



## Tioga County Worksession Minutes May 18, 2017 – 10:00 a.m.

### Legislators present:

Legislator Hollenbeck  
Legislator Huttleston  
Legislator Monell (*arrived @ 10:06 a.m.*)  
Legislator Mullen  
Legislator Roberts  
Chair/Legislator Sauerbrey  
Legislator Standinger  
Legislator Sullivan  
Legislator Weston

### Absent:

None

### Guests:

Matt Freeze, Reporter, Morning Times

### Staff present:

County Attorney Peter DeWind  
Legislative Clerk Maureen Dougherty  
Deputy Legislative Clerk Cathy Haskell  
Personnel Officer Bethany O'Rourke (*departed @ 11:02 a.m./returned @ 11:15 a.m.*)  
Civil Service Administrator Linn Bruce (*departed @ 10:36 a.m.*)  
Assigned Counsel Administrator Irene Graven (*departed @ 11:14 a.m.*)  
Public Defender George Awad (*departed @ 11:14 a.m.*)  
Family Court Public Defender Mari Townsend (*departed @ 11:14 a.m.*)  
Chief Accountant/Budget Officer Rita Hollenbeck

Chair Sauerbrey opened the meeting at 10:00 a.m.

### Executive Session -

Motion by Legislator Weston, seconded by Legislator Hollenbeck to move into Executive Session to discuss an individual personnel matter. Motion carried to go into Executive Session at 10:01 a.m. County Attorney DeWind remained in attendance.

Executive Session ended at 10:25 a.m. and the regular worksession commenced immediately following.

## **Voting Protocol for Legislature Meetings -**

County Attorney DeWind was asked to explain abstention voting and the process for such in the regular monthly Legislature meetings. Mr. DeWind reported in the standard Roberts Rules of Order it details what happens in an abstention, however, the Legislature previously decided to have a more detailed process for abstentions, therefore, adopting County Policy 29. Mr. DeWind reported County Policy 29, Section V (Voting) states that a Legislator can request to be excused from voting upon roll call, however, is required to state the reason for making such request and then a roll call vote of the rest of the Legislature is done as to whether to accept the request. The legislator making the request is afforded an opportunity up to five minutes to present their reasons/justification as to why they feel they should not vote. The only acceptable justification for excusing any legislative member from a vote is based on a conflict of interest on the pending matter. Mr. DeWind reported if a member is not excused from voting and if the member refuses to vote, the vote is recorded as a negative action. Mr. DeWind reported if the Legislature agrees by simple majority that the reason/justification is acceptable and the legislator is excused from the vote, it is still counted against the legislative quorum and then it follows the standard Roberts Rules of Order.

### **Process:**

1. Any legislator who wishes to not participate in a voting matter needs to make their request known prior to the start of the voting process. When a legislator's name is called for roll call or immediately following the full roll call, the legislator who wishes to be excused from voting needs to express their request at such time.
2. The legislator who wishes to be excused from voting is then afforded an opportunity to present their reason/justification and is limited to five minutes.
3. The Legislature conducts a roll call vote on the request and without debate shall decide on the affirmative or negative of such request.

Mr. DeWind reported the reason for this discussion today is simply a reminder to the Legislature and to review the correct process based on County Policy 29.

Mr. DeWind reported Roberts Rules of Order does not specify that a legislator needs to provide a reason for abstention, therefore, eliminating the need for the rest of the legislative body to make a determination as to whether it is an acceptable request. However, the Legislature adopted County Policy 29 which is more restrictive and does require the above-referenced process. Mr. DeWind reported abstention votes could impact whether you meet quorum requirements for a majority vote.

## **Third Special Legislative Meeting -**

Chair Sauerbrey called the Third Special Meeting of 2017 to order at 10:32 a.m. for Legislature consideration of the following resolution:

- ✓ ***Create and Fill Temporary, Full-Time Clerk (Seasonal) Position Personnel Office***

Special Meeting adjourned at 10:36 a.m. with worksession resuming immediately following.

