

Comm. Pappas reported that Community Service work was performed at the corner of McGregor and Amory Streets near St. Mary's Bank in Manchester. She noted that motorists driving by were very pleased to see them and that the Union Leader may do a story in relation to this effort. Capt. Cusson noted that it has taken a great deal of work to start the program in Manchester and that all involved are very happy to be finally working in the City.

5. Nursing Home

Census

Mr. Moorehead was recognized. He presented the Nursing Home Census, noting that as of July 24, the Census was 280, which included 202 Medicaid residents, 49 private pay residents, and 29 Medicare Part A residents. He noted that the percentage of private pay residents is quite high and the overall census has increased over June and July.

Comm. Holden inquired about the length of the waiting list. Mr. Moorehead responded that 25 of the total admissions came in as Medicare admissions, noting that most of these are short term. He noted that frequently those waiting for a bed might enter another facility and then transfer to the Nursing Home within a short time.

Bid #01-2009 – Patio Retaining Blocks

Mr. Moorehead presented Bid #01-2009 for Patio Retaining Blocks for the patio that is outside Unit B-2, on the back side of the building. The lowest responsible bidder is Corriveau-Routhier, Manchester, NH, at a cost of \$2,457.96. The contractor will pour a concrete slab to raise the grade and build a retaining wall, which will prevent accidents.

Motion: To approve Nursing Home Bid #01-2009 for Patio Retaining Blocks to Corriveau-Routhier, Manchester, NH, at a cost of \$2,457.96, noting it is the lowest responsible supplier. By Comm. Holden, second by Comm. Clemons. Motion carried.

Comm. Pappas asked about the date of the upcoming ribbon cutting ceremony. A discussion ensued with the decision being that it will be held at 10:00 a.m. on August 27.

6. Sheriff's Office

P. Flood was recognized. He presented the following bids for the Board's consideration.

Bid # 2009-01 – Two Mobil Radios

Motion: To approve Bid # 2009-01 for the Sheriff's Office for two Mobil Radios at a unit price of \$3,802 for a total cost of \$7,604, noting this is a State Bid item. By Comm. Clemons, second by Comm. Holden. Motion carried.

Bid #2009-02 – Two Portable Radios

Motion: To approve Bid # 2009-02 for the Sheriff's Office for two Portable Radios at a unit price of \$1,953 for a total cost of \$3,906, noting this is a State Bid item. By Comm. Holden, second by Comm. Clemons. Motion carried.

Bid #2009-03 – New Vehicles

Motion: To approve Bid # 2009-03 for four vehicles to John Grappone Ford. The first vehicle is a 2009 Ford Escape Hybrid for \$28,632. The bid also includes two 2009 Ford Crown Victorias at a unit price of \$22,422 for a total of \$44,844, and the last item is for a 2009 Ford E-350 Extended Van at a cost of \$28,542. The total cost for this bid is \$102,018, noting that each item is a State Bid item. By Comm. Clemons, second by Comm. Holden. Motion carried.

Bid #2009-04 – New 12 Passenger Prisoner Compartment

Motion: To approve Bid #2009-04 for a New 12 Passenger Prisoner Compartment for the 2009 van and related equipment, including transferring equipment, to Northeast Kustom Kreations, Manchester, NH at a cost of \$25,986, noting that this is a single source bidder under RSA 28:8-e, V. By Comm. Holden, second by Comm. Clemons. Motion carried.

Bid #2009-05 – Equipment for New Vehicles

Motion: To approve Bid #2009-05 for the transfer of equipment from old vehicles to install it in the new Crown Victorias with new prisoner partitions and new related emergency equipment, to Northeast Kustom Kreations, Manchester, NH at a total cost of \$11,086, noting this is a single source bidder under RSA 28:8-e, V, and the only vendor in the area. By Comm. Clemons, second by Comm. Holden. Motion carried.

