

**STEBEN COUNTY PUBLIC SAFETY AND CORRECTIONS COMMITTEE**

*Monday, January 9, 2017*

*9:00 a.m.*

*Legislative Committee Room  
Steuben County Office Building  
Bath, New York*

**\*\*MINUTES\*\***

<b>COMMITTEE:</b>	Aaron I. Mullen, Vice Chair Steven P. Maio	Eric T. Booth	Kelly H. Fitzpatrick
<b>STAFF:</b>	Jack K. Wheeler John McNelis Alan Reed	Mitchell Alger Tim Marshall Phil Roche	Jim Allard Noel Terwilliger David Hopkins
<b>LEGISLATORS:</b>	Joseph J. Hauryski Hilda T. Lando	Carol A. Ferratella John V. Malter	K. Michael Hanna Scott J. Van Etten
<b>OTHERS:</b>	Jeff Smith, <i>The Leader</i> Mary Perham		

**I. CALL TO ORDER**

Mr. Mullen called the meeting to order at 9:00 a.m. and asked Mr. Booth to lead the Pledge of Allegiance.

**II. APPROVAL OF MINUTES**

**MOTION: APPROVING THE MINUTES OF THE DECEMBER 5, 2016, AND DECEMBER 19, 2016, MINUTES MADE BY MS. FITZPATRICK. SECONDED BY MR. BOOTH. ALL BEING IN FAVOR. MOTION CARRIES 3-0. (MR. MAIO ABSENT FOR VOTE)**

**III. DEPARTMENTAL REQUESTS**

A. Sheriff's Office

1. **Introduction of Undersheriff** – Sheriff Allard introduced Undersheriff John McNelis. Undersheriff McNelis is a Hornell native and brings a vast amount of knowledge and experience to our office. He started his career in the Steuben County Sheriff's Office as a Corrections Officer, moving on to work with the New York State Police and also with the Canisteo Police Department. Sheriff Allard stated the Undersheriff's first task is to do an audit of our agency with respect to our operations. He hopes to come back to committee within a year with a strategic plan. We are very excited to have Undersheriff McNelis on board.

2. **Report on Animal Cruelty Deputy** – Mr. Mullen asked in your synopsis you referenced that Chemung County has three officers. Do we need more people? Sheriff Allard replied it wouldn't hurt, but we are not bringing that forward at this time, however, that is something that we may need to look at in the future. Our animal cruelty deputy is very busy, but so far is keeping up. Mr. Hauryski commented animal cruelty operations are a lot better than they used to be.

3. **Awarding Bid for Water Storage Tanks** – Sheriff Allard informed the committee they put out a bid for hot water storage tanks for the Public Safety Building and received one response from BJ Muirhead for \$27,107. This price is good until the end of the month and he would recommend awarding the bid. Mr. Wheeler informed the committee they do have money in a capital project for this. The next step will be putting together a bid for the labor component. In the meantime, BJ Muirhead will store the water storage tanks.

**MOTION: AWARDING THE BID FOR WATER STORAGE TANKS TO BJ MUIRHEAD FOR A TOTAL COST OF \$27,107 MADE BY MR. BOOTH. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 3-0. (MR. MAIO ABSENT FOR VOTE)**

4. **Tours** – Sheriff Allard stated that he and Mr. Hopkins would like to invite the committee, as well as other members of the Legislature, to come out and tour the Jail and the 911 Center.

B. **Emergency Management Office**

1. **Annual Contract Renewals** – Mr. Marshall presented his 2017 contract renewals for approval. He commented that with regard to the contract with the Monroe County Medical Examiner’s Office, we were 5 – 10 cases over the 45 case limit for 2016. However, the addition of a Coroner’s Physician has helped to lower the caseload.

**MOTION: APPROVING THE FOLLOWING 2017 CONTRACTS FOR THE EMERGENCY MANAGEMENT OFFICE – MONROE COUNTY MEDICAL EXAMINER’S OFFICE - \$94,500; MOTOROLA - \$117,315.60; CRISIS TRACK - \$2,400; EMPIRE TELECOM - \$1,899 AND ENVIRONMENTAL EMERGENCY SERVICES, INC. - \$8,400 MADE BY MR. MAIO. SECONDED BY MR. BOOTH. ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

2. **RFP for Mobile App** – Mr. Marshall informed the committee that mobile apps are the new trend in emergency management. The mobile app allows emergency management to send emergency preparation information. It also allows individuals to establish emergency plans and start their emergency supply kit.

