

Regular Meeting of the
Hillsborough County Board of Commissioners
December 27, 2011
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. S. Ziehm, Comm. C. Holden, Comm. Pappas, P. Coughlin, J. Hardy, D. Hogan, C. Seidel, D. Dionne, V. Chandler, P. Flood, C. Kirby, S. Merhalski, D. Reidy, C. Roach, E. Robinson, M. Castonguay, and G. Wenger

Also Present: Chief Justice Dalianis, D. Goodnow, and D. Morin - NH Administrative Services of the Courts

1. Call to Order

Comm. Ziehm called the meeting to order 9:00 a.m. and welcomed Chief Justice Dalianis, Mr. Goodnow and Mr. Morin

2. Pledge to the Flag

Mr. Wenger led the Pledge of Allegiance.

3. Honorable Linda Steward Dalianis, Chief Justice, NH Supreme Court

Chief Justice Dalianis addressed the Board. She explained that the Judicial Branch made a presentation to the Legislature for the current biennial budget that derived from years of planning and a serious effort to rethink how the Judicial Branch should operate and be funded in the 21st century. She added that they came up with a plan with a number of components; the Video Conferencing Project is a part of a plan that she will be addressing today. She added that this project involves approximately one-half million dollars for related hardware and software. She explained that the original plan was to set up state-of-the-art video conferencing equipment in each Court location throughout the State and at all three State prisons, as well as the Office of the Public Defender, which was included in the budget. She added that the Public Defender's Office decided not to participate, which left the Judicial Branch with the opportunity to offer the same equipment to the Counties. She noted that once it was determined that there was money in the budget, the Administrative Offices for the Courts (AOC) reached out to the Counties to see if they were interested in participating in this project; MOU's (Memorandums of Understanding) have been signed with three Counties, namely Sullivan, Belknap and Coos. She added that three Counties, namely Merrimack, Rockingham and Strafford are doing it at their own cost because they have recognized that the savings are noteworthy. She explained that Grafton is also considering doing it at its own cost in conjunction with their new House of Correction; the AOC is talking to the remaining Counties to see if there is interest in joining the project.

Chief Justice Dalianis explained that at this point it is difficult to quantify the savings; the Sheriff has been unable to provide a reliable estimate because he will still have to make transports although they will be fewer; additionally, his office will no longer be required to transport inmates for routine marital and other hearings; which currently is done. Chief Justice Dalianis noted that if Superintendent Dionne is willing to set aside a couple locations, they can work out a system that will work to the benefit of all in terms of saving money, public safety, and internal administration because it is a lot easier to take an inmate down the hall to a small conference room than it is to take him to a Court in Nashua.

Mr. Goodnow offered to address any questions and noted that there is some flexibility; he added that it is his belief that this project would be important for Hillsborough County. He added that they have been meeting

monthly with other Sheriffs and have worked well with Sheriff Hardy. Mr. Goodnow noted that the Chief Justice directed Judge Kelly, the Administrative Judge in the new Circuit Court that includes the District Divisions, and Chief Justice Tina Nadeau, their new Security Court Chief Justice, to draft an Administrative Order for use in each of the trial courts. He added that that order essentially makes a video appearance the default mode for anybody who is incarcerated and has a Court hearing. He added that the Chief's direction was to be serious about this default and to require that a Judge give a reason if that Judge is going to require that an inmate be transported. He added that based on meetings with the Sheriffs, it is his belief that this will go beyond the usual video arraignments. They are going to try to reduce the hearings of other incarcerated inmates, most common of which include the marital hearings where a young man is incarcerated for failing to meet a child support obligation. He added that the only limit is the trial Judge presiding over the hearing.

Chief Justice Dalianis indicated that they are changing the internal culture; Judges from long experience are reluctant not to see a person and talk to that person in the same room, she added that we can't afford that anymore. She noted that there will be still be a culture shift to deal with, further noting that her new catch phrase is: "I really mean it," so "people defy me at their own risk." She added that the principal cost to the County is the internet connection and observed there should be a discussion relative to long term maintenance and other things so as to minimize any unexpected expenses to the County. Mr. Goodnow explained that the monthly cost for the DOC for the cost of the devices is somewhat less significant than the device in the Courtroom; it is a smaller unit. He added that the cost of the device in the Courts will be approximately \$3,000; the annual maintenance will be between \$368 and \$450. He noted that there is an opportunity to discuss options for locking in 3 or 5-year agreements with Cisco, the vendor. Mr. Morin explained that a second cost would be the monthly fee for the internet provider related to the video. Mr. Goodnow further explained that early on in the investigative process, Judge Kelly, the administrative Judge for the District Courts, identified for them that these are not confidential proceedings, but are in fact public proceedings, which has allowed them to proceed with less expensive options for internet providers, noting that they can be as low as \$69/month, or for a more sophisticated line up to \$199/month. He added that he would expect that a broadband line that is solely used for video arraignments to be in the \$100/month range, the MOU asks that 768 kilobits be dedicated to video arraignment; using the broadband line for other uses can affect the quality of the feed.

