

MINUTES

PUBLIC SAFETY COMMITTEE

*Approved September 19, 2008*

AUGUST 15, 2008 2:00 P.M. SCOTT HEYMAN CONFERENCE ROOM

Present: G. Stevenson, Chair; W. Burbank; J. Dennis; M. Hattery, M. Koplinka-Loehr (appointed as temporary member in Ms. Robertson's absence)

Excused: M. Robertson

Staff: S. Cook, County Attorney's Office; S. Whicher, P. Younger, S. Martel-Moore, M. Lynch, County Administration; J. Wood, County Attorney; A. Fitzpatrick, Personnel Commissioner; R. Stolp, Assigned Counsel; P. Meskill, Sheriff; J. Hughes, Assigned Counsel; L. Shurtleff, Emergency Response Director; M. Pottorff, Legislature Office; P. Carey, Commissioner of Social Services

Guests: K. Damm, W. Furniss, Advisory Board on Indigent Representation

**Call to Order**

The meeting was called to order at 2:00 p.m.

**Changes to Agenda**

There were no changes made to the agenda.

**Report from the Chair**

Mr. Stevenson reported Patricia Buechel was unable to be in attendance; he will welcome her as the new Director of Probation and Community Justice at the next meeting.

Mr. Stevenson also reported on the Expanded Budget and Capital Committee meetings to be held in September and October and stated there may be a need to cancel one of the regularly scheduled meetings of this Committee. He asked that efforts be made to streamline the committee's work during that period of time.

**Sheriff's Department**

**Report**

Mr. Meskill said recently received July boardout information, and noted copies of the information distributed at today's meeting does not include all medical expenses. Sheriff Meskill said Tompkins County has been able to minimize the number of boardout transports because of an arrangement with the Chenango County Sheriff. He also noted those rates have not changed. A question was raised as to how many officers are used in transports. Mr. Meskill said whenever inmates are being transported to a State prison or when there are two inmates being transported there is always two officers transporting. The major expenses related to boardouts are overtime expenses and vehicle and fuel expenses.

**Approval of Minutes**

It was MOVED by Mr. Hattery, seconded by Mr. Dennis, and unanimously adopted by voice vote, to approve the minutes of the July 18, 2008 meeting as submitted. MINUTES APPROVED.

**Liaison Reports**

There were no liaison reports.

**Appointment(s)**

It was MOVED by Mr. Hattery, seconded by Mr. Burbank, and unanimously adopted by voice vote, to approve the following appointment(s):

**Advisory Board on Indigent Representation**

Term expires December 31, 2010

Heather L. Bissell – At-large representative

Term expires December 31, 2009

Julia Dietrich – At-large representative

Mr. Burbank spoke to the importance of having a broad representation on County advisory boards.

**Department of Emergency Response**

**Budget Adjustment**

It was MOVED by Mr. Koplinka-Loehr, seconded by Mr. Burbank, and unanimously adopted by voice vote, to approve the following budget adjustment:

Revenue:	3410.43389	Other Public Safety	\$155,304
Appropriation:	3410.52222	Communications Equipment	(\$135,303.53)
			(\$ 20,000)

Legacy radio frequencies have been reallocated by the FCC to a mobile satellite service necessitating immediate retirement of “old” microwave system components and re-location of radio equipment onto the new microwave system. Tompkins County will be reimbursed for related costs, including an extension at the new microwave system to our backup site and movement of equipment to various new sites.

Mr. Koplinka-Loehr asked if there would be a net gain to the County. Mr. Shurtleff said the amount is equal; however, Mr. Wood noted these are things the County would have to do anyway and these funds will assist in paying those expenses that would be required at a later date.

**RESOLUTION NO.                    - AUTHORIZATION TO ACCEPT PUBLIC SAFETY  
INTEROPERABLE COMMUNICATIONS GRANT,  
DEPARTMENT OF EMERGENCY RESPONSE**

MOVED by Mr. Hattery, seconded by Mr. Dennis. Mr. Shurtleff said he anticipates the system to be fully operational within one month. Approximately 80% of the equipment has been installed in vehicles and all but a handful of portable radios have been deployed. They will be installing the rest of the police systems over the next couple of weeks. A voice vote on approving the resolution and submitting to the full Legislature resulted as follows: Ayes – 5, Noes – 0, Excused – 1 (Robertson).  
MOTION CARRIED.

WHEREAS, Tompkins County is eligible for funding through the “Public Safety Interoperable Communications Grant Program” (PSIC) to be administered by the New York State Office of Homeland Security, and

WHEREAS, it is beneficial for the County to further enhance interoperable radio communications with neighboring counties, and regional and state entities, and

WHEREAS, such additional regional interoperability can be achieved through the acquisition and installation of a “Moto-bridge” gateway/ radio frequency bridging device, compatible and integrated with the Motorola trunked 800 MHz communications system currently being implemented, now therefore be it

RESOLVED, on the recommendation of the Public Safety Committee, That Tompkins County accepts a PSIC Grant Award of \$ 68,000 for the purposes of enhancing the communications system, and be it

RESOLVED, further, That the following accounts be adjusted accordingly:

Department of Emergency Response

Revenue: 3410.43389 (Other Public Safety)

Expense: 3410.52222 (Communications Equipment)

**SEQR Action:** Type II-20

Note: Tompkins County will match the local share (\$ 17,000) through in-kind, in-house services in system implementation and installation, and through funds reserved for consulting and engineering services. These are federal funds administered through the Office of Homeland Security. This will allow Tompkins County to purchase equipment to establish communications with neighboring systems.