## Approval of Worksession Minutes – May 4, 2017

Legislator Sullivan moved to approve the May 4, 2017 Legislative Worksession minutes as written, seconded by Legislator Mullen with Legislators Hollenbeck, Huttleston, Monell, Mullen, Roberts, Sauerbrey, Standinger, Sullivan, and Weston voting yes. Motion carried.

## Action Items:

### ACTION ITEMS FROM APRIL 20, 2017:

#### ACTION ITEM #1 – 4/20/17 – PILOT Tax Payment Agreements

County Attorney DeWind reported there are three PILOT tax payment agreements that the County still does not have the current operative agreements. Of these three agreements, two are with Tioga Opportunities, Inc. and we are still trying to secure the actual documents. In regards to the School House PILOT, Mr. DeWind reported the property is currently listed as County-exempt property on their assessment roll code and there is some disagreement if it is determined there is no PILOT on this property as to whether there are taxes owed or if this goes back to tax-exempt as it is currently coded County-owned property. Mr. DeWind reported it may be advantageous to have a PILOT so they would be paying more than they would otherwise. In regards to the Elizabeth Square apartments, the County does have some of the documentation and there was a fairly extensive re-visiting of the PILOT agreement and the County has an unsigned copy of the agreement. Mr. DeWind reported the agreement mostly appears to have been entered into with the Village of Waverly. Mr. DeWind reported the Village of Waverly may have entered into this agreement in 2015, but we have not been able to secure a signed copy. Mr. DeWind reported he will continue working on this and understand the tax-exempt status of the property in order to determine if it is appropriately assessed as it does affect the County, as well as the school district and not just the Village of Waverly. **This action item will be carried forward to the June 8, 2017 worksession.**

### ACTION ITEMS FROM MAY 4, 2017:

#### ACTION ITEM #1 – 5/4/17 – Hearing Assistance System for Legislative Conference Room -

Legislative Clerk Dougherty reported she spoke with IT Director Camin regarding procuring this portable wireless hearing assistance system out of the IT budget instead of the Public Works budget. Ms. Dougherty reported Mr. Camin indicated he was going to pursue his own research on the hearing assistance system, as well as possibly obtain additional quotes. Ms. Dougherty reported she will follow-up with Mr. Camin regarding the status of his research. **This action item will be carried forward to the June 8, 2017 worksession.**

## Other –

- ***Countywide Shared Services Meeting*** – Chair Sauerbrey reported the Countywide Shared Services Kickoff Meeting was held on May 12, 2017 and there was 100% participation from the municipal supervisors and mayors. Town of Owego Supervisor Castellucci was out-of-town, therefore, Owego Town Councilman Morgan attended in his stead. Chair Sauerbrey reported this was a very positive, effective meeting. Chair Sauerbrey reported the general consensus was that the Panel was not going to be able to complete a tax savings plan this year although we still have to go through the required process. Chair Sauerbrey reported the Panel was able to produce a general list of ideas for possible consideration. The next meeting is scheduled for June 21<sup>st</sup>. Chair Sauerbrey reported the Panel also agreed to invite the area school superintendents or

their designee to participate on the Panel. Chair Sauerbrey reported she forwarded the minutes and brainstorming ideas list to Senator Akshar and Assemblyman Friend to acknowledge our compliance. Chair Sauerbrey reported she would be happy to share the minutes with the Legislature, if interested. Chair Sauerbrey reported the ideas presented are good and the Panel will continue to vet the ideas to narrow down the list to a couple of ideas so staff can do the calculations and determine tax savings. Chair Sauerbrey reported the IT idea seems feasible and would assist the towns and villages significantly, however, this is a long-term plan. Chair Sauerbrey reported the Legislators are welcome to attend the meetings, however, the meeting is for the municipal supervisors and mayors. Chair Sauerbrey reported Mr. DeWind did a great job presenting the overall initiative, law, process, and timeline.