Bid #2009-06 – Equipment for New Ford Escape

Motion: To approve Bid #2009-06 for the transfer of equipment from the old vehicle and to install it in the new Ford Escape and new related emergency equipment to, Northeast Kustom Kreations, Manchester, NH at a total cost of \$5,134, noting this is the single source bidder under RSA 28:8-e, V, and the only vendor in the area. By Comm. Holden, second by Comm. Clemons. Motion carried.

Bid #2009-07 – Upgrade Equipment in Existing Vehicles

Motion: To approve Bid #2009-07 to upgrade equipment in existing vehicles to Northeast Kustom Kreations, Manchester, NH at for a total of \$30,172, noting this is the single source bidder under RSA 28:8-e, V, and the only vendor in the area. By Comm. Clemons, second by Comm. Holden. Motion carried.

Bid #2009-08 – Sound Suppressors for New Rifles

Motion: To approve Bid #2009-08 for four Sound Suppressors for the new rifles, the bid to be awarded to Yankee Hill Manufacturing, Florence, MA, at a total cost of \$1,712, noting this is the same sound suppressor as quoted by another vendor, but this is direct from the manufacturer at a reduced cost. By Comm. Holden, second by Comm. Clemons. Motion carried.

Mr. Wenger expressed his thanks to Mr. Flood for his efforts relating to the disposal of the old vehicles approved at the Board's last meeting. The Board also expressed its thanks.

7. Public comments on Agenda items

No members of the public were present at the time.

M. Rusch reported that there would not be an Executive Committee meeting until the fourth week of September.

Comm. Holden reported that she would again be a judge at the Hillsborough County Fair.

Comm. Holden inquired about the final budget, asking for a copy. M. Rusch noted there were no changes, to which Comm. Holden noted that it would then be the same as the Executive Committee budget, and she has a copy of that.

8. Old/New Business

Meeting with Representatives of Primex³ (11:30 A.M.)

Comm. Pappas noted that the Board would be meeting with Representatives of Primex³ at 11:30 A.M. today

Symposium on Mental Health, Substance Abuse and the Criminal Justice System

Comm. Pappas led a discussion relating to the Symposium on Mental Health, Substance Abuse and the Criminal Justice System being lead by Judge T. Neadeau. She noted that she has spoken with Betsy Miller and has learned that several counties are willing to donate \$1,000 toward this effort. Discussion ensued with the Board agreeing that it was important to support this project. Comm. Holden noted that was not included in the budget. Comm. Pappas suggested that Supt. O'Mara and E. Robinson might find funding within their budgets to support the program, noting that the issues being addressed by the Symposium affect their departments. Comm. Clemons noted that he would be in favor of attending and supporting this Conference, primarily because there are so many issues that will be addressed that affect the Department of Corrections. He noted that it is important to address these issues in the County as well as State-wide, and it would be a mistake not to attend and support this Symposium.

Comm. Holden explained that she has recently completed her term and has stepped down from the Community Council in Nashua where many of these issues were addressed. She noted that in reviewing the Symposium Agenda, she concluded that it would be worthwhile to have one of the aforementioned departments represented, and suggested forwarding the agenda to Supt. O'Mara at the Department of Corrections (DOC). Comm. Pappas mentioned that this is an issue that has been discussed at many NACo meetings/workshops.

Mr. Wenger will speak with Supt. O'Mara regarding the symposium and the Board's interest in supporting it. He noted that he had spoken with the County Attorney, who has an interest in the symposium, and will be a participant.

Dependent Eligibility

Comm. Holden reported that the United States House of Representatives had recently passed a version of Michele's Law, sponsored by Rep. Hodes. She noted that it is the narrow federal version, which allows seriously injured or ill college students to take up to one year of medical leave without losing their health insurance.

Mr. Wenger noted that as requested by the Board he had followed up with Primex concerning the availability of dependent coverage for Administrators. He reported that it had raised a concern regarding providing the benefit to a limited part of an employee group, the non-affiliates. It was suggested that the Board may wish to revisit the issue and to whom it will extend the benefit. A brief discussion followed after which the following motion was offered for discussion.