Chief Justice Dalianis added that systems occasionally fail so internal procedures will be worked out so that the Sheriff will not be expected to immediately transport those inmates who were scheduled to appear by video conference on the day that a system fails; a process of reasonable rescheduling will be worked out. Mr. Goodnow added that the vendor, George Wiley Consulting Group, is located in Bedford, NH; it is a vendor that he has worked with for years that and is a phone call away. He added that their own IT staff is also very quick to react to any issues that may occur with the video. Mr. Morin added that the Administrative Office of the Courts (AOC) selected Mr. Wiley as a vendor after a competitive bid process, and noted that the AOC has worked with him and is familiar with the quality of his work.

Mr. Goodnow noted that the Women's Prison is one of the sites that is part of the project; funding was available last year and the prisons in Concord and Berlin were upgraded with IT video capability. They are looking for funding for the Women's Prison; funds that were budgeted for the Public Defender's Office, that chose not to participate, may end up being used in a larger facility that might need more than one device such as the Valley Street Jail if there be funds remaining at the end of the project. He reiterated that the savings for Hillsborough County will be in reduced transportation and staffing and noted that some of the other Counties that already have video conferencing are realizing greater savings by converting to new providers and by converting from regular long distance fees and older lines that were costing up to \$450/month to maintain. Mr. Goodnow explained that the AOC may have the ability to speed up the process and provide greater flexibility within the Courts by providing a Judge for video proceedings for a remote or smaller site where there may not be an assigned Judge.

Comm. Holden asked for information relative to the funding, noting that the County is on a July 1st to June 30th fiscal year, adding that there are no extra funds in the current budget year and that it is a bare-bones budget. Comm. Holden noted that 123 of the 400 State Legislators are located in Hillsborough County.

Mr. Goodnow explained that the AOC's appropriation is a capital appropriation for this biennium that is good through June 30, 2012, and then through June 30, 2013. He noted that they could start as soon as the County wishes, or it could wait until July 1st if the Board deems it necessary.

Comm. Holden spoke about the budget process and the Delegation's part of the process; she added that the County did have video teleconferencing from the Jail and video arraignment in a pilot project that was pulled out because of the maintenance costs. Chief Justice Dalianis noted that the pilot project was a lot more expensive than what is being proposed now; she added that the AOC's point of view is that if a County is inclined to do video conferencing, the sooner the program begins, the greater the savings.

In response to a question from Comm. Pappas, Chief Justice Dalianis responded it is mandatory for an inmate to do video conferencing if a Judge orders it. Sheriff Hardy pointed out that last year his Department did approximately 19,000 prisoner transports, adding that anytime an inmate can remain in the secure confines of the Hillsborough County Department of Corrections, the opportunities for the inmate to act out, be difficult, or try to escape are reduced, further adding that from a public safety perspective it's a no-brainer. He added that while there will be transports up and down the State, a savings can be realized with this project at a time of severely reduced budgets. The Sheriff noted that he is hoping that this will be favorably received during the budget process.

In response to a question from Comm. Ziehm, Chief Justice Dalianis indicated that an inmate going to trial, entering a plea of guilty, or one who has a substantive motion related to his/her case such as new evidence will be going to the Courtroom. She added that an inmate will not be in the Courtroom for structuring conferences, minor discovery disputes for arraignments, Family Court hearings, other Civil hearings, and minor matters where people are being transferred that do not need to be. She explained that there are occasions where a transport is done because the inmate's lawyer doesn't want to go to the jail, but wants the inmate brought to the Courthouse to sign something; she added that this will change.

Comm. Ziehm asked the Sheriff if he knew what percentage of the 19,000 transports could have been handled by video conferencing. He added that it is very difficult to quantify that, and it would be necessary to pull every transport to determine that; he added that once the Berlin facility is online, it will eliminate many of those transports. Chief Justice Dalianis explained that they have done a rough analysis on the return on investment savings to the County, and while it is unquantifiable what savings the Judicial Branch will realize, the Counties and communities will benefit.

Mr. Goodnow explained that they have estimated \$32,000 a year for savings in all ten Counties, which translates to two per diem officers for the Courthouses. It should also result in savings for transport officers. Sheriff Hardy added that after the first 6 months, his office will have a better idea of what the savings will be. He added that video conferencing is a significant advantage as it relates to safety.

Mr. Dionne asked about the cost of a service contract; Mr. Morin responded that he believes the cost will be approximately \$400 per year. In response to another question, Mr. Morin noted that Hillsborough County is slated to have one video conferencing site; Chief Justice Dalianis responded that they would like for the Hillsborough County to have two or more sites. Mr. Morin indicated that he does not think the cost for two devices would double and noted that the devices can be shared between facilities. Chief Justice Dalianis indicated that scheduling will be worked out cooperatively; all options are open. Mr. Morin added that in approximately 2 years, the State's Office of Information Technology will have a video conferencing server in place for the entire State, including the Counties and the Courts. It will serve as a central hub and the devices will know about each other; in the interim, Cisco is loaning them one. Mr. Morin added that Chief Justice

Dalianis will encourage Judge Kelly to coordinate the scheduling of video arraignments in Hillsborough County for the 5 Circuit Courts and the Family Courts.