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**RESOLUTION NO. - AMENDMENT OF BYLAWS – CRIMINAL JUSTICE ADVISORY/  
ALTERNATIVES-TO-INCARCERATION BOARD (CJA/ATI)**

MOVED by Mr. Hattery, seconded by Mr. Burbank. Ms. Cook stated the seat representing the Law Guardian’s Office has not been filled for a long time. The Law Guardian’s Office has asked that this seat be removed and the CJA/ATI Board approved this change. Ms. Cook noted they would still be welcome to attend meetings but would not have a voting seat. Mr. Burbank asked if quorum at meetings has been a problem in the past. Ms. Cook said that it has and that they are working to address that.

Ms. Cook announced that Nancy Andino of the State Department of Criminal Justice Services (DCJS) will be making a presentation on August 19<sup>th</sup> and the full Legislature will be invited. The presentation will contain information on the DCJS would like to see criminal justice/alternative-to-incarceration programs doing and what other counties are currently doing. Ms. Cook said it should be a very good overview and lend some valuable guidance to Tompkins County.

A voice vote on approving the resolution and submitting to the full Legislature resulted as follows: Ayes – 5, Noes – 0, Excused – 1 (Robertson). MOTION CARRIED.

WHEREAS, the Criminal Justice Advisory/Alternatives to Incarceration Board at its regular meeting on July 25, 2008, unanimously approved amending its bylaws to delete the voting position of Law Guardian’s Office, at the request of the Law Guardian’s Office, and

WHEREAS, said position is not a required voting position under New York State Executive Law Article 13-A, now therefore be it

RESOLVED, on recommendation of the Public Safety Committee, That the Tompkins County Legislature approve the said amendment to the CJA/ATI bylaws.

**SEQR ACTION:** TYPE II-20

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**Announcement Concerning State Funding (Statewide Wireless Network)**

Mr. Whicher said Tompkins County has anticipated revenue in the amount of \$400,000 in the 2009 budget from the Statewide Wireless Network; however, he received a phone call yesterday saying that those funds would not be received. He is unclear what has happened since he last communicated with the State a month ago and was told those funds would be available. He will continue to work with

the County's State representatives towards a resolution to this and will keep the Committee informed. Mr. Dennis suggested the incoming County Administrator be brought into these efforts and suggested he accompany Mr. Whicher on a trip to Albany.

**Assigned Counsel – Proposal to Move a Portion of Program to a Public Defender's Office**

Mr. Whicher said in this budget process he will be making some recommendations that will include: a review of the Assigned Counsel Program with the new fees and a determination of what the impact is on Tompkins County. When this was looked at a few years ago it was concluded that it was a "break-even" cost situation and that the program worked well at that time. He thinks it is now appropriate to look at a hybrid approach to delivering these services and noted there are a lot of non-felony cases. One of the ideas is to have a public defender's office handle anything cases except felonies. Mr. Whicher said in the budget process he will be calling for a task force to look at the Assigned Counsel Program and if it is the most appropriate model for Tompkins County. He will be asking that a study be performed in 2009 with implementation planned for 2010. He said he is bringing this forward today to ensure the examination of this program does not come as a surprise to anyone.

Mr. Stolp said he agrees that it is appropriate to look at this; his concern and that of the ABIR (Advisory Board on Indigent Representation) lies with the concept of combining the Assigned Counsel Program with the Human Rights Office. He said the Human Rights Office is a prosecutorial office. One of the advantages of the current Assigned Counsel Program is that it is completely independent and he thinks that needs to be maintained. The Program answers to only the ABIR and the Legislature.

Mr. Dennis questioned who would serve on the proposed task force and what the charge would be. Mr. Whicher said the charge would come from the Public Safety Committee and the suggested membership is contained in the document presented to the Committee (attached to this set of minutes).

Mr. Furniss, member of the ABIR, said the County already has a task force in place to look at this. The mandate of ABIR is to review alternatives to variations of providing indigent representation. He said at the present time there is no representative of the Legislature on the ABIR. He recommended that this issue be referred to the ABIR for investigation. He reinforced in the issue of independence spoken to by Mr. Stolp and said that is not only important, it is mandated by law. Mr. Furniss also stated that any system being used in this County to provide services has to be approved by the ABIR, the Bar Association, and then sent to Albany for approval. He spoke of Cortland County and many lawsuits currently going on between judges, the public defenders office, the conflict office, and assigned counsel attorneys because of the manner in which the County changed its operating procedures its office. He stressed that Tompkins County must look into this properly before taking any action.

Ms. Damm, Chair of the ABIR, requested additional time to review the numbers contained in the proposal that she believes may be inaccurate. .