Legislator Sullivan reported the general consensus was that highway/DPW is the largest part of their budgets and there was a significant amount of discussion regarding this topic.

Mr. DeWind reported that ultimately the Panel will produce a Plan, which will be presented to the Legislature for approval or disapproval. The general consensus was that it will be difficult to meet this year's metrics due to the short timeframe. In addition, the State is offering a one-time matching grant, therefore, the Panel thought having more time to develop a Plan would be advantageous to make potential grant funds as effective and lucrative as possible. Mr. DeWind reported the more comprehensive plan will most likely be presented in 2018 for FY2019.

Legislator Weston inquired as to the penalties for not producing a plan this year. Mr. DeWind reported there is not supposed to be any penalties, as this is structured as an initiative to start discussion. Legislator Weston inquired as to whether discussion has occurred with other counties that are also going through this process to determine whether there are any common ideas that could work for our County. Chair Sauerbrey reported we have, we are, and we will continue to be talking with other counties, as well as attending the NYSAC meeting next month where this topic will be discussed. Chair Sauerbrey reported the Plan has to prove there is a net savings. Legislator Weston reported he did not understand how you can transfer a service from one municipality to another and not have costs increased. Chair Sauerbrey reported this is part of the exercise when doing the actual calculations to determine if there is any net savings.

**ACTION: Minutes of the May 12, 2017 Countywide Shared Services Kickoff meeting will be distributed to all legislators via email.**

**UPDATE: Deputy Legislative Clerk Haskell emailed the meeting documents (minutes, brainstorming ideas, and Tioga County Officials contact list) to all legislators following today's worksession meeting.**

### **Assigned Counsel Budget Issues –**

Public Defender Awad reported last week the Attorney General's Office indicted 31 defendants and used Tioga County as its venue. Mr. Awad reported of the 31 indictments, he did the arraignments for 26 of them. Mr. Awad reported the Assistant Attorney General prepared the indictment alleging a conspiracy, therefore, creating the issue that all the defendants are now co-defendants and the Public Defender's Office is only allowed to represent one of the 31 defendants. Mr. Awad reported of the remaining 30 defendants no

more than five defendants will retain counsel, therefore, Tioga County's Assigned Counsel budget will have to pay for approximately 25 attorneys to represent the remaining defendants. Mr. Awad estimated the minimum cost per defendant as \$2,000 - \$10,000 depending on trials.

Legislator Monell inquired as to whether anyone has contacted the State regarding the fiduciary responsibility. Mr. Awad reported he has not done this nor does he feel it is his position to do so. Mr. Awad reported he is here today to inform the Legislature about the potential costs that will be incurred.

Chair Sauerbrey inquired about the timeline associated with this issue. Mr. Awad reported these cases could most definitely go into next year depending on the number of trials.

Based on Mr. Awad's estimation for cost per defendant, Legislator Monell reported this issue has the potential for a financial impact of \$50,000 - \$250,000.

Mr. Awad reported all of the defendants that were arraigned were on the street and all were remanded to jail. Mr. Awad reported their primary residences are New York City and Albany, however, most of them are from Tompkins and Tioga Counties.

Mr. Awad reported the County will bear the costs. Mr. Awad reported these defendants are in our County jail, therefore, the County is responsible for the jail, medical, and trial costs.

Legislator Mullen reported, as Chair of Public Safety, he made some inquiries regarding housing the defendants in our jail and Tioga County is not going to be receiving any funds from other counties to shoulder these expenses. In fact, the inmates from Tompkins and Broome Counties that we are currently housing and receiving revenue through a shared agreement are being transferred back in order to accommodate these defendants in our jail. Regardless of the defendant's residency, Tioga County handed down the indictments, therefore, the County is financially responsible for them from beginning to end.

Legislator Weston reported that, in addition to, the costs estimated for these 31 defendants, we are also at risk of losing approximately \$85.00 per day for the inmates we currently house that need to be transferred back to their home counties.