Mr. Mullen asked who is the end user? Mr. Marshall replied the general public. He requested authorization to put out an RFP to look at pricing. He is only aware of two vendors doing this. He stated that he reviewed the specifications with both Information Technology and Purchasing.

Mr. Booth asked how much did Chemung County pay for their app? Mr. Marshall replied the price is increasing as more counties are coming on board. Chemung County paid \$5,000 - \$6,000 and now the pricing is closer to \$10,000. We have grant funding available through the State that we can utilize for this. The grant funds can be used for the purchase and installation of the mobile app. There will be a small annual maintenance fee, which would also be covered by grant funds.

Mr. Mullen asked different is this than Code Red? Mr. Marshall replied Code Red is more of a notification system. The mobile app is more for emergency preparedness. Mr. Malter asked how will you notify the public of the app? Mr. Marshall replied he would work with Ms. Perham to put out a press release. Chemung County did a big campaign this past fall using numerous PSA’s (Public Service Announcements). He stated if the committee wanted to view the mobile app, they could download Chemung County’s to look at it. There are two versions; a customizable and a static, web-based app. Chemung County purchased the customizable app.

Mr. Maio asked in Chemung County, how much is the public taking advantage of the app? Mr. Marshall replied they have had a good response. Mr. Wheeler commented that he just looked it up and they have 1,000 downloads on Android. Mr. Maio asked how many are using it to get notifications? Mr. Marshall replied once the individual downloads the app, we would have no way of knowing how many are taking advantage of the information or using it.

**MOTION: AUTHORIZING THE DIRECTOR OF THE EMERGENCY MANAGEMENT OFFICE, IN CONJUNCTION WITH THE PURCHASING DIRECTOR, TO ISSUE AN RFP FOR A MOBILE EMERGENCY PREPAREDNESS APP MADE BY MR. MAIO FOR DISCUSSION. SECONDED BY MS. FITZPATRICK.**

Ms. Fitzpatrick asked will this be free to the public? Mr. Marshall replied yes. Mrs. Ferratella asked is this something that could be utilized by Public Health? Mr. Wheeler replied yes, they would need to coordinate with

the Emergency Management Office. Mr. Marshall replied they would probably use it for notification of a mass inoculation.

**VOTE ON PREVIOUS MOTION: ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

3. **Fire Mobilization Mutual Aid Plan** – Mr. Marshall informed the committee that they have been working for the past year to update this document. He provided a revised draft to the Fire Advisory Board in November for a final review. Some of the major changes included specifying the significance of the law outlining liability. If there is a request within New York State for mutual aid, then the company requesting the mutual aid is covering the liability. If the mutual aid is outside of New York State, each department will hold their own liability. Additionally, we are also adopting the language for the National Incident Management System for incident command. Mr. Marshall stated with the revision to the plan, each governing body will have to adopt a new resolution adopting the new plan.

Mr. Mullen stated the plan addresses what happens if a municipality withdraws, but what happens if they do not opt into the plan? Mr. Marshall stated we do provide them with county-owned radios. If they don't opt in, then they will not receive radios or portables, or have access to the County radio system.

Mr. Maio asked how do you notify them? Mr. Marshall replied once the plan is reviewed and adopted by the Fire Advisory Board, it will be sent to the Legislature for adoption. Following that, it will be sent to the State for their approval and then it will be sent out to the municipalities along with a letter outlining the process for adoption.

Mr. Mullen asked with regard to Section 4, item B, it states that the host municipality is liable for an expense incurred in the operation of the apparatus or other equipment in answering a call for assistance from an outside territory; and the cost of any materials used in connection with said response including salaries and travel costs. He asked if Canisteo requested mutual aid from Hornell, would Canisteo be paying the salaries of Hornell? Mr. Marshall replied they could, however, typically it is not done at the local level. Typically it is used when there is a large disaster and an agency is deployed statewide. For example, if Hornell went to Long Island, Hornell would bill Long Island to cover the cost of personnel and equipment. Mr. Mullen commented you may want to clarify that in the plan. He asked if Mr. Reed had any comments. Mr. Reed replied that he has not seen the plan. Mr. Marshall stated the plan was sent to the Law Department for review prior to Ms. Prossick. He stated he would forward it to Mr. Reed for his review.

