

STEBEN COUNTY PUBLIC SAFETY AND CORRECTIONS COMMITTEE

Monday, February 6, 2023

9:00 a.m.

*Legislative Chambers, 3rd Floor, Annex Building
Bath, New York*

****MINUTES****

COMMITTEE:	John V. Malter, Chair Wendy Lozo	Jeffrey P. Horton, Vice Chair Frederick G. Potter	K. Michael Hanna
STAFF:	Jack K. Wheeler Tim Marshall Jennifer Galvan Tammy Hurd-Harvey	Christopher Brewer Nate Alderman Craig Patrick Brenda Scotchmer	Jennifer Prossick Shawn Sauro Brooks Baker
LEGISLATORS:	Scott J. Van Etten James Kuhl Robert V. Nichols	Kelly H. Fitzpatrick Hilda T. Lando Nicholas D. Pelham	Carol A. Ferratella Steven P. Maio Gary D. Swackhamer

I. CALL TO ORDER

Mr. Malter called the meeting to order at 9:00 a.m. and asked Mrs. Ferratella to lead the Pledge of Allegiance.

II. APPROVAL OF MINUTES

MOTION: APPROVING THE MINUTES OF THE JANUARY 9, 2023, AND JANUARY 23, 2023, MEETINGS MADE BY MR. HANNA. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

III. DEPARTMENTAL REQUESTS

A. Sheriff's Office

1. **2022 Year-End Budget Transfers** – Mr. Wheeler requested authorization for the Sheriff to Transfer funds from various items to cover salary and wages in the Sheriff's Office, Court Security and STOP DWI cost centers. Most of this is due to excess overtime or temporary hire expenses due to vacancies. Mr. Malter asked have we been successful in hiring additional staff for the Jail? Mr. Wheeler replied we have been able to hire a few more Corrections Officers and we have not lost any due to salaries. Things are getting better.

MOTION: AUTHORIZING A 2022 YEAR-END BUDGET TRANSFER FROM VARIOUS LINE ITEMS WITHIN THE SHERIFF'S OFFICE, COURT SECURITY AND STOP-DWI COST CENTERS TO COVER SALARY AND WAGES MADE BY MR. HORTON. SECONDED BY MRS. LOZO. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

B. Emergency Services/E-911

1. **Contract Renewals**

- *Occustar* – Mr. Marshall requested authorization to renew the contract with Occustar to perform hazmat physicals. This is a three-year contract and the total amount for three years is \$14,900.

MOTION: AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO RENEW THE CONTRACT WITH OCCUSTAR TO PERFORM HAZMAT PHYSICALS FOR A TOTAL COST OF \$14,900 FOR THREE YEARS MADE BY MR. POTTER. SECONDED BY MR. HANNA. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

- *Graybar-Vertiv UPS* – Mr. Marshall requested authorization to renew the three-year maintenance contract with Graybar for the UPS at the 911 Center. This was installed a couple of years ago. The total amount for three years is \$29,700.

MOTION: AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO RENEW THE MAINTENANCE CONTRACT WITH GRAYBAR FOR THE UPS AT THE 911 CENTER FOR A TOTAL THREE YEAR COST OF \$29,700 MADE BY MR. POTTER. SECONDED BY MR. HORTON. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

- *Empire Access Tower Lease* – Mr. Marshall noted we have not yet received the price from Empire and he asked to pull this from the agenda.

2. **Closing FY16 Statewide Interoperable Grant Capital Project** - Mr. Marshall requested authorization to close out the FY16 Statewide Interoperable Grant.

MOTION: AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY, IN CONJUNCTION WITH THE COMMISSIONER OF FINANCE, TO CLOSE THE FY16 STATEWIDE INTEROPERABLE GRANT CAPITAL PROJECT MADE BY MR. HORTON. SECONDED BY MR. HANNA. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

C. Public Defender

1. **Grant Acceptance** – Mr. Sauro requested authorization to accept the second Upstate Family Court Quality Improvement Caseload Reduction Grant. This will be a three-year grant in the amount of \$217,811 for each year. This will require us to modify the 2023 budget as it was not included.

MOTION: AUTHORIZING THE PUBLIC DEFENDER TO ACCEPT THE SECOND UPSTATE FAMILY COURT QUALITY IMPROVEMENT CASELOAD REDUCTION GRANT IN THE AMOUNT OF \$217,811 FOR EACH OF THREE YEARS MADE BY MR. HORTON. SECONDED BY MR. POTTER.

Mr. Van Etten asked what will these funds be used for? Mr. Sauro replied these funds will be used to fund the two case manager positions that we have previously talked about. Part of the quality improvement grant is trying to branch out and develop a more holistic approach on both the family and criminal side. These case managers will be assisting with services, getting background information, and making sure the attorneys have everything they need. He noted they have not yet been hired. He will be coming back to committee to request authorization to create those two positions. He does have one very qualified candidate.

Mr. Malter asked after three years, what happens if the grant is not renewed? Mr. Sauro replied in his experience so far, these grants have always bookended each other and there has always been a follow-up grant. Mr. Wheeler stated he would agree. This is under the Hurrell-Harring Settlement and we expect the grant to continue. If the worst case scenario happens, then it would be a decision point for you. If the funding ends, then we would need to talk about not filling vacancies.