Supt. Dionne noted that in the MOU, it notes that if a piece of equipment fails, it is the County's responsibility to replace it; he asked why the State would not replace it. Mr. Morin added that he believes that would only occur if the County chose not to carry the maintenance agreement or in some other unusual circumstance. Mr. Goodnow noted that the MOU states that the County's obligation is to maintain the equipment in ready-to-use condition, and obtain a manufacturer's supply licensing support and maintenance agreement for all the equipment at County expense. He added that he would expect that the maintenance agreement would keep the equipment up and running and noted that he does not see where the memorandum states that it is the County's obligation to purchase equipment should the equipment fail. He noted that what he does expect to happen, once the cultural change has taken place and everyone has grown accustomed to video conferencing, is that the option of video conferencing will be attractive to the County, particularly to Supt. Dionne because he believes that it will keep a lot of contraband out of the facility. He added that it is his belief that it will be attractive to the County both from a security perspective and from a financial perspective.

Comm. Pappas asked if there is expensive training involved. Mr. Morin responded that part of the Office of Administration's arrangement with Mr. Wiley is that he will provide the training to Supt. Dionne and other staff. Chief Justice Dalianis indicated that their office will work out protocols so that everyone will know what is going to happen. Mr. Morin added that the Court system staff will also be available for answers.

Mr. Wenger explained that it is his understanding that for video conferencing, the County will have a line, a monitor, and a camera and asked for clarification. Mr. Morin explained that the monitor and the camera are one in the same; the unit looks like a webcam on a laptop. He added that in the Court, they have a broadband line that comes into a router and the router goes to where the video conferencing unit is; the reason they chose to do it in that manner is so that their IT staff could remotely administer the line by getting into a router. He noted that it will be the County's decision as to how it wants its broadband line set up; it could be as straightforward as one similar to what people have in their homes, but in a County such as Hillsborough where there may be several video conferencing units and one broadband line, some sort of a router will be needed at the main in-point.

Mr. Wenger asked about expectations regarding space and rooms where clients could speak with their attorney, etc. Mr. Wenger added that he cannot tell the Board what the County will be responsible for until there is an RFP. He noted that he also has a concern regarding failures and that he will not know the impact until this issue is addressed in the MOU. Chief Justice Dalianis added that these are reasonable concerns and further adding that the AOC will address those concerns. Mr. Morin added that he will be happy to work with the County to adjust the MOU regarding the County's needs provided it continues to make sense to the Court system. Chief Justice Dalianis explained that they sent out the MOU to get conversation started. Mr. Morin added that it would make sense to get a meeting together with Mr. Wenger and whoever the Board might choose along with Mr. Wiley and their Cisco representative to arrive at an agreement. Comm. Holden added that it she would like to see a Commissioner involved.

Mr. Morin added that it will be important to look at the site cost because some locations can be more costly than the normal Comcast cost.

Comm. Ziehm asked if Mr. Roach or Rep. Seidel had questions. Rep. Seidel indicated that it seems that people like the idea and that there is a cooperative feeling that the Court will help work out the details.

Mr. Wenger asked if the County could use the system for education and training, which could be additional savings. Mr. Morin explained that the systems for the Counties will cost less than half of what the State paid because they are considered end-point devices that will not be able to call out to another entity but will be

able to receive calls. He added that if the County were to have a sending device such as they have in the Courts, then an educational entity could send a signal that the County could view. He noted that it would be possible for the County to add a sending device at a later date, and it is his belief that the County will not be limited to using this device for the Court system if there is an interest in having a use with another entity.

Chief Justice Dalianis added that she does not see that being an issue as long as the Courts principal mission is met; which is to keep inmates from having to travel to Courthouses. Mr. Morin added that the broadband line alone would make it possible for distance learning and noted that in the AOC office, they are not using the video conferencing units for education but through another grant, they have purchased laptops with webcams and are using Go to Meeting Video Meeting software and have purchased overhead projectors so that people can group at certain facilities throughout the State and training can be provided from Concord resulting in a savings of time and expense. Mr. Goodnow added that he would encourage the County to maximize the use of the equipment and noted that he thinks that Supt. Dionne will see a pattern develop and will be able to identify blocks of time when the equipment is not needed or the bandwidth from the internet line is not needed for video conferencing for arraignments.

Attorney Kirby inquired if this system will integrate with the Federal system, to which Chief Justice Dalianis noted that the AOC does not have any plans for that since they don't really interact with the Federal Court system. Mr. Goodnow indicated that it should be able to communicate effectively with the Federal system. Mr. Morin added that the Federal system has units on the same level as those that AOC is buying for the Courts. Attorney Kirby added that she was interested in understanding if the County would be able to video conference with the State Prison in Berlin, NH relative to a pending case. Chief Justice Dalianis noted that this is something that the AOC should explore. Attorney Kirby explained that one of the biggest issues Hillsborough County has with the MOU is that there isn't any term in the agreement and asked if there would be any objection to putting a term in the agreement. Mr. Goodnow responded that they would consider any term that the County would propose, but added that he cannot imagine that they would have any reason to not agree with a term, whether it is a one-year term with an option to renew or a two-year term, or even longer. He added that he is quite confident that this is going to be successful once some of the issues have been resolved.