Mr. Hopkins commented a real world example is if Cohocton wrecks their vehicle on their way to an incident in Atlanta, Atlanta will get the bill for that. Mr. Marshall explained if damage occurs, then the company requesting the aid pays for the damages incurred. There is a FEMA rate for use of equipment. So, if we go to Erie, the municipality responding can charge Erie a certain amount per hour for various equipment, per the FEMA rate. Additionally, paid firefighters can be paid an hourly rate and overtime. Volunteer firefighters are volunteers and not paid. Discussion followed.

C. County Manager

1. **Contract – Finger Lakes SPCA** – Mr. Wheeler requested authorization to renew the contract with the Finger Lakes SPCA for animal cruelty investigation assistance. The amount of the contract is \$10,000. We have been working well with the SPCA and they have been a great partner and provide assistance. We do have an accounting of the money that was billed against the \$10,000. There is a little remaining, which will be used to purchase supplies to be used jointly by the Sheriff's office.

**MOTION: AUTHORIZING THE COUNTY MANAGER TO RENEW THE CONTRACT WITH THE FINGER LAKES SPCA TO PROVIDE ANIMAL CRUELTY INVESTIGATION ASSISTANCE AT A RATE OF \$10,000 ANNUALLY MADE BY MR. BOOTH. SECONDED BY MR. MAIO. MOTION CARRIES 3-0-1. (MS. FITZPATRICK ABSTAINED DUE TO PERSONAL RELATIONSHIP)**

2. **Assigned Counsel** – Mr. Wheeler stated that he would like to hold this item until next month as he is still waiting for Mr. Pelych to provide his office expenses. The caseloads since Mr. Pelych came on board have significantly increased since 2014. We saw an increase of 15 percent in 2014 – 2015, and an increase of 4 percent in 2015 – 2016. Mr. Pelych did sign the contract based on the parameters that were previously agreed upon. We will revisit the issue of office expenses when we receive his information.

3. **Conflict Defender** – Mr. Wheeler informed the committee that the Conflict Defender Office has been working very well. Brenda Aston is our part-time Conflict Defender. There is currently a vacancy in the Assistant Conflict Defender as Mr. Ferratella resigned. We are currently recruiting for that position. He stated they are looking to reclassify the part-time Conflict Defender to full-time. Mr. Roche will be amending his grant application to hopefully receive additional funding to cover that. Ms. Aston is doing an excellent job. The salary is within the range of a senior attorney on the management scale. The salary would go up to \$75,000 if the position is reclassified to full-time. This is exactly double the current salary for part-time.

Mr. Mullen asked how much time does Ms. Aston put in? Mr. Roche replied since she is part-time we do not track time. Mr. Wheeler explained when Mr. Ferratella resigned in October, she has been doing a lot of work. If you approve a resolution to reclassify, the transition would take place in the beginning of February. We will set her up with an office in the Corning Courthouse in the Probation area until the completion of the new building.

Mr. Mullen asked are we keeping the Assistant Conflict Defender position part-time? Mr. Wheeler replied yes, for now. Mr. Mullen asked have we seen a savings and is it working? Mr. Wheeler replied he thinks so. In 2016 there were 52 felony cases. If we had assigned them out, that would have been at a cost of \$75.00 per hour. Mr. Roche explained typically the cost of a felony case in 2016 was \$1,900 and is consistent with the numbers from 2013. With 52 cases in 2016, we saved the County over \$100,000. He stated that \$71,000 of County costs were funded by a grant. By going to a full-time Conflict Defender and filling the Assistant part-time position, hopefully 80 percent of the average of 168 felony assignments per year will be covered.

Mr. Maio asked about the caseload standards? Mr. Roche replied the caseload standards are unclear. As of today, he has a caseload of 64, and he considers himself to be part-time with regard to assignments.