VOTE ON PREVIOUS MOTION: ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

E. Personnel

1. **Public Defender – 16B Waiver** – Mr. Sauro stated in the Year 4 Hurrell-Harring grant, which we put together well over a year ago, that contract amendment was put in place and we have funding in our budget. Under that, he is requesting the creation of three additional full-time Assistant Public Defender positions. That will bring us much closer to achieving our caseload goals. With Year 5, we are just waiting for that to come up and then we will be requesting the addition of one more Assistant Public Defender and a support staff; Paralegal position. Mr. Sauro stated in terms of staffing within the office, we were behind and were losing attorney staff. We have lost approximately five attorneys per year since he has been here. That has now ended and we have filled the 2.5 equivalent full-time positions which brings us back up to the status quo. He stated that

he does have a candidate that will go into one of these three new positions. We are aggressively working on our intern/extern program. Our quest is to continue to bring new attorneys into the area. He stated they will be able to fill the additional two positions for year four and year five.

MOTION: AUTHORIZING THE CREATION OF THREE FULL-TIME ASSISTANT PUBLIC DEFENDER POSITIONS, MANAGEMENT GRADE J IN THE PUBLIC DEFENDER'S OFFICE MADE BY MRS. LOZO. SECONDED BY MR. HORTON.

Mr. Van Etten stated the top of the grade is \$45.00 per hour. What risk do we have if the State budget adopts the proposed \$119.00 per hour for assigned counsel? Mr. Sauro replied that could absolutely have an effect. I am fortunate with the staff that we currently have as they are absolutely dedicated to what they do. On the flip side, more on the assigned counsel part, we may be able to keep and hire them.

VOTE ON PREVIOUS MOTION: ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

F. Law Department

1. **Contingent Fund Transfer** – Ms. Prossick requested authorization, as Assigned Counsel Administrator, to transfer \$20,000 from the Contingent Fund to Assigned Counsel. We have used up all the money for 2022 and it looks as though we will be about \$20,000 short. In terms of an explanation for the overage, as you recall, the middle office, the Conflict Defender, was shuttered in April and so we did not have that buffer of those three attorneys taking cases. This ends up being a savings for the County as we did not pay salaries for those three positions from April on.

MOTION: AUTHORIZING A TRANSFER OF \$20,000 FROM THE CONTINGENT FUND TO THE ASSIGNED COUNSEL PROGRAM TO COVER 2022 EXPENSES MADE BY MR. HORTON. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0. Resolution Required.

Mr. Potter asked what is the status of the Conflict Defender's Office? Mr. Wheeler replied that is on hold. The goal, especially with the difficulty recruiting attorneys, is we decided to work to get the Public Defender's Office fully staffed to comply with Hurrell-Harring. We are not eliminating the office or the positions. It is currently on temporary/permanent hold for now.

G. District Attorney

1. **Temporary Appointment** – Mr. Baker requested authorization to temporarily appoint ADA Joseph Pelych as Acting Deputy District Attorney at the same rate that Dave Wallace had been paid. He noted that Mr. Pelych has the same qualifications and has 35 plus years of experience with a number of high-profile cases. Mr. Pelych does not want the job full-time and will act in this capacity until the position is filled. Mr. Baker stated he is asking for the temporary appointment for six months. Mr. Pelych is currently an 80 percent employee and will be moving to a full-time position as Deputy District Attorney and as such will be giving up his outside practice. Mr. Baker stated his plan is to fill the deputy spot relatively soon and he hopes to do so while Mr. Pelych is in this position. Once that has been accomplished, Mr. Pelych will then go back into the regular ADA full-time slot and he will then eliminate that hybrid 80 percent position. He noted that he believes he has a candidate for the Deputy District Attorney position.

MOTION: AUTHORIZING THE TEMPORARY APPOINTMENT OF ADA JOSEPH PELYCH AS DEPUTY DISTRICT ATTORNEY FOR SIX MONTHS TO BE PAID AT THE SAME SALARY THAT DAVID WALLACE WAS RECEIVING MADE BY MR. HORTON. SECONDED BY MR. HANNA. ALL BEING IN FAVOR.

Mr. Malter asked there is no additional cost, but did we add David Wallace into a training position? Mr. Baker replied yes, and we have enough in the budget to cover that. Mr. Potter asked will there be two people covering the Assistant District Attorney position? Mr. Baker replied no. He explained he will be moving Joseph Pelych into the Deputy District Attorney position now for six months and that will open his ADA slot. When the Deputy

District Attorney is hired we will bring that individual into the open 80 percent position to allow for training and make sure the outside work of that individual is completed. At that time, we will then eliminate the 80 percent position. Dave Wallace will stay as ADA Emeritus and will do the training for the junior attorneys and will not be in the courtroom.

Mr. Horton commented when we bring in the new person into the 80 percent position, he would like to put a deadline on how long they can be in that position. Mr. Baker replied his hope is that it would be one or two months tops. It will not be for the six month term.

