

Regular Meeting of the  
Hillsborough County Board of Commissioners  
September 22, 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. T. Pappas, Comm. C. Holden, Comm. M. Clemons, C. Kirby, B. Moorehead, J. O'Mara, M. Castonguay, G. Wenger, and L. Stonner

**Also Present:** Members of the Public

**1. Pledge to the Flag**

Comm. Pappas called the meeting to order at 10:04 a.m., followed by the Pledge to the Flag led by J. O'Mara.

**2. Administrative Business**

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

Minutes

September 8, 2010 Board of Commissioner's Meeting

**Motion:** To approve the minutes of the September 8, 2010 Board of Commissioner's Meeting. By Comm. Clemons, second by Comm. Holden. Motion carried.

Approval of Payroll Register

**Motion:** To approve the Payroll Register dated September 16, 2010 in the amount of \$1,189,559.96 subject to review and audit. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Approval of Accounts Payable Registers

**Motion:** To approve the Accounts Payable Register dated September 17, 2010 in the amount of \$334,987.15, subject to review and audit. By Comm. Clemons, second by Comm. Holden. Motion carried.

**Motion:** To approve the Accounts Payable Register dated September 21, 2010 in the amount of \$430,124.97, subject to review and audit. By Comm. Clemons, second by Comm. Holden. Motion carried.

Comm. Clemons noted that the Board has minutes from previous Executive Committee meetings to be approved. Comm. Holden noted that the minutes from May 27, 2010 do not need approval because there was only one Commissioner present.

**Motion:** To approve the minutes from the Executive Committee Public Hearing held on June 22, 2010. By Comm. Clemons, second by Comm. Holden. Motion carried.

**Motion:** To approve the minutes from the Executive Committee meeting held on July 16, 2010. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

### **3. Public Comment on Agenda Items**

There was no one present who wished to address agenda items.

### **4. Department of Corrections**

Census

Supt. O'Mara presented the DOC Census, noting that as of September 16, 2010, the Census was 541, which included 489 men of whom 341 were being held pre-trial and 148 that had been sentenced. There were 52 women of whom 33 were being held pre-trial and 19 that had been sentenced.

Supt. O'Mara informed the Board that the Census dropped to 501 the previous week; he noted that after analyzing the mix, it was related to the number of pre-trial inmates being down. He noted that the DOC has not been able to attribute the drop to any specific thing, and explained that the current year's operating budget was based on a Census of 610. Mr. O' Mara offered that he would like to attribute it to the opening of the Manchester Mental Health Court as well as the continuation of the Nashua Mental Health Court, but noted that he cannot quantify that yet. He offered that if the number continues to remain low, then it could likely be related to those Courts.

Mr. O'Mara informed the Board that while the Census is low, the facility has closed one unit temporarily and consolidated it with another unit. While closed, the unit is being renovated and painted; it will re-open and the inmates will be returned to the unit once the work is complete.

Mr. O'Mara noted that he has four items to address under Old/New Business.

Supt. O'Mara requested to meet with the Board and Attorney Kirby in Non-Public Session consistent with RSA 91-A:3 II (e) relative to pending litigation.

### **5. Nursing Home**

Census

Mr. Moorehead presented the Nursing Home Census and explained that as of September 16, 2010, the census for the Nursing Home was 280, which included 209 Medicaid residents, 48 private pay residents, and 23 Medicare Part A residents. He reported that there are 283 residents as of today.

Request to fill vacant LPN position at \$1

Mr. Moorehead requested that the Board approve filling a vacant LPN position that is currently funded at \$1. He explained that one of the pool LPN Nurses is close to reaching her maximum part-time hours and the funding allocated for that position. He requested that she move to a per diem position. Comm. Holden asked for the position numbers. Mr. Moorehead explained that the change will be effective on September 25. Comm. Holden noted that it should be addressed at this meeting. Mr. Moorehead explained that the position being vacated is # 301648003 and the position the employee will move into is # 302012004; he noted that this is from an LPN per diem to an LPN part-time; both are on the 7:00 a.m. to 3:00 p.m. shift.

**Motion:** To move, upon the recommendation of the Nursing Home Administrator, to fill the part-time LPN position by taking the person from the per diem position # 301648003 that she currently holds and by moving her to the LPN part-time position # 302012004. Motion by Comm. Holden, second by Comm. Clemons.

In response to a question from Comm. Clemons, Mr. Moorehead responded that this action is in response to previous Board action about one and one-half months ago to provide flexibility to the Department Heads. Comm. Clemons inquired as to why this particular change is necessary. Mr. Moorehead responded that contractually, per diem staff is limited to a certain number of hours that it can work each year, and when the employee is close to reaching that number, an option is to pull that person into a full-time or part-time position.