Motion: To offer extended dependent insurance coverage to all non-affiliated employees. By Comm. Clemons, second by Comm. Pappas for purposes of discussion.

Comm. Holden expressed her concern in relation to this issue and the implications of any decision made by the Board, noting that she is not in favor of this motion. She indicated that she would like to see what the related costs would be. Comm. Pappas expressed her belief that the interpretation is different in the federal bill, and that the proposed original motion is in the spirit of Michelle's Law, which is to insure dependent children until age 26. Comm. Holden re-iterated that she would like more information. She noted that she will discuss it today with Primex and that she would vote "No" until she has more information, and she would like the motion to be more specific.

Mr. Wenger noted that Primex³ is planning to discuss liability issues today and the individuals who have expertise in health insurance coverage will not be attending. He noted that those individuals who are coming today, Ty Gagne, Mike Ricker and Kevin Clougherty should be able to answer questions, but it is not their expertise. Comm. Pappas asked if there is more information that the Board could get from Primex³. Mr. Wenger replied that he expected that any cost estimates at this time would be speculative.

Comm. Clemons expressed his belief that the spirit of the law that was passed by the State was to have all Counties and Towns embrace this law and he believes that by giving this to the non-affiliated employees, the Board would be sending a message to the unions that this is something they should bargain for. He added, "We are not giving away the store, what we are doing as Commissioners is indicating that we believe in Michele's Law and we believe that the unions should also believe in it and negotiate in good faith when their contracts are due for renewal." Comm. Pappas indicated that constituents have brought this issue to her, and indicated their interest in this law and this type of insurance. She encouraged them to bring this forward to their Union representatives. Comm. Holden reported that it was her understanding that the State of NH is not providing this insurance to its employees because of a loophole that does not require it to do so.

She opined that it should be clarified on the State level before the County addresses the issue and that the County insurance is in a pool; it does not have an insurance company, so it falls under a different category. She noted that this is a law specific to insurance companies and the State has not included pools in this category; while this is a nice benefit, it is not something that the County has to provide and there will be a cost. She further noted that the County did carry this insurance through July 1 for those employees that had come forward. Comm. Holden urged caution in deliberating this issue and noted that she will vote against this motion.

Comm Clemons indicated that the State is in a position similar to the County where the employees are represented by a union. Comm. Holden shared her view regarding the wisdom of waiting until the unions bargain for this benefit, and opined that if the non-affiliated employees are given this benefit, then the unions will automatically want it for its employees and the County will not be in a bargaining position. Comm. Pappas disagreed and opined that the unions will not automatically get the benefit. Comm. Holden noted that balance is important and in the bargaining process you bargain for something and you give something up and expressed her belief that if this motion carries, the Board might as well vote to give the benefit to everyone. Comm. Pappas noted that she did not see it that way; she did not see it as an enormous benefit, but will be something for the non-affiliates and noted that only a few people will probably want the benefit. She further noted that she is aware that there are members of the union who want this benefit and it seems to her that this would be something that the Board could use during negotiation

Comm. Pappas asked for a vote. Comm. Clemons and Comm. Pappas voted in favor of the motion and Comm. Holden voted against the motion. Motion carried.

Comm. Holden noted that she voted no because she does not have all the information at this time and the motion is incomplete.

NHAC – County Awards

Comm. Pappas informed the Board that she had received a packet from the NH Association of Counties with awards information and asked that it be copied and distributed to all departments. Mr. Wenger responded that it would be copied and distributed as requested. Comm. Pappas noted that it would be good to begin thinking of Hillsborough County candidates for this year's awards. Mr. Wenger informed the Board that the awards include such categories as Nursing Home employee of the year, Department of Corrections, Sheriff's Office, etc. and then there is a President's award and a number of named awards for consideration.

Comm. Holden noted that she has been receiving a number of calls from a 936 number in Texas, a woman indicating that she had information regarding what is going on in the County. She did research and learned that it was bogus and suggested that if the other Commissioners get a call, they not return it.