Ms. Fitzpatrick asked once that 80 percent position is done, then we will no longer have full-time attorneys that have outside practices? Mr. Baker replied that is not correct. They will still have the right to outside practice. We have one employee that has an outside practice and they are allowed to have outside employment as long as they comply with the County policy. Ms. Fitzpatrick asked if we were to change that in the *Administrative Code*, would you comply with that or would you prefer we not do that? Mr. Baker replied I would prefer we not broach that subject. There are a couple of attorneys that continue to operate outside of the 9-5 schedule. A couple of the attorneys are doing almost exclusively night court. The Public Defender's Office has allowed outside employment in the past and other employees in the County are allowed. We are making sure our folks are compliant with the *Administrative Code*.

Mr. Van Etten asked if we wanted to change the *Administrative Code* to not allow outside employment for new ADA's, what would that entail? Mr. Wheeler replied it would need to go to the Administration Committee and would need a resolution by the Full Legislature.

IV. OTHER BUSINESS

A. *Applying for Corrections Officer Positions* – Mr. Van Etten stated with regard to hiring at the Jail, he knows of an individual who applied for a Corrections Officer (CO) position and one of the complaints was that it cost him \$500 to go through the application process. He spent \$100 for a physical, \$100 for a psychological exam and \$80 for fingerprinting. If this is an issue for everyone applying to be a CO, that is costing us our ability to get good candidates. Should we reimburse some of the costs? Mr. Wheeler replied he and Mr. Alderman have discussed that. With the fingerprinting he would be hesitant to reimburse because he would fear that we would be setting a precedent as there are other positions that have a fingerprinting requirement. We could certainly work on the physical and drug screen because we hold those contracts. That is something we can talk about. Mr. Van Etten stated he was hoping the Sheriff would be here to be able to comment if this has been an issue for new recruits. What other employees are required to do this? Mr. Wheeler replied the physicals and psychological exams are required by the State. The drug screen we require and we will reimburse the cost if they pass.

Mr. Malter asked would reimbursement require negotiations with the Union? Mr. Wheeler replied we would probably require an MOU for the Jail. We could adopt a countywide policy. Mr. Malter asked that Mr. Wheeler do a study to determine the annual cost on that.

Mr. Horton commented that individual had to pay the money before they were offered the job. Mr. Wheeler stated it is a slippery slope, especially with the psychological exams. We don't want to definitely say anything before we get those results back. If they pass, the County will reimburse them for the cost.

B. *2023 Goals* – Mr. Malter stated the committee has a month to think about what we should look at. We will discuss at the March meeting. We have the EMS study that will continue to be part of our goals. He stated he has been thinking about people who are not attending the training sessions. He would propose a reimbursement to volunteer, non-paid EMT's of \$15.00 per hour for 160 hours of training. That would be \$2,400 for individuals that pass their test. He would also like to look at reimbursing the additional fees for the course that the State doesn't reimbursement, which I think would be about \$350 and then we would also provide mileage. My biggest thing is that this will help with training and if we provide this incentive, that may also help. Mr. Van Etten commented provided the courses aren't cancelled. Mr. Wheeler stated he and Mr. Marshall have been talking about this and looking at options for the short-term to get the courses back up and running.

Mr. Horton stated my main concern is that it would be upon completion, so they have to finish the program. The only other question I have is because they are not employees, how would the reimbursement work? Mr. Malter stated my proposal is only for non-paid volunteers to not only increase participation, but maybe be able to recruit more volunteers with this as an incentive. We have \$500,000 appropriated in the 2023 budget to address these concerns. If we reimbursed 50 people for the 160 hours, that would be \$2,400 per person, plus \$350 for uncovered expenses; the total would be about \$140,000. Mr. Van Etten stated I think it is a good idea. Cost can be a barrier. Mr. Malter stated let administration figure out how it would work and bring it back next month.

Mr. Nichols asked would the reimbursement be only for class time, or when they leave their house? Mr. Malter replied just class time. Mrs. Ferratella commented in the past there have been people that have taken the courses, but they are not good testers. Can we have a mentor assigned to them? Mr. Wheeler replied we have had conversations with training providers and it sounds like between the instructors and the fire/ambulance chief, and others, that they really do a lot to try to help them with that. Mr. Marshall explained they have a lab-certified instructor who assists the coordinators that teach the classes. They spend a lot of extra time with them. You are talking about college level education and some of the individuals had a hard time getting through high school, or have a learning disability. We are trying to identify those students ahead of time to help them through the process. He stated with all of the research he has done, he is finding across the State that in this program there is a 40 percent attrition rate. My question is why? Why are we teaching to that level and why are they not making changes to the course to make it a little easier?

MOTION: TO ADJOURN MADE BY MR. HORTON. SECONDED BY MR. POTTER. ALL BEING IN FAVOR. MOTION CARRIES 5-0.

Respectfully Submitted by

Amanda L. Chapman
Deputy Clerk
Steuben County Legislature

****NEXT MEETING SCHEDULED FOR**
Monday, March 6, 2023
9:00 a.m.**

**Please send agenda items to the Clerk of the Legislature's Office
NO LATER THAN NOON
Tuesday, February 27, 2022**