

Minutes

Public Safety Committee

March 20, 2019, 4:15 pm, Room 331

Gerace Office Building, Mayville, NY

Members Present: Niebel, Bankoski, Whitford, Pavlock

Members Absent: Vanstrom

Others: Tampio, Ames, Dennison, Barone, Braley, Cresanti, Brinkman, O'Connell, Wilfong, Gates

Chairman Niebel called the meeting to order at 4:15 p.m.

Approval of Minutes (2/20/19)

MOVED by Legislator Bankoski, SECONDED by Legislator Whitford

Unanimously Carried

Privilege of the Floor

No one chose to speak at this time.

Proposed Resolution- Authorize Acceptance of Indigent Legal Services Grant for the Period April 1, 2018 to March 31, 2023

Mr. Barone: Good afternoon. This is the Hurrell settlement that New York State Indigent Legal Services has implemented. It's something that we've been talking with them for the last few years now. It will put into place the reimbursement by New York State Indigent Legal Services to Chautauqua County for the cost of indigent legal services here for all practical purposes. It will reimburse the County for the cost of the Public Defender's Office- all our operating costs, as well as any other costs associated with the representation of indigents in Chautauqua County. Again, this is something that we've been talking about for quite a while now and it finally is in place. This is a huge development because it relieves the County of cost associated with our office and it's at least in place through the next few years and I can't imagine that New York State would not continue with that given that we've had real good success up until this point. So, I'm open to any questions that I can answer on that.

Chairman Niebel: Committee, any questions for Mr. Barone? Ned, this grant is going to help you guys quite a bit.

Mr. Barone: Oh, yes. Not just us, but other public defenders in the State have referred to this as a transformation in indigent legal services in New York State because the bottom line on this settlement that we're asking each county to accept is that's aimed at providing the effective representation of all individuals. In order to do that, their approach is that we have to have the man power and the resources in order to effectively represent people. You can't ask a public defender's office to handle 7,000 cases a year with a limited amount of attorney's and support staff; it just can't effectively be done. So, that's the whole idea behind the settlement and that's what they're hoping to accomplish. So, for example, we have ten fulltime attorneys in our office along with clerical staff and investigators- it will pretty much over the next couple of years, double our entire staff. So, right now, each attorney is handling between 200 felony cases- upwards to 350 felony cases, when the considered optimum amount to be 150 at the most. Misdemeanors- we have attorneys handling 700-1,000 misdemeanor cases, when there shouldn't be any more than 250 assigned to each attorney. So, by being able to hire additional public defenders we'll be able to lower the file amount that each individual attorney is handling. In addition to that, we'll have additional investigators, additional eligibility examiners, and additional clerical staff and as a matter of fact, this grant will provide us with the ability to hire our own social workers, which is huge because our office and most PD officers are becoming more holistic with their representation. You don't just represent the individual on the criminal charge; you have to charge the individual on everything that's associated with him or her being arrested. So, hopefully this grant, which by the way will not cost the County anything because the County will be completely reimbursed, will take care of all of those problems we've had in the past. It's going to be transformational.

Legislator Pavlock: Are there enough people to work in the County? Are there lawyers available in the area to hire? Are you concerned at all about finding the staff that you need?

Mr. Barone: That's a good question and it's funny that you ask that. One of the things that- because this is not just affecting Chautauqua County, it's effects every other County- one of the concerns that New York State Indigent Legal Services has was that there would be a huge demand for attorneys to fill these positions. One of things that New York State has done is it's created a couple of different job fairs for indigent legal service providers. We've already had one at the University of Buffalo Law School and they're having one next month at the University of Albany where they bring in every public defender or indigent provider and they have job fairs. They try to concentrate on people from out of the area and in the area to come to the job fairs. So, for example, at the job fair at the University of Buffalo that we had a few months back, we had quite a few people from out of state that were interested in talking to each public defender, but more importantly we had quite a few people from Western New York and Chautauqua County. As a matter of fact, I probably had- I think it was 7 different individuals that are from Chautauqua County, who now are practicing down state or in upstate New York that approached me and would be interested in returning to Chautauqua County if there was a job. So, it's funny you said that because I think what we're going to find is that individuals that have left the area for whatever reason are now going to have a reason to come back if they've got a job to come back to. Personally speaking, as far as my hiring in this County, I haven't had a problem. With the exception of one individual that I hired from Erie County, who is actually a resident of Chautauqua County, but he was working at the New York State Attorney General's Office for 37