Comm. Pappas noted that G. Chandler received a call from a woman who indicated that Hillsborough County had authorized cremation of her husband upon his death and she did not know about it. Evidently, they had been divorced for twenty years. Comm. Pappas indicated that the funeral home waited some time and had to do something with the body. A discussion followed and it was noted that the County would not have been involved in this type of situation.

Comm. Pappas asked the Board members if they would like to sign a letter of congratulations to the St. Mary's Ukrainian Catholic Church on the occasion of its' 100th Anniversary, and noted that the Board is invited to the celebration to be held on October 5. The Board agreed and signed the letter.

Mr. Wenger updated the Board in relation to the Fact-Finding held at the Nursing Home with the AFSME group last Thursday. It was a lengthy session, lasting until about 6:00 p.m.; he noted that all issues were discussed and that briefs will be filed by the end of the August. He noted that he anticipated that it would probably be September or October before a report is received.

Mr. Wenger informed the Board that Attorney Kirby received a letter from Joseph Maccarone, who is the Staff Representative for AFSME Local 3657, giving notice of the Union's intent to negotiate a successor agreement. He noted that there is some confusion in relation to whether this is for the Department of Corrections or the Sheriff's Office, but he believes it relates to the Department of Corrections. He has asked Attorney Kirby to clarify this. The Board agreed to forward the matter to Mr. Flygare.

9. Non-Public Session

The Board did not enter Non-Public session at this meeting.

Comm. Holden distributed a report from the NaCo Annual Conference she attended in Kansas City. New information was available regarding Prescription Drugs and information relating to the Annual Republican and Democrat Conventions. She further noted that NaCo has met with the FTC regarding Identity Theft and is trying to come to a resolution nationwide; she has served on that subcommittee. She spoke about other issues that NaCo is addressing such as Mortgage Company issues and a caucus that has formed to represent issues in the Northeast. Comm. Pappas also attended the Conference and the Northeast caucus. Comm. Pappas congratulated Comm. Holden on her appointment as Vice-Chair of the Labor and Employment subcommittee.

Comm. Pappas asked the Board if it wished to recess until the meeting with Primex, to which there was general agreement.

The Board recessed at 11:15 a.m.

The Board came out of recess at 11:30 a.m.

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

Joining the Board from Primex³ were Kevin Clougherty-CEO, Ty Gagne-Member Relations, and Mike Ricker-Legal Council. C. Kirby and J. O'Mara also joined the meeting at this time.

Comm. Pappas welcomed the Primex³ group. K. Clougherty spoke about his role with Primex³ and his interest in getting out and meeting with people, bringing in new systems, and his focus on finances the beginning of his time with Primex, and presently as CEO he is getting into other areas. He is interested in seeing what people like and what they would like to see changed.

Comm. Pappas noted that C. Kirby and Supt. O'Mara have a couple of issues they would like to discuss. Comm. Clemons noted that a concern is that the County understands that employees at the Department of Corrections are no longer covered should they be sued individually. M. Ricker responded by providing a brief review of the coverage document noting that there have been a number of coverage improvement made in recent years and acknowledging that the document was changed in 2006 to eliminate the punitive damage coverage. He represented that coverage was extended through June 30, 2008 by agreement with Hillsborough County. Discussion followed regarding the County's interest in pursuing the coverage and Primex³ interest in exploring it further with the County in order to determine if it would be something that could be recommended to the Primex³ Board for amendment. K. Clougherty suggested that there are options

to consider and that he and his staff are willing to sit down and discuss this. Comm. Clemons asked if a lawyer has access to the amount of insurance a Department of Corrections employee has. A brief discussion followed regarding litigation and the discovery of insurance coverage issues. It was noted that plaintiff's usually go after the "deepest pocket" that exists and though insurance coverage can be obtained through discovery, does not customarily go before a jury. Supt. O'Mara noted that his concerns regarding the message that can be sent to a jury in a punitive damage claim, "punish them for what they have done."