Mr. Wenger expressed his belief that it would make sense to have a technical discussion with those who would be involved at the County level along with the appropriate person(s) from AOC; additionally, there would need to be an agreement regarding the language of the MOU. Chief Justice Dalianis asked Mr. Wenger if he would coordinate with the County relative to what things need to be organized with Mr. Goodnow and include the Board of Commissioners. Mr. Goodnow added that he has the following names as potential participants in discussion to include Mr. Wenger, D. Morin, a Commissioner, the County IT person, and Mr. Wiley regarding the IT piece of the project. There was a recommendation to add S. Spires to the group. There was discussion regarding a meeting with Mr. Morin, Mr. Goodnow, Supt. Dionne or his representative, and Mr. Wenger as well as AOC's network engineer, and Mr. S. Spires.

Chief Justice Dalianis asked the Board if it would be possible for Hillsborough County to join the project prior to the end of the current fiscal year. There was a consensus that the Board may favor the project but there may not be money in the budget for it. Mr. Wenger indicated that it comes down to whether there is money in the current budget or if the funds can be found. The Chief indicated that all levels of government are suffering from the same issue and reiterated that there is a belief that this will save money at all levels. Mr. Morin added that there can be a delay with broadband, and noted that Cisco in particular does not stock many of these devices so there is an anticipated delay of 8 to 10 weeks on the devices once the order is placed. Mr. Wenger added that the County has the advantage of using Cisco as its internet provider. He added that once the meetings have been held and the technical requirements that must be met can be identified; they will return to the Board with a plan for its approval.

Chief Justice Dalianis offered to provide whatever support the County needs.

The Board thanked the Chief Justice and OAC staff for their presentation; they, in turn, thanked the Board for its attention and interest regarding the project.

The Board took a brief break then resumed its meeting.

4. Administrative Business

Approval of Payroll Registers

The Board reviewed and approved the Payroll Registers.

Motion: Comm. Holden moved to approve Payroll Registers for the following dates and amounts:

- December 22, 2011 in the amount of \$5,541.12
- December 23, 2011 in the amount of \$156.08

for a total miscellaneous payroll of \$5,697.20, subject to review and audit. Comm. Pappas seconded the motion. Motion adopted.

Motion: Comm. Pappas moved to approve a regular payroll dated December 22, 2011, in the amount of \$1,092,742.69 subject to review and audit. Comm. Holden seconded the motion. Motion carried.

Approval of Accounts Payable Registers

The Board reviewed and approved the Accounts Payable Register:

Motion: Comm. Pappas moved to approve Accounts Payable Registers for December 27, 2011 in the amount of \$208,001.15, subject to review and audit. Second by Comm. Holden. Motion carried.

5. Public Comment on Agenda Items

There were no members of the public present who wished to comment on agenda items.

6. Department of Corrections

Census

Supt. Dionne presented the DOC Census. He noted that as of December 20, 2011, the Census was 523, which included 464 men of whom 328 were being held pre-trial and 136 that had been sentenced. There were 59 women of whom 38 were being held pre-trial and 21 that had been sentenced. Supt Dionne added that there are 11 inmates in the community.

Administrative Transfer

Mr. Dionne requested Board approval for the transfer of an inmate from Rockingham County to the Hillsborough County Department of Corrections.

Motion: To approve the transfer of a male inmate to the Hillsborough County Department of Corrections from Rockingham County. Motion by Comm. Holden, second by Comm. Pappas.

Mr. Dionne explained that the individual that was transferred could not be placed in any of the units at the Rockingham County facility because of a safety issue.

Motion carried.

DOC AFSCME - Contract Execution

Mr. Wenger inquired if the Board would like to consider the DOC AFSCME contract while Mr. Dionne was present. He noted that DOC AFSCME contract is ready for Board approval and execution and the Union and the Superintendent have signed off on it; it is the contract that was signed on July 1st, 2011.

Motion: To execute the Department of Corrections AFSCME contract. Motion by Comm. Holden, second by Comm. Pappas. Motion carried.

7. Nursing Home

Mr. Moorehead presented the Nursing Home Census; he reported that the Census as of December 22, 2011 was 281, which included 198 Medicaid residents, 45 Private Pay residents, and 38 Medicare residents. He added that there is a 1 number discrepancy that he believes is a bed hold; he will verify that.

Mr. Moorehead presented Bid # 16-2012 for Health Care Services at the Nursing Home. He explained that this is for speech therapy and recommended Virjean C. Kandle, M.S., CCC-SLP, Hooksett, NH at a rate of \$72/per hour for the first year and \$74/per hour for the second year, noting that this is the lowest responsible bidder and the only bidder.

Motion: To approve Virjean C. Kandle, M.S., CCC-SLP, Hooksett, NH at a rate of \$72/per hour for the first year and \$74/per hour for the second year, noting that this is the lowest responsible bidder, and the current provider, and he will bill Medicare directly. Motion by Comm. Pappas, second by Comm. Holden. Motion carried.

Mr. Moorehead explained that Chairman Seidel requested that he do an analysis of Expenses and Revenues through the first 6 months of this fiscal year. He added that he has no problem doing that but noted he is requesting authorization from the Board before doing that since he reports to the Board. Comm. Holden asked how much time that would involve. Mr. Moorehead indicated that he told Rep. Seidel that it would be better to do that when the Nursing Home has completed all the MDS's for the month of December. He added that once that information is available, it will not be too difficult. The Board approved Chairman Seidel's request, subject to Mr. Moorehead having the information available that he discussed.