Motion carried.

Bid # 01-2011 – Ford F-350 Pick-up w/Plow

Mr. Moorehead presented Bid # 01-2011 and explained that this bid is for a Ford F-350 Pick-up with a Plow. He noted that there were four bidders and John Grappone Ford, Concord, NH is the lowest responsible bidder at a price of \$22,482. He noted that the bid includes a plow; it has a three-year or 36,000 mile bumper-to-bumper warranty as well as a five-year drive train warranty up to 60,000 miles. Mr. Moorehead further explained that the vehicle lists for \$34,300; Grappone is the only vendor that is honoring the Government contract price; he noted that the Nursing Home is trading in a 1998 Chevrolet Cheyenne pickup with a trade allowance of \$4,000, the highest allowance provided by any bidder. He noted that there is a six to eight week delivery time.

**Motion:** To approve Bid # 01-2011 for a Ford F-350 Pick-up with a Plow to John Grappone Ford, Concord, NH, noting it is the lowest qualified bidder at a price of \$22,482, which includes a \$4,000 trade-in allowance. By Comm. Clemons, second by Comm. Holden.

Comm. Holden inquired if there was an attempt to get a leftover 2010 vehicle. Mr. Moorehead responded that only one of the bidders had a 2010 available in stock and this vehicle is a 2011.

Motion carried.

Mr. Moorehead presented the August 2010 revenue. He explained that the budgeted room and board revenue for August was \$1,683,196, while the actual revenue was \$1,680,498; this represents a negative variance of \$2,698. He explained that the variance relates more to the Medicare census than the overall census for the month.

Accounts Receivable write-offs

Mr. Moorehead explained that he would like to defer this item until the next meeting and noted that he estimates that the amount will be fairly close to the amount budgeted for bad debt and he does not anticipate that it will significantly impact the Nursing Home's financial statement; he will have more detail for the next Board meeting.

Mr. Moorehead noted that he has one item to address under Old/New business.

## 6. Old/New Business

## Complex Land Planning

Mr. Wenger noted that this is a follow-up to the last meeting and the draft that he provided the Board relative to the posting of the vacant properties at the Complex. Following discussion, the Board agreed that it was well done and that Mr. Wenger should proceed with getting it publicized.

Mr. Wenger updated the Board relative to the new employer contribution rates for the NH Retirement System for the next two years. He noted that the current rate for Group I is 9.16%; the coming year reflects a 3.15% increase; the Group II current rate is 14.63%; the coming year's rate reflects a 10.94% increase. Mr. Wenger explained that a rough estimate of the cost for the Department of Corrections is \$100,000; the total for the County is estimated at between \$100,000 and \$150,000. Mr. Wenger explained that all County employees fall into Group I with the exception of the Department of Corrections and the Sheriff's Department who fall into Group II. The employee contribution is 5% of their wages.

## CDBG Project Update

Mr. Wenger informed the Board that in following up on this project, he has learned that the Town of Merrimack has agreed to take on the entire loan application amount of \$500,000; they indicated; however, that they don't intend to become the bank for everyone seeking such a loan and encouraged the County to prepare for this type of request in its budget during the next budget process. Comm. Holden noted that the policies that were approved relative to the grant application are good for three years.

Mr. O'Mara reported that the DOC contacted an engineer as approved at the last Board meeting relative to the settling issues at the facility and the cracking of windows and doors that would not close. He noted that the engineer, Arthur Rose, did an inspection of the facility and advised that the problems have been identified as being cosmetic issues that can be fixed. Mr. Rose advised that cracking of the exterior brick was due to an insufficient number of stress expansion joints and to rain and snow getting behind the brick facing; Mr. Rose informed the DOC that the weep holes on the exterior of the building that had been plugged many years ago needed to be unplugged; evidently an employee filled in the holes thinking that they provided an ingress for pests. Mr. O'Mara explained that Mr. Rose has identified the problems and the scope of the necessary repair work. The DOC is now in a position to send out bids for the repair project.

Mr. O'Mara informed the Board that the Pinardville Lion's Club, in conjunction with the Goffstown Main Street program's 250<sup>th</sup> celebration, wants to place daffodils along Mast Road; he noted that the Lion's Club has inquired if the County would like to participate in allowing bulbs to be planted; the Board favored participation in the project.