Mr. Whicher said the purpose of the information presented was to provide the Committee with backup information and agreed exact numbers would need to be looked at. He said he wanted to bring to this to the Committee's attention because it is a program that has a local cost that exceeds \$1 million. He said there is a potential for having a model that would be more cost effective without diminishing the quality of the program. Mr. Whicher said given the changes that have occurred with this program and its costs, he thinks it is appropriate to look at it. He agreed the ABIR should be a part but not the only involved in the review.

Mr. Furniss agreed with Mr. Stolp's earlier comments that the Human Rights Office is a prosecutorial office and under State Law the same office cannot provide prosecution and defense services.

Mr. Hattery said he would not be in support of a restructuring that precedes a study by a task force.

Mr. Burbank asked if the savings was linked to the Human Rights Office being brought into the proposal. Mr. Whicher said this would contribute to a part of the savings; and during an initial review it appeared that counties and municipalities operating on a hybrid system were achieving a greater savings. Mr. Burbank asked if any other county was using a human rights office as part of their hybrid; Mr. Whicher said he is not aware of any.

Mr. Dennis agreed with Mr. Hattery's comments. He said he observed disagreement by Ms. Martel-Moore during Mr. Furniss' comments relating to the Human Rights Office being prosecutorial in nature. Ms. Martel-Moore said the Human Rights Office is a civil rights office and not a prosecutorial office.

Ms. Damm explained the background surrounding the issues going on in Cortland County. Before a conflict office was created the Public Defender's Office was assigning conflict cases to out-of-county attorneys which encompassed most of Tompkins County's Assigned Counsel Program. They then created a ruling that they could no longer assign to out-of-county attorneys unless specific criteria was met. In addition to that, a public defender's office was created and was then in conflict because the public defender was deciding who the conflict attorneys would be. These actions ultimately led to lawsuits being filed against the involved parties.

Ms. Damm said several months ago she attended a meeting of this Committee and asked what progress had been made on the study because ABIR had not been approached. She said it appears some type of study has taken place and asked why information had not been presented to ABIR.

Mr. Whicher said that a study has not been done. The purpose of making this presentation today is to make everyone fully aware of this before he places anything in the budget. He said it is his responsibility to make a budget recommendation to the Legislature and he is looking to see if there is a potential for savings and if so, he would then initiate a process. At this point he is looking at the creation of a task force and ABIR being brought in.

Mr. Wood said the County has a Charter and it provides that there be an Assigned Counsel Office and that Law would need to be changed before moving from an Assigned Counsel Program to a Public Defender Program. If that were done, the issue of combining the Human Rights Office would be separate.

Mr. Koplinka-Loehr said he supports looking at the numbers and doing an analysis.

Mr. Hattery said the conflicting statements being made surrounding this issue is what the Legislature will encounter when contemplating making major changes. Mr. Stevenson said he appreciates Mr. Hattery's comments that this is the kind of conflict and discussion that will take place when issues like this are discussed. He said taking a look at things is the only way the Legislature can make determinations of whether there are areas that could be cut.

At this time there was discussion of how to proceed and who will compose the task force. Mr. Koplinka-Loehr recommended that there be a subcommittee of the Public Safety Committee that includes Public Safety Committee members, community members, and others. Mr. Dennis said he would like the membership to include representation by the ABIR. He also said there are currently two Legislator vacancies on the ABIR and suggested appointments be made to fill those seats first. He asked Mr. Whicher if a public defender position would be included in Mr. Whicher's recommended 2009 budget. Mr. Whicher responded that he is not at a point in the budget process to make that determination. He said

one way to address this would be to take a portion of the local monies included in the Assigned Counsel Program and to one-time fund that department in anticipation of having a partial public defender's office. He said he is not, however, comfortable with that approach at this time and reiterated the challenges he is facing in developing the 2009 budget.

**Appointment(s) to the Advisory Board on Indigent Representation**

It was MOVED by Mr. Koplinka-Loehr, seconded by Mr. Hattery, to make the following appointments to the Advisory Board on Indigent Representation with terms to expire December 31, 2009:

Greg Stevenson – Legislator  
Will Burbank – Legislator

Mr. Koplinka-Loehr summarized the conclusions from the discussion. There may be a recommendation in the County Administrator's recommended budget that includes a one-time funding of part of the Assigned Counsel Program and a recommendation of studying both consolidation and creating a public defender's office. The recommendation also includes the creation of a task force to perform a study; several options for composition of that task force have been made but there has been no decision. The charge to the task force should come from the Public Safety Committee. Mr. Koplinka-Loehr also agreed with Mr. Hattery that the study would come first and that no change should be made until that is completed.

Sheriff Meskill expressed concern with including one-time allocations in a budget. If there is no permanent funding in the budget for the following year a big hole in the budget would be created before a decision is actually made.

Mr. Stevenson said there may be a need for the Committee to meet prior to the next Legislature meeting and if that happens all parties will be notified.

Ms. Carey said the Department of Social Services is involved in what happens in the Assigned Counsel Program and she would be willing to serve on a task force.

**Adjournment**

The meeting adjourned at 3:12 p.m.