8. Sheriff's Department

Bid # 2012-53 – 2 Motorola Mobile Radios

Sheriff Hardy presented information relative to Bid # 2012-53, which is for 2 Motorola Mobile Radios for the Sheriff's Department; he explained that it is a State Bid, and the transfer of the funds was approved by the Executive Committee the previous week.

Motion: To approve Bid # 2012-53 for 2 Motorola Mobile Radios to 2-Way Communications, Newington, NH at a total price of \$6,221.74 for the 2 radios, with a request to waive competitive bidding consistent with RSA 28:8-e (V), noting that this is a State bid. Motion by Comm. Holden, second by Comm. Pappas. Motion carried.

9. Old/New Business

Goffstown Zoning Petition

Mr. Wenger noted that the County filed a petition with the Town of Goffstown that was discussed at a previous meeting; a notice of Public Hearing was received; it is scheduled for January 12, 2012 at 7:00 p.m. The County's petition will be on the agenda. Mr. Wenger noted that it was suggested that he make a presentation regarding the land at the next Executive Committee meeting, adding that he would like direction from the Board. He noted that there was a lengthy discussion relative to the Administrative Building, the land, and the petition as well as the Commissioners going to the Town to have a petition entered. He added that he could do a number of things; he could use the opportunity to educate, but he is unclear what the current Board wishes him to do beyond changing the zoning to give the County a much broader opportunity. Mr. Wenger noted that the zoning amendment does not take anything away from the County's options; it simply adds to the opportunities that it can have going forward.

Discussion ensued regarding attendance by 2 or more Commissioners. Commissioners Ziehm and Holden indicated interest in attending. Mr. Wenger noted that he will post it as a meeting and will take minutes.

Comm. Pappas asked if Mr. Wenger might explain to the Executive Committee what the zoning will do, adding that there are a number of people on the Executive Committee that don't know about the County land or what options it has. He added that sharing the Charrette summary and explaining the characteristics of the County land might be a good approach; there seems to be a lack of knowledge because they have not been exposed to the information.

He added that he came away from the Executive Committee meeting with an understanding that they do not want an increase in the budget, do not want to raise taxes, and now the Board is being told that the County cannot use its significant asset, which is the land, to generate any funds, nor is it willing to give any money to develop any of the assets. He added that this leaves the Board with only one option to balance the budget, namely to cut expenses, so the presentation could be used as an opportunity to educate the Executive Committee and let them know that the Commissioners are looking at options that could generate future revenues to offset increasing expenses. The Board agreed that Mr. Wenger should use his presentation at the Executive Committee as an educational opportunity.

Mr. Wenger noted that during the last budget cycle the Executive Committee made a directive to cut the Delegation Coordinator position by half and, as a result what he is seeing are requests from the Executive Committee to Department Heads to perform certain tasks or to provide information.

Mr. Wenger noted that it is his belief that the Executive Committee believes that with respect to the land, there is a project ready to be brought forward, but that it not the case. He added that he would not want to make any presentation on the Board's behalf unless it is fully prepared and fully vetted and the Board is ready to answer any questions that come forward. He added that he sees more and more of the Delegation work being put on Departments, as they are being called for information; an example would be the request the Executive Committee made of Mr. Moorehead. He added that having information on which one bases the budget is important, but the Departments have limited support and limited staff.

Sheriff Hardy concurred with Mr. Wenger's interpretation and echoed his comments. He noted that the Sheriff's Department and County do not have any legislative services to do research or fiscal impacts and each Department does that to the best of its abilities,; there is no one available to do that research unless someone is reassigned, taking them from doing a critical duty, and this makes it very difficult for the operation of the Department. Mr. Wenger added that choices have to be made if the Department Heads are expected to continue reducing its departments. He added that he is looking to reduce staff in his Department, and there already is a series of things that are only given peripheral time; it is a grave concern that as more

and more demands are placed on people; the County's quality employees are going to find other opportunities and the quality of the work will go down.

Comm. Holden concurred with Mr. Wenger's comments adding that the major focus now should be on the next budget and not on individual presentations. She added that it would be wonderful to educate, but she is not sure how it will be received; the County does not have a plan; there is nothing in the works for the property or a building; there is no money; there is nothing to present other than options related to the land.

Mr. Wenger offered that the Commissioners may wish to consider what its focus will be as they move through the last year of their current term; he added that it would be helpful for the Board to provide directives so that staff can get the information that it needs. Comm. Ziehm noted that she favors utilizing time to educate the Executive Committee.

Goffstown Rail Trail

Mr. Wenger informed the Board that there was a meeting with Mr. Pierce, a representative from Rail Trail who is also a Selectman, a representative from the Women's Prison, Comm. Holden, Capt. Cusson and himself to discuss the Rail Trail and what Goffstown is looking to do, specifically, with respect to access at the back of the County land behind its buildings. He noted that at the present time there is an issue in the winter when it is necessary to plow; the Fire Department currently requires the Women's Prison to maintain access from Henry Bridge Road to their building and their Boiler House, so the Prison has been plowing a strip approximately 10 to 12 feet wide in that area. The County has maintained access from its parking lot to the Boiler Room in the rear of the Bouchard Building.