Mr. O'Mara informed the Board that friends of the Goffstown Rail Trail asked for permission to use the parking lot for a gathering on October 2, 2010. He noted that the original plan was on a larger scale and would have required Board of Commissioner's approval, Executive Committee approval and insurance; they originally planned to bring in a tent and portable toilet. The plan was scaled down so that the request is to use the parking lot only to gather and celebrate. Mr. O'Mara noted that the Sheriff's office will be notified so that they will anticipate increased activity in the parking lot.

Mr. O'Mara informed the Board that on Friday, September 10<sup>th</sup>, Governor Lynch signed House Bill 1680; the bill establishes the crime of aggravated harassment by an inmate. Mr. O'Mara noted that in the past, there was some difficulty when inmates have engaged in tossing excrement toward Correctional Staff, thinking it was funny. While there were many instances where inmates tossed excrement at Corrections Officers, the Superior Court hearing the cases threw out all cases except two where the officers were actually hit. Rep. P. Garrity from Manchester introduced this bill and was the sponsor of this legislation. With the passage of this bill, action can be taken against any inmate engaging in the act of tossing

excrement, whether the officer is hit or not. Mr. O' Mara noted that this bill will be helpful to the DOC staff because it establishes the action of throwing excrement as a felony, whether the officer is hit or not. In the past, it was a felony only if the officer was hit. Since the bill has passed, there have been no further incidents; it is an effective deterrent. Mr. O' Mara indicated that it was nice to have a response from the County Delegation and noted that the Correctional Officers were very appreciative of the action.

Mr. Moorehead reported that he recently attended the Technical Advisory Committee (TAC) on September 20<sup>th</sup>, which is set up to recommend what the per diem rates should be to the Commissioner of DHHS on a semi-annual basis. He noted that the estimated AARA Stimulus funding that was set to expire on December 31<sup>st</sup> of the current year has been extended by the Congress for the first two quarters of 2011. The amount for the first quarter is estimated to be 8.59% instead of the possible anticipated 11.59%; the amount for the second quarter is estimated to be at 6.59%, which is also down from 11.59%. Mr. Moorehead explained that another factor that will further lower the reimbursement rate is that New Hampshire is experiencing a lower unemployment rate than other states. Mr. Moorehead explained that it is his understanding that the Federal Stimulus funding under AARA ends June 30, 2011. Comm. Holden noted that she would prefer the lower unemployment rate as opposed to getting money from the Stimulus program. Mr. Moorehead explained that he cannot anticipate the effect on the Nursing Home at this point, but he anticipates receiving approximately \$200,000 to \$250,000 less per quarter than has been reimbursed back through the Stimulus. He suggested that it would be reasonable to assume \$100,000 to \$125,000 less for the second quarter of 2011, and noted that he will report back when information becomes available. Mr. Wenger noted that the AARA revenue in question was not budgeted in the FY2011 budget because of the uncertainty of the funding. Mr. Moorehead commented that private facilities that have been receiving the Stimulus funding will be seeing a significant impact because the funding has helped keep some of them going.

Mr. Wenger asked the Board if it were available to meet with Mr. Flygare the following Friday at 11:30 following the Executive Committee meeting relative to negotiations. The Board indicated that it could not make that meeting. Mr. Wenger noted that he will be in touch with Mr. Flygare again to see when he is available. Mr. Wenger explained that the first negotiation session with the DOC AFSCME is scheduled for September 30<sup>th</sup>, and the County's proposals are scheduled to be delivered on October 5<sup>th</sup>. Comm. Clemons offered to work with the AFSCME group at the House of Corrections. Comm. Holden offered to work with the County Attorney Teamster's group; Mr. Wenger explained that this negotiation will be delayed until after the election. Mr. Wenger noted that another contract to be negotiated is the Chemical Worker's group, and the Sheriff's group is pending; there will be up to five ongoing negotiations.

Mr. Wenger referred to the request of Chairman Pilotte that was outlined in the letter addressed to the Board; the request relates to a motion made at the recent Executive Committee meeting with respect to "lapses," and a request for information. Mr. Wenger asked the Board how it would like him to respond to the request. Comm. Clemons inquired about details; Mr. Wenger explained that it is his understanding that "lapse" is a common word used in the state to represent unexpended budget funding. He noted that at the County level, it is viewed as surplus at the end of the year. Mr. Wenger explained that it is his understanding that the Executive Committee is looking for the amount of money in each line for each Department that is not expended each year, and it is looking for a ten-year history. Mr. Wenger noted that while it may be a nice thing to have, he is not sure how firm or accurate it will be because the Auditors always make end-of-year line adjustments, particularly for the Nursing Home. Mr. Wenger went on to note that Mr. O'Mara's budget, for example, is based on a projected population, which varies. He noted the information for FY '10 cannot be provided until the current audit is completed. He also noted that most of the information is available in the monthly reports that are provided to the Executive Committee. Comm. Holden noted that this request would create extra work, and explained that the Appropriation Control Report for the end of the year could be reviewed, but it would not be available for all ten years. Comm. Clemons suggested that it would be worthwhile to instruct the Executive Committee how they

could access the information themselves by going back and looking at various reports. Mr. Wenger noted that he will look into it so see what is available, noting that it could be a good tool for the Commissioners as well.