years, he wanted to come back into the area. He's residing in the Fredonia area, but he works here. I really don't anticipate a problem. I think we'll be in good shape. Again, I think that what's going to happen is now that we'll have full time positions with competitive salaries for assistant public defenders- that's what this is about, not only providing a bigger work force, but by giving them- we're still not anywhere comparable to prosecutors and their salaries, but we're getting there. So, by being able to offer that to attorneys, you'll find that attorneys here in this county who were in private practice, that it will be more appealing to come out of private practice and come work for a government agency because of not only the salaries being competitive, but also because of the benefits available. I think that's a huge plus. That's kind of a long answer.

Legislator Bankoski: Approximately how many people do you think this will employ?

Mr. Barone: Sure. Indigent Legal Services took all the data from every county. They took all the data we provided to them on our caseloads, types of cases, and a lot of other statistics that they look at and they helped us determine what type of work force we should be looking at over the next few years. We have a projection of- (*inaudible*) once we get that, I can hire four new attorneys immediately. That would bring us to fourteen. The other- we're looking at upwards of 18-20 attorneys, which would be almost double our attorney force. We're looking at a clerical staff increase of at least three people and that's within the year, and we're looking at investigators-

Chairman Niebel: How many do you have now?

Mr. Barone: We have four clerical staff with one head department secretary and we're looking to hire three new ones immediately. In addition to that, we're looking at hiring two new fulltime investigators and/or eligibility examiners and one caseworker. So, support staff, within the year, would be six new additional bodies and attorneys within the year, at least four. So, that would be ten people, which we consider that to be significant. It really is and that's why our growth over there is- which is actually part of the space that we're looking to lease in Jamestown and eventually in Dunkirk to have an office space to provide for the bodies we're anticipating.

Legislator Pavlock: That was another question. I know you just ran out of space and we moved some things around so you could get more space-

Mr. Barone: Exactly. So, the space- and that was one of the things that quite frankly, was a concern for New York State Indigent Legal Services. They asked specifically about being able to provide for the new bodies because they don't want to have to keep on changing or coming back for additional grants or monies to make sure we have the space. So, I think we're in pretty good shape at this point, at least for the term of this grant through 2022.

Legislator Bankoski: What if, after this grant is up in 2023, it's not funded anymore? Are we still on the hook for these employees?

Mr. Barone: No, and that's another good question. I think Terry or Pierre Chagnon asked that when we met with OILS – Office of Indigent Legal Services. Chautauqua County is under

no obligation to maintain the additional work force and/or cost that we've incurred. We go back to where we were, wherever the County decides to take us. As a matter of fact, I think you'll see that in the contracts that come out of New York State Office of Indigent Legal Services, that's reflected in there.

Chairman Niebel: Any further questions?

Legislator Whitford: Did the State set the salary ranges and benefits based on the data, or is that contractual within the County? How is that going to work because you said it will be competitive? Based on who you have already and what they're coming in at, which would normally be entry level- who actually sets those ranges to make it competitive and to be able to recruit good attorneys?

Mr. Barone: Absolutely. That's another good question and I'd like to say it was me, and to some extent it was, but when we put in the proposals for how to use the monies to New York State Indigent Legal Services, they pretty much told me- this was Joe Worshem(?) lead council for OILS- he said when I go to New York State, I'm going to ask for certain monies and this is for the whole settlement, but tell me what you're looking to increase your salaries to for the attorneys. So, I gave him figures. He said I'm sorry, that's too much. Here's what we're looking at increasing those salaries to, so for example, if we had existing assistant public defenders at X amount right now, I was looking for a 25% increase and it would have brought us to what prosecutors are making. They wouldn't go to that, so we were at a reduced level, so quite frankly, it was something that OILS decided on what to go to the Legislature with- New York State Legislature, so that they could pass this bill because the way they explained it me was that we can't make that fly, so based on that increase with existing attorneys then we were able to- we're working with personnel on this right now, actually, we're able to establish an entry level position which is higher than what it has been and will be lower than the existing attorneys and what they're making.