The Town of Goffstown has discovered that the property being plowed is actually their Rail to Trail; they have come forward with the suggestion that the Town give the County a license to maintain or plow behind the Bouchard Building from the end of the County's parking lot to the Women's Prison, thereby granting access to the entities in the rear of both facilities. The suggestion is that the Town is going to generously give that land to the County; there will be some redesign for the Rail Trail that will then be set back from the access roads. He offered that a possible concern is that the County may be giving something up because the County has been maintaining that land for over 100 years. Additionally, it is his belief that this will be changing the relationship between the Women's Prison and the County because currently the County has no responsibility to maintain the access to their Boiler House. He offered that Attorney Kirby might give consideration to the issue.

Comm. Holden concurred, noting that it is not known at this time what will happen to the Women's Prison and if the County is responsible for plowing the area behind that facility it would increase the cost to the County. Mr. Wenger added that the Rail Trail has not gone across Henry Bridge Road yet, but they have received a grant and that project will move forward, which is what is bringing this forward as a priority. Mr. Wenger noted that at this point, those attending the meeting simply agreed to bring this to the Board, and if the Board is interested in pursuing it further, the expectation is that Attorney Kirby would be getting involved. Mr. Pierce will be going to the Selectmen to get authority for the Town's Attorney to discuss this further with the County's Legal Council. Attorney Kirby noted that she will be happy to review the documents. The Board authorized Mr. Wenger to speak with Mr. Pierce relative to moving to the next step.

Copy Fee

A discussion of copy fees ensued. The fee is currently 25 cents per page. There were mixed opinions offered. Attorney Kirby explained that the fee should be reasonable and has to reflect the actual expense occurred in producing the documents; Comm. Ziehm asked if the cost of the employees wage could be included. Attorney Kirby added that the County cannot make a profit; the fee needs to reflect actual expense. Mr. Wenger noted that most of the documents that the Business Office or Human Resources are dealing with

are considered a part of the public record or a personnel record; he noted that he will either have a person watch those making copies or make the copies for them; he would prefer to do the copies for them. Discussion ensued.

Attorney Kirby suggested that some sort of documentation be provided relative to actual cost; it could include the average salary of those who would be likely to make the copies. Mr. Wenger added that the Business Office could provide an analysis for the Board's consideration. He added that he is also asked occasionally to provide PDF files and in most instances, if it is on the website, he will direct the person to go to the site. Ms. Robinson added that it takes time to convert a scanned copy to a PDF file and one would need the time and equipment to do that. Sheriff Hardy added that there may be information that has to be redacted, and that too takes time. Mr. Moorehead noted that the costs may be different in different Departments, adding that records requests are directed to his Medical Records staff person locate and make copies of a medical record whether it is for a lawsuit or other reason. He added that he believes that the Nursing Home copy fee is fifty cents, and a release must first be obtained. Mr. Wenger noted that the Commissioners need to be provided with the foundation upon which to make a decision.

FY 13 Budget Planning

Mr. Wenger referred to the letter the Board received from the Executive Committee. He asked if the Board wished to respond to the letter. Mr. Wenger noted that Chairman Seidel suggested to the Executive Committee the previous Friday that if that Committee was sending any further messages to the Board or Departments, they would need to be sent prior to the following month because shortly thereafter the Board's budget instructions will be sent out. Comm. Ziehm noted that at the end of that meeting, there was discussion about consolidating information regarding the Study Groups and incorporating a comment about the budget. Comm. Ziehm added that she has a concern that the Executive Committee can keep slashing the budget without concern being given to the damage and the consequences to the County.

Mr. Wenger noted that it was his impression at the last Executive Committee meeting that two priorities for them are that:

1. the County's budget will not go up
2. the amount to be raised by taxes will not be going up

He added that Chairman Seidel has expressed that the Study Groups have identified the 4 components to a budget; they include Revenue, Expenses, Taxes, and Surplus. Mr. Wenger added that they have taken 2 of those components away, namely an increase in taxes, and setting the budget where it is. He added that he came away from the meeting with an understanding that the Executive Committee is of the opinion that the County should not use more Surplus than in the past; for the past 5 years, and 7 of the last 10 years, approximately 6 million dollars of Surplus has been used in creating the budget.

Comm. Ziehm added that the Executive Committee spoke as if the Commissioners were not present and she had the feeling that there were saying that they hope the Board would not spend the entire Surplus. She added that it amazes and frustrates her that they speak as if the Commissioners were not in the room. She explained that she believes in open dialogue, adding that she did have an opportunity to say that it was not the Board's intent to spend the entire Surplus. She noted that it is her belief that it is important for the Commissioners to express their concerns to the Executive Committee about the fact that it is unrealistic that the Board be given no options but to slash the budget. She added that the Executive Committee needs to choose between providing the services that are working well or compromising safety and impacting negatively on people's lives.

Comm. Holden added that the Board works well as a team with Mr. Wenger and the Department Heads and she hopes that the Board will work together as a team as it approaches the budget process. She gave examples of other budgets that have increased. She added that it is her belief that citizens are willing to pay for services.

Mr. Wenger added that the Board is an entity and can only speak as one so it is his belief that that position is the reason that the Executive Committee addresses the Board as an entity. He added that if there is a feeling that the Board would like to sit with the Executive Committee for a joint discussion, perhaps a formal request should be made to have a formal joint meeting where everyone can speak. Comm. Ziehm expressed her feeling that she would like to see better communication and noted that it is important to reach them.