Mr. Wenger noted that he is meeting the following day at 2:00 p.m. with the State and the Architects to review the status of Chestnut Street and the return of the Court. He noted that it is his understanding that the work is running on schedule.

Mr. Wenger informed the Board that the County has received notice from Primex relative to the Health Insurance for retirees. He explained that the retirees were moved out of the County pool and into the First Seniority program two years ago through Harvard Pilgrim, noting that the rates went from \$410 down to approximately \$230; the program was in large part based on Federal subsidies, which are ending. Mr. Wenger noted that as of January 1<sup>st</sup> that program will no longer be offered. Federal regulations require that Harvard Pilgrim advise the retirees by October that the program will no longer be available, and the County has to look to see what insurance program it will offer to the retirees. He explained that Mr. Lunsford has been looking for options; Primex has provided an option to move the retirees back into the County pool and provide them with the Medicare enhanced program, which they had in the past; there are five different alternatives with respect to co-pays. Mr. Wenger explained that a problem with that option is that the non-retirees and the County will be subsidizing the retirees; in the past it has ranged between 1 and 2% of the premium; another issue is that it places the County in a position of being required to meet GASB requirements. He informed the Board that an option would be to identify other plans; Mr. Lunsford has identified a program out of Rhode Island that may be an option; the rates are comparable, but they are rated by age and those on the higher end will be paying significantly more and it is a very different program that will be confusing for the retirees. He suggested that it is his belief that the County's only real option is to return to the Medicaid Enhanced program. The program that the retirees previously participated in is currently approximately \$475 per person; plan options run from approximately \$377 to \$475; it is dependent on the co-pay and prescription options that are selected.

Mr. Wenger noted that the retirees will be receiving a letter from Primex the second week of October telling them that the insurance will be ending; he explained that the Business Office would like to get a letter out to them in advance, giving them a "heads-up" that this is coming to avoid some of the stress. Mr. Wenger explained that it is his recommendation that the County bring the retirees back to the Medicare Enhanced program with two options, a high and a low end.

Comm. Clemons shared information relative to insurance through AARP that he is aware of with a premium of \$199/month, not including a drug benefit. Mr. Wenger asked if this is a subsidized plan; he explained that there are many plans that are currently subsidized and the subsidy will be going away. Mr. Wenger agreed to get more information from Mr. Lunsford, but noted that the County has very little time to react. He did note that retirees always have the option to get their own plan, should they choose. He explained that another concern is that the rates that Harvard Pilgrim is giving the County are only six-month rates, which seems to indicate that another increase is likely in six months. The Board approved Mr. Wenger's request to get a letter to the retirees informing them that the County will be making the Medicare Enhanced program available to them. The retirees do not have to make a decision until December.

Mr. Wenger informed the Board that the County's medical insurance program is experiencing a very difficult claims year; he noted that even with the 10% increase, the County is significantly above past year's claims. He noted that if this continues on, he anticipates a difficult year with respect to employee's health insurance.

Mr. Wenger informed the Board that he has the engagement letter from the auditor, Vachon, Clukay & Co. that the Board annually signs. In response to a question from Commissioner Holden relative to

meeting GASB requirements, Mr. Wenger noted that an RFP is being developed and should be available to the Board for its next meeting.

M. Castonguay informed those present that the next Executive Committee meeting is scheduled for the following Friday at 9:00

Attorney Kirby requested an opportunity to meet with the Board to consult with Counsel.

## **7. Public Comments**

There was no one present who wished to address the Board at this time.

## **8. Non-Public Session**

Comm. Pappas indicated that the Board would move into recess with Attorney Kirby and Mr. O' Mara and entertained a motion.

**Motion:** To enter Recess with Mr. O' Mara and Attorney Kirby to consult with Counsel. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

The Board moved into Recess at 11:11 a.m.

The Board moved out of Recess at 11:23 a.m.

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

Comm. Pappas indicated that the Board would move into a Non-Public session with Mr. O' Mara and Attorney Kirby and entertained a motion.