Comm. Clemons asked what it would cost for the Corrections Officers to secure the coverage on their own. The Primex reps indicated that the coverage probably would not be available to individuals and added that if Primex³ does not provide the coverage they may be able to direct the County to the re-insurance market and help the County explore other coverage options. It was noted that the coverage issue is punitive damages and that compensatory damages continue to be covered.

Supt O'Mara asked if any concerns had been expressed by Police Chiefs or other law enforcement agencies, to which Mr. Gagne responded that it had not received any such concerns until it was broached by Hillsborough County. Supt. O'Mara asked about coverage details, which were clarified by along with the reasons for types of coverage. Supt. O'Mara informed the group that recruitment and retention is an issue which would be further complicated if coverage were not afforded. He suggested that no one would reasonably put himself or herself in that situation.

C. Kirby asked what the rationale was for the elimination of coverage. The Primex³ representatives present indicated that they had not been involved in the change and that to the best of their knowledge it was to bring Primex in line with other insurers. The group also discussed the value of having strong policies and procedures in place to guide the operation of the department.

Comm. Clemons asked C. Kirby how many cases the County has faced during her tenure where the employee has been found negligent and punitive damages have been awarded. She responded that there might be one case but they do not generally exist. She noted that it is rare that this type of case occurs, but there needs to be protection for when it does.

Comm. Clemons asked who would have to pay if a judgment was made against an employee. M. Ricker responded that he could not give a legal opinion, but his sense is that if there were punitive damages against an employee, the employee would have to satisfy that out of personal assets, and if there were no assets, and the employee were given a total indemnity letter, then the County might be pressed to pay the damages. There was more discussion about setting aside a fund for this circumstance. There was also discussion about NH Law as it relates to compensatory damages and the fine line a judge must follow.

Comm. Clemons asked if the fact that there is no longer coverage for Corrections Officers gets in the way of the Corrections Officers performing their job. Supt. O'Mara noted that it indeed could deter an Officer from getting involved in a situation and he reported that anyone in the "pecking order" could be named in a suit, including himself, whether present or not. He further noted that he would be happy to sit down and discuss this further and is happy to hear that Primex³ is willing to lay out all the issues and give them consideration. Supt. O'Mara noted that Primex has provided the Worker's Compensation and his experience has always been very positive in this area.

K. Clougherty noted that consideration for re-instatement should likely go his Board and offered to meet with representatives of the County to explore the issue further and to explore the available options. Supt. O'Mara asked if there was a possibility to re-instate the coverage as of July 2008. Mr. Wenger offered that in order to maximize its changes before the Primex³ Board it would behoove the County to sit down with representatives of Primex³ as soon as possible to explore all available opportunities and to see if both parties

can come to a consensus in relation to how to proceed. Mr. Wenger suggested a work session as soon as possible.

Comm. Clemons expressed his concern for both the employee as well as the County's financial risk.

C. Kirby asked about "Control of Litigation," and requested clarification of what that means. M. Ricker responded that it means that Primex³ provides and pays for the defense as well as reserving the right to make decisions as to how the litigation will be handled and having the right to assign in-house or outside counsel. M. Ricker noted that the County's involvement and input would be considered. A discussion followed wherein it was suggested that the practice of consulting with the County would not change.

Supt. O'Mara noted that it is difficult to be in a pool where all members' opinions must be considered, not just that of the County. Mr. Clougherty noted that each member has its own exposures and it is different in different areas of the State. Those present agreed to schedule a meeting in the short term to explore the matter further and come forward with the recommendation.

Comm. Pappas thanked the Primex³ group for attending the meeting listening to the County's concerns.

1 . **Adjourn**

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

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

The meeting adjourned at 12:46 p.m.

(SIGNED ON AUGUST 13, 2008)

Comm. Michael Clemons, Clerk
Hillsborough County Board of Commissioners