Comm. Pappas suggested that the Board address the budget to the best of its ability as it did last year; there can be a cover letter in the budget instructions. She added that it is her belief that developing the budget can be the Board's reaction to the letter; she stressed that the Board should develop a budget that allows for the best possible County operation.

Sheriff Hardy added that it is his belief that some of the issues are process-driven; people have different roles to play; he noted that while he believes that all budgets should be subject to scrutiny, no one would recommend the budget process that the Department Heads were all subjected to last year from the time that the Commissioners submitted the budget through the time the Delegation approved the budget. He added that some of the Commissioner Ziehm's concerns can be addressed by reaching some of the Legislators who are the movers and shakers. He added that it is his belief that it is best to proceed with the process and involve the Legislators individually; education is important, but people often want to hold on to their pre-conceived notions. He noted that change is difficult for people to accept and it can severely impact morale at the Department level.

Comm. Pappas offered a suggestion that each of the Commissioners could address the 21 members of the Executive Committee. Mr. Moorehead added that the Nursing Home is still feeling the impact of what happened last August when the current budget was implemented, and to take additional cuts in another budget year could be very detrimental to the facility's morale and delivery of care. He emphasized that further significant cuts will make it very difficult to manage the Nursing Home.

Comm. Pappas asked if the County would like to announce the new Superintendent's position. Mr. Wenger added that he could provide an appropriate announcement. Discussion ensued relative to posting the Superintendent's appointment at the facility immediately and publishing an announcement in the newspaper. The Board agreed to first post the announcement at the DOC followed by community announcements being sent to the newspapers within the County and NHAC.

Comm. Ziehm discussed issues relative to last year's NACo Conference in Portland. It will be discussed further once more information is available.

Policies & Procedures – Continued Work Session

Mr. Wenger addressed Sick Leave and Medical Leave of Absence (FMLA). He noted that Medical Leave of Absence can go up to one year. Mr. Moorehead added that in the past 5 or 6 years, the Nursing Home has experienced having 3 staff that held key positions out on Medical Leave because of a catastrophic illness; all three had an illness that resulted in recurring treatment. He added that the most recent has been out off and on for almost two years and he has had to shuffle responsibilities around significantly over the past few years to accommodate these 3 leaves. He added that in some cases the leaves overlapped and noted that the consecutive leave time is troubling to him because if a person is out for 11 months and returns for two weeks with a doctor's note, then goes out again because of relapse or recurring symptoms, then the clock starts ticking again and the person can be out for another year. He stressed that he is not saying that the Medical Leaves were not justified and noted that each of the 3 wanted to come back if they could. He explained that the leaves created a situation where it was quite difficult to move staff into those positions temporarily for the time period involved.

Comm. Ziehm asked if Mr. Moorehead had any suggestions for a better policy. Mr. Moorehead added that Attorney Kirby should be present for the discussion, but noted that one of the considerations could be that Medical Leave be shortened to 6 months. Mr. Wenger asked if the issue was that the person was out for the time period or if the challenge was the issue of holding the position. He added that he is not sure that shortening the period would provide a solution. Comm. Ziehm added that she discussed this with the HR Director who indicated that it is common for many organizations to have a 6-month FMLA. Comm. Ziehm asked if there could be a requirement for an employee to return for a specific period of time before going out again for another Medical Leave. Attorney Kirby advised that the County clarify what FMLA is so that when the rolling period begins again, that is the minimum. She added that once that threshold is reached, it is up to the County whether the leave is 2 months, 1 year, or 1 1/2 years; as long as the County meets the Federal minimum, it can establish its policies accordingly.

Mr. Wenger added that the County's policy for Medical Leave follows the Federal law with respect to any leave. An employee is granted up to 12 weeks of Family Medical Leave during any rolling 12-month period. Discussion ensued. Ms. Robinson noted that it is her understanding that there has been very limited use of the of this benefit with the exception of the Nursing Home; she suggested the issue is how long can an employee be out, and how long must an employee be back before the year starts over. Comm. Ziehm asked if there needs to be consideration given to key positions.

Attorney Kirby noted that it is her understanding that in the past, all employees were given a certain amount of sick leave reimbursement, which still exists for the bargaining unit members and the non-exempt employees. She added that there were decisions that went back and forth during various Boards in the 80's and 90's where the Commissioners wanted to give Sick Leave to the non-exempt or to the exempt employees; then, they changed their mind based on whether they were affiliated. She added that at some point in time a couple unions were involved because the decision had been changed every other year. The exempt employees gave up Sick Leave and any Sick Leave re-imbursement in exchange for the Family Medical Leave benefit, which provides paid leave in the event of a catastrophic illness, acknowledging that the likelihood of a catastrophic illness was slim. She added that less than a handful of employees have utilized this benefit; it is a benefit that the employees can fall back on, and the County hasn't incurred any expense, but by the same token, the employees who have this benefit to fall back on very seldom use it. She added that this benefit is great for recruitment and retention.