**Motion:** To enter Non Public Session with Mr. O' Mara and Attorney Kirby consistent with RSA 91-A:3 II (e), relative to pending litigation. Motion by Comm. Holden, second by Comm. Clemons. Pappas-yes, Clemons-yes, Holden-yes. Motion carried.

The Board moved into Non-Public Session at 11:24 a.m.

The Board met with Mr. O'Mara and Attorney Kirby and relative to pending litigations. No action was taken.

The Board moved out of Non-Public Session at 11:34 a.m.

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

Comm. Pappas asked the Board if it wished to take any action. Comm. Holden moved to address actions relative to pending litigations.

**Motion:** To indemnify County Defendants pursuant to NH RSA 29-A, in the matter of Juan Marquez v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons.

Attorney Kirby recommended that the Defendants be listed in each of the motions. Comm. Holden withdrew her motion. Comm. Clemons withdrew his second. The motion was removed from the floor.

**Motion:** To indemnify County Defendants Sergeant George Antilus, Sergeant Todd Gordon, Sergeant Vincent Williams, FTO Nicholas Granville, Sergeant Ryan LeVierge, Sergeant Ronald Potter and Lieutenant Jason Riley pursuant to NH RSA 29-A, in the matter of Juan Marquez v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

**Motion:** To indemnify County Defendants Cecile Beaudoin, Nancy Devine, Elizabeth Descar, Hillsborough County Department of Corrections Superintendent, Hillsborough County Department of Corrections Assistant Superintendent, and Denise Ryan pursuant to NH RSA 29-A, in the matter of Jerome Moyston v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

**Motion:** To indemnify County Defendants Superintendent James M. O'Mara, Jr., and Assistant Superintendent David M. Dionne pursuant to NH RSA 29-A, in the matter of Rico A. Contino v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

**Motion:** To indemnify County Defendants Superintendent James M. O'Mara, Jr., Correctional Officer Tammy Dusablon, Correctional Officer Quentin Robinson, and Correctional Officer James Thornell pursuant to NH RSA 29-A, in the matter of Warren Picard v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

**Motion:** To indemnify County Defendants Superintendent James M. O'Mara, Jr., and Nurse Elizabeth Descar pursuant to NH RSA 29-A, in the matter of Warren Picard v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

**Motion:** To indemnify County Defendant George Antilus pursuant to NH RSA 29-A, in the matter of Aniaon Torrex-Mendez v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

**Motion:** To indemnify County Defendants Robert Bourgeois, Walter Brooks, Bambi Cummings, Marc Cusson, Courtney Faucher, William Fuller, Joseph Galvin, Kristi Grey, Nancy Devine, Elizabeth Descar, Hillsborough County Department of Corrections Superintendent, Richard Mailhot, Denise Ryan, Tony Sawyer, and Willie Scurry pursuant to NH RSA 29-A, in the matter of The Estate of Kevin McEvoy v. Hillsborough County et al. Motion by Comm. Holden, second by Comm. Clemons. Motion carried.

Comm. Clemons asked the Board to address Mr. O'Mara's travel request from the previous meeting. There was discussion relative to Mr. O'Mara's travel request and whether it was tabled at the last Board meeting. The Board agreed that it had postponed the discussion to this meeting. Comm. Clemons presented an appropriate motion.

**Motion:** To approve the travel request submitted by Supt. O'Mara so that he may attend a conference in Las Vegas, Nevada from October 11 through October 13, 2010. The total cost for the conference will not exceed \$1,404.28. Motion by Comm. Clemons, second by Comm. Holden.

Comm. Holden noted that the travel portion is an estimate and could be lower; Mr. O'Mara agreed. The motion was put to a vote.

Motion carried.

Mr. Wenger asked to speak to the Board in recess relative to negotiations. The Board agreed to move into recess.

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

The Board moved into recess at 11:41 a.m.

The Board moved out of recess at 12:09 p.m.

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

Mr. Wenger informed the Board that he has spoken with the Treasurer relative to investments. He noted that he has asked the Department Heads to minimize expenses during a period when cash flow may be tight for the short term, and so that the County is able to preserve its favorable investments. It will depend on the timing of Stimulus money coming in. There are two investments that are realizing a 2% return, and it is Treasurer Pappas' hope that the County will be able to keep those in place.

**Adjourn:**

Comm. Pappas asked the Board if it wished to address any other business; there being none, a motion to adjourn was entertained.

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

The meeting adjourned at 12:10 p.m.

*Signed 10/06/2010*

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Comm. Michael Clemons, Clerk  
Hillsborough County Board of Commissioners

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Date