**MOTION: AUTHORIZING THE RECLASSIFICATION OF THE PART-TIME CONFLICT DEFENDER TO FULL-TIME MADE BY MS. FITZPATRICK. SECONDED BY MR. MAIO. ALL BEING IN FAVOR. MOTION CARRIES 4-0. Resolution Required.**

Mr. Roche stated with regard to Indigent Defense, the Governor vetoed a bill passed by the Legislature to take over the costs of Indigent Defense. The Governor indicated that the good parts of the proposed legislation were counsel at first arraignment and caseload standards and they are negotiating that. If that passes, we will get those mandates. We are not in compliance with existing caseload standards, and if these mandates pass, we may be required to hire additional staff. He commented the State has never funded a program like this at 100 percent. Mr. Roche stated counsel at first appearance will be forced upon us at some point. We have had an informal group meet to discuss what counsel at first appearance would look like. We plan to meet with the Magistrates this Thursday to discuss this. A centralized arraignment court is a possibility. That would permit us to have all arraignments in one location. At first arraignment you have a defense attorney, a prosecutor, security and any necessary administrative staff. Mr. Roche stated that he has received notice that there is a competitive grant for counsel at first appearance. He will be applying for funding and the grant applications are due February 24<sup>th</sup>. The grant provides \$17 million statewide.

Mr. Maio asked can we opt into this? Mr. Roche replied right now the court mandates that we provide counsel. Mr. Maio asked could you rotate the arraignment court and rotate the magistrates that are on duty? Mr. Roche replied you could do both. The problem with rotating locations is that it is difficult for law enforcement to stay on top of that. We also have to get the attorneys out to the different locations. The thought is that an arraignment court centralized in the Bath area would make the most sense. Mr. Maio asked would you rotate the justices? Mr. Roche replied yes. Mr. Maio asked would this encompass the city courts? Mr. Roche replied the local justices'

appearance would be in proportion to their caseloads. The city courts are 24/7 courts now. They will be part of the plan. Mr. Maio asked with regard to defense counsel, does that have to be staff from the Public Defender's Office, or could you contract that out? Mr. Roche replied generally they prefer that it be an employee of the Public Defender's Office. Both are options.

Mr. Malter asked when is a Public Defender assigned? Mr. Roche replied we will have someone at the arraignment regardless. Under the new eligibility standards, an individual is automatically entitled to assigned counsel or a Public Defender. Mr. Mullen asked do we need to have a local law to reimburse the County if an individual is not eligible? Mr. Roche replied they will get counsel period, if they are incarcerated. If they are not incarcerated, almost everyone is eligible, and there are some provisions. If an individual is not eligible, the local court can assign counsel and they can be reimbursed through the County.

4. **Traffic Diversion Program** – Mr. Alger requested approval to disburse law enforcement and traffic safety monies for the Traffic Diversion Program in the amount of \$140,000. He provided a handout showing the breakdown. This proposed disbursement is consistent with what we did last year, and money is available in the 2016 budget to cover these costs. The intent for the disbursement of these funds is to improve traffic safety throughout the County.

Ms. Fitzpatrick asked what is the Child Advocacy Capital? Mr. Alger replied that is a capital project to provide a child advocacy center. This is a joint program with the Department of Social Services, the Sheriff and the District Attorney. Children who are impacted by crime will have a safe place to be interviewed. Mr. Wheeler explained the \$20,000 for this is general County funds and can be used for these purposes. The law enforcement disbursements are for enhanced traffic functions.

Mr. Van Etten asked what is the distribution formula? Mr. Alger replied there is no formula per say. We have kept it consistent with the previous year. We look at the size of the law enforcement agency and take into account the volume of traffic safety incidents.

Mr. Maio asked if we didn't give money back to the New York State Police, would they do less work? Mr. Wheeler replied the caveat is the New York State Police cannot accept the distribution directly. We plan to identify equipment or things that the New York State Police could utilize. That item or items would be purchased by the County and used for traffic enforcement. Sheriff Allard commented we have talked with Lt. Michael McDarby about purchasing an unmarked vehicle that the New York State Police could use for seatbelt and speed details. We would purchase the vehicle, but they would have the ability to sign out and use the vehicle. Mr. Mullen asked would this be considered a shared service? Mr. Reed replied technically not because it is with the State.

Ms. Fitzpatrick asked do you need to make an account for that money? Mr. Alger replied no, we are working with the Sheriff to help coordinate that. Sheriff Allard stated we will be starting a pilot program to do enhanced patrols in those areas that have had high crashes. We will report back to the committee on how that works. Mr. Wheeler explained we will identify with the Sheriff and District Attorney what is happening with traffic enforcement.