Comm. Pappas noted that the issue has primarily created problems at the Nursing Home. Mr. Wenger reiterated that a Medical Leave of Absence can be granted for up to 12 months for both exempt and non-exempt employees. The added issue is that the County would have to continue to pay the exempt employees, but the non-exempt employees can also be out for up to 12 months and that is a burden where the County cannot fill that position. He added that this is why in his office he has come to the Board with requests to bring in a temporary employee. The Board discussed options that might alleviate the problems that have occurred. Attorney Kirby added that it could be reduced to six months and noted that is was a unique situation at the Nursing Home with 3 out at one time in a 5-person office; she added that in most Departments, a person can step up or a temporary employee can be hired for a period of time while those people are out. She noted that consideration might be given to how the organizations are run, and whether or not the managers feel they have an effective staff that they can rely upon, but noted there also can be an anomaly such as the one that occurred at the Nursing Home.

Comm. Ziehm asked Mr. Moorehead if it was a hardship to have the 3 employees out on leave, and if so, was it such a hardship that we need to address critical positions. Mr. Moorehead responded that it was a hardship and recommended addressing the issue. Attorney Kirby noted that the first step would be identify what the County determines are critical positions. Discussion ensued relative to the critical positions.

Mr. Wenger asked what the Board is trying to achieve...it is looking to provide the ability to fill that position with a full-time employee, or is it trying to end the employer/employee relationship? Comm. Ziehm added

that she believes the Board is looking at all options. Mr. Moorehead added that ending the relationship would not necessarily eliminate that person's ability to re-apply.

Attorney Kirby offered that the Board should give this thought before changing the policy. There was an agreement to review the issue with consideration being given to consecutive leaves.

Mr. Wenger addressed Promotion Rate. He noted that this change affects the pay rate of a person who moves to a new position and changes from one grade to another, each of which has its own grade; an employee would receive at least the minimum wage of the grade related to the new position.

Mr. Wenger addressed temporary positions; the language is to make it clearer and eliminate any reference to step increases.

Mr. Wenger explained the changes in Section 9 to make them consistent with practice.

Comm. Ziehm requested a brief Recess.

Motion: To go into Recess. Motion by Comm. Holden, second by Comm. Pappas. Motion carried.

The Board moved into Recess at 12:00 p.m.

The meeting reconvened at 12:05 p.m.

Motion: To come out of Recess. Motion by Comm. Holden, second by Comm. Pappas. Motion carried.

Mr. Wenger addressed the section on Communication; he added that this change is an attempt to update and clarify the County's policy regarding the use of County telephones, computers and other means of communication as well as personal cell phones, PDA's, etc.

Mr. Wenger addressed Grievance Procedure and noted that the changes are an attempt to clarify the procedure and provide written documentation when a grievance goes to Step 2 as well as giving non-exempt employees the opportunity to request that the Director of Human Resources attend the grievance meeting with the supervisor.

Mr. Wenger addressed Conduct Subject to Disciplinary Action; this is an attempt to clarify unauthorized use of telephones, cellular telephones, computers, fax machines, or other communications methods as well as misappropriation of County property or services.

Mr. Wenger explained the change in the Disciplinary Action and Separation; he explained that this is a new section number and is not a change of any significance in the Policy.

Mr. Wenger raised the issue of addressing the Computer Services Policy, adding that technology evolves so rapidly that issues arise; it was suggested that the Board spend some time reviewing that policy.

Mr. Wenger added that he will make the suggested changes, and then a new proposed Policy & Procedures Manual can be presented to the Board prior to a Public Hearing.

Mr. Moorehead referred to page 25 in the paragraph that reads: "*Employees may return to full duty with no limitations or partial duty with certain limitations (if available in the employee's department) prior to or at the expiration of their Medical Leave of Absence. They shall be allowed to return upon submitting a statement from their own physician clearing them for return to full or partial duty.*" He added that that is a

problem for the Nursing Home for two reasons. First, there has been a long-standing Medical Leave Policy that the only way a person could return to work on a partial or light duty is that it had to be a work-related injury that caused the person to go out on Medical Leave. He added that if everyone who had any kind of injury could return to light or partial duty with limitations, it would create a significant problem for the Nursing Home at certain points in time. Ms. Chandler, at the request of Attorney Kirby, agreed to review the aforementioned policy to determine if it needs to be included in the Medical Leave of Absence Policy. There was a general agreement that without that paragraph, the return would be at the discretion of the Administrator. Mr. Moorehead noted that it is in the interest of the County to have that policy when it applies to a Worker's Compensation case, but noted that that is a separate issue.

Ms. Coughlin noted that RSA's relating to the Registry of Deeds allow that it is open daily except for Sundays and State holidays, and since Martin Luther King day is a State holiday, the State wants to know why Hillsborough County's Registry is the only one open. Attorney Kirby noted that there is a distinction between whether the Registry is open for business or whether it has its employees there. The distinction is that while a lot of entities can be closed on Civil Rights Day, the County is still operating; it is not a County holiday. Mr. Wenger offered that the message to the employees should be that the Registry is open and by County Policy and practice, if they wish to take the day off, they may take it in lieu of their birthday.

Mr. Wenger noted that he will make the changes and come back to the Board for its approval. Once that is done the County will be required to hold a Public Hearing, and then it can be adopted.

12. Adjourn

There being no further business, Comm. Ziehm entertained a motion to adjourn.

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

The meeting adjourned at 12:21 p.m.

Approved on 5/2/2012

Comm. Carol H. Holden
Vice Chairman/Clerk
Hillsborough County Board of Commissioners

Date