Chair Sauerbrey inquired as to how soon this process could begin. Mr. Awad reported the arraignments have already occurred, therefore, it has already begun. Mr. Awad reported the Judge's office has already been assigning attorneys. Assigned Counsel Administrator Graven reported 12 applications for Assigned Counsel attorneys have been submitted and Mr. Awad reported he has approved all 12 applications. Mr. Awad reported, under the current Indigent Legal Services (ILS) law, once a defendant is remanded to jail the presumption is that they are indigent, therefore, they automatically need to be assigned an attorney. Mr. Awad reported the presumption is rebuttable, but the moment a defendant has been remanded to jail, which all of them have been as no one has posted bail, they were all entitled to assigned counsel. Mr. Awad reported all of the defendants were remanded to jail and bail was set for all defendants with the minimum of \$50,000 up to \$500,000 and some were remanded without bail. As of today, none of them have posted bail.

Chair Sauerbrey inquired as to how soon these defendants will be assigned their attorneys and start the court process. Mr. Awad reported the Judge set a return date for each defendant and the earliest date is Monday, May 22<sup>nd</sup>.

Chair Sauerbrey inquired about potential budget issues. Ms. Graven reported depending on the defendant and their individual case, these cases and payments could go into next year. Ms. Graven reported some of them will most likely be offered plea options, therefore, could possibly be done by the end of this year or sooner. Ms. Graven reported up to this point, Assigned Counsel has expended 67.7% of their budget already, therefore, leaving a balance of \$50,936. Ms. Graven reported all of the vouchers will come through the Assigned Counsel Office's budget. Under County law, the County is responsible for funding the Assigned Counsel program.

Chair Sauerbrey reported besides the financial aspect and concern, there is another side of this issue. Chair Sauerbrey reported we have a huge opioid problem here in Tioga County and people are dying. Chair Sauerbrey reported it is the job of the police and government to arrest these individuals to stop the problem, which results in someone having to shoulder the costs.

Legislator Mullen suggested doing a budget resolution to give Assigned Counsel enough money to get them through the end of the year and then consider establishing a capital reserve fund in the 2018 budget specifically for this incident to offset these costs without impacting regular departmental budgets.

Chief Accountant/Budget Officer Hollenbeck reported the Public Defender's Office, Assigned Counsel, and District Attorney all fall under the County's Judicial/Legal umbrella and each of these departments have line items in their budgets for trial costs, transcripts, etc., therefore, we could potentially review these budgets to determine if there are any available funds to help offset these new incurred expenses. Ms. Hollenbeck reported the Assigned Counsel vouchers are generally submitted at time of case disposition, therefore, allowing time to review the other budgets for possible funds. Secondly, Ms. Hollenbeck suggested exploring other funding streams through discussion with the Attorney General's Office based on the quantitative information such as loss of revenue, increased jail costs for housing, medical, etc., and depletion of the Assigned Counsel budget for 2017-2018. Mr. Awad reported it is difficult to know the costs at this stage, however, estimates a minimum of \$2,000 per defendant.

Mr. Awad reported Probation will most likely be impacted as they will be responsible for doing all the probation investigations, in addition to, their regular workload.

Mr. Awad reported the Public Defender's Office is not requesting any additional funding at this time.

Legislator Mullen recommended reaching out to the Senator and Assemblyman's office to make them aware of the issue and the impact it will have on the County.

### **Executive Session -**

Motion by Legislator Standinger seconded by Legislator Mullen to move into Executive Session to discuss contract negotiations. Motion carried to go into Executive Session at 11:15 a.m. County Attorney DeWind and Personnel Officer O'Rourke remained in attendance.

Meeting adjourned at 12:40 p.m.

Next worksession is scheduled for Thursday, June 8, 2017.

Respectfully submitted by,  
Cathy Haskell  
Deputy Legislative Clerk