Mr. Mullen asked are there any legal issues regarding these disbursements? Mr. Reed replied it needs to be modified to transition into something that is more accounted for. The City of Corning may not be willing to receive the funds that you are submitting without a more detailed accounting. Going forward, if certain changes were made, the City may be more willing to participate. Mr. Reed explained under this program, ultimately a plea is negotiated between the defendant, the court and the District Attorney. It required a conviction in order for that fee to be imposed and it was concluded that a section of law applies to our program. That is the transition that needs to occur.

Mr. Maio asked could we say that the Sheriff is actually getting \$42,000, rather than showing the New York State Police getting \$27,000? Mr. Mullen asked can we hold this over for further discussion in February? Mr. Wheeler

replied the disbursements are a budget issue as the encumbrances from the 2016 budget need to be made by February. Ms. Fitzpatrick commented that she does not care for how the disbursement proposal is written.

Mr. Mullen commented that he does not like the line item for Child Advocacy Capital. Mr. Wheeler stated that was budgeted for in the 2016 budget.

Mr. Malter commented we need to look at how the allocation process is done. He doesn't know if he likes the formula that is being used.

**MOTION: AUTHORIZING THE ALLOCATION OF TRAFFIC DIVERSION PROGRAM FUNDS IN THE AMOUNT OF \$140,000 AS FOLLOWS: SHERIFF'S OFFICE - \$42,500; CORNING PD - \$15,500; HORNELL PD - \$15,500; BATH VILLAGE PD - \$15,500; ADDISON PD - \$4,000; CANISTEO PD - \$4,000; PAINTED POST PD - \$4,000; WAYLAND PD - \$4,000; COHOCTON PD - \$3,000; HAMMONDSPORT PD - \$3,000; NORTH HORNELL PD - \$2,500; CATON CONSTABLE - \$1,500; COUNCIL ON ADDICTIONS - \$5,000; AND ALLOCATING \$20,000 TO THE CHILD ADVOCACY CAPITAL PROJECT MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

5. **Coroner's Physician** – Mr. Wheeler stated for the past couple of years, Dr. Cole, an elected Coroner, has served as the Coroner's Physician. In the case of an unattended death, Dr. Cole works with the decedent's primary care physician to determine the cause of death for those instances that do not require an autopsy. This has saved the County as we have sent 25 – 30 fewer cases to Monroe County. Dr. Cole is paid a \$100 per case and is requesting an increase to \$125 per case. This averages out to about a \$600 increase per year, however, we are getting twenty times that in savings. Mr. Wheeler stated Dr. Cole is retiring, but in order to be the Coroner's Physician, he will need to keep up with his licensure and certifications.

**MOTION: INCREASING THE RATE OF COMPENSATION PAID TO DR. COLE TO ACT AS CORONER'S PHYSICIAN FROM \$100.00 PER CASE TO \$125.00 PER CASE MADE BY MS. FITZPATRICK. SECONDED BY MR. BOOTH. ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

**MOTION: TO ADJOURN REGULAR SESSION AND RECONVENE IN EXECUTIVE SESSION PURSUANT TO PUBLIC OFFICERS' LAW, ARTICLE 7§ 105.1D. DISCUSSIONS REGARDING PROPOSED, PENDING OR CURRENT LITIGATION MADE BY MR. MAIO. SECONDED BY MS. FITZPATRICK. ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

**MOTION: TO ADJOURN EXECUTIVE SESSION AND RECONVENE IN REGULAR SESSION MADE BY MS. FITZPATRICK. SECONDED BY MR. BOOTH. ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

**MOTION: TO ADJOURN MADE BY MR. MAIO. SECONDED BY MR. BOOTH. ALL BEING IN FAVOR. MOTION CARRIES 4-0.**

Respectfully Submitted by

Amanda L. Chapman  
Deputy Clerk  
Steuben County Legislature

**\*\*NEXT MEETING SCHEDULED FOR\*\*  
Monday, February 6, 2017  
9:00 a.m.**

**PLEASE PROVIDE AGENDA ITEMS  
NO LATER THAN NOON  
Tuesday, Monday, January 30, 2017.**