Legislator Whitford: That will affect present attorneys that you have?

Mr. Barone: Yes, absolutely. As a matter of fact, as part of a distribution that we were awarded last year for 2018, which we haven't received yet, that will be able to raise the attorneys that we have right now- not to where they should be, but at least it raises them to some extent. Again, it's somewhat of a sensitive thing as far as OILS is concerned, but the other thing is that when you see any of these percentage increases in salaries for our County, those percentage increases will be identical throughout New York State counties or very close. When you go from one county to the next it will be similar. So, hopefully- I think personally speaking, I think that it's a significant increase and it goes to individuals that will be looking for employment. Here's the other thing, the one thing that the County needs to understand is that my office is now responsible for the (*inaudible*) so we're having to provide our attorneys at the centralized arraignments seven days a week, 365 days a year, morning, night time, weekends, and holidays. I go to those, I go to the weekend arraignments in Jamestown City court and Dunkirk City court. So, all of us- 10 attorneys throughout the County are working literally every day. That's something that shouldn't be lost in this whole thing. It's the significant commitment each one of the attorneys in our office has made to the changes because every time there's a change of

course the public defender's office is the one that has to put the bodies in place, whether we want to or not. It's not that we don't want to, but of course any attorney that's working additional hours and holidays and everything else, they're entitled to an increase. I don't think it's really being reelected, but we did would we could, at least at this point.

Chairman Niebel: Ned, that came down from the Office of Court Administration- the central arraignment thing?

Mr. Barone: Yes, the Office of Court Administration.

Chairman Niebel: We didn't have any say over that?

Mr. Barone: No. They determined that one of the most important parts in the criminal process system is the council with an individual at his first appearance and the other thing that I'm very proud of is that we're one of the first counties in the 8th judicial department to implement a centralized arraignment program. So far, it's going extremely well. If you talk-and I know there is someone from the Sheriff's Department here- I have to say that the Sheriff's Department has been fantastic. They really have been- it's a thankless job for them as well. They've got a lot of responsibilities; they keep in in contact with each one of our attorney's that's assigned for that day and that evening. They've done a tremendous job and I think that you'll see, and we have seen for the last year or so with the arraignments in Jamestown, a decrease in the population at the jail. Ultimately, that's a cost saving measure to the County. So, this is a no lose situation because this grant, which raises the attorney's fees, is at no cost to the County, while at the same because of this grant we're being able to decrease some of the cost that has traditionally fallen on the County- the cost of the jail population. Overall, I think it's transformational.

Legislator Niebel: OK. Folks, any other questions for Ned on this proposed resolution? Those in favor? Opposed?

Unanimously Carried

Legislator Niebel: Ned, you've had a busy week- we have another resolution pertaining to the Public Defender's Office and we'll take that now as long as you're here.

Mr. Barone: Oh, great.

Proposed Resolution- Authorize Lease Agreement with Lynn Development, Inc. for Office Space for the Office of the Public Defender

Mr. Barone: I'd like to preface this discussion by indicating this was what we believed was an important part of our whole transformation from our current statuses as indigent services providers and what it's becoming and that's a significant provider for more than just representing the individuals on the criminal charges. This is something that I also discussed with Judge LaMancuso who's the presiding judge in Jamestown City Court, and as this committee probably already knows from discussions we've had over the years, is we get a significant amount of our

caseload out of Jamestown. It's approximately 60-70%. It's a huge amount. That being the case, we believe that in order to be a more effective office, not only county wide but within the community of Jamestown, we need to have a fulltime presence. Not just a bare bones appearance presence, but an actual effective working presence in the community. That's something I discussed with Judge LaMancuso who was all in favor. He understands the importance of our Office in his daily operation of Jamestown City Court. So, this is something I've talked with him about. We've discussed with OILS as well, and OILS wanted to know since they're seeing the large percentage of cases coming from Jamestown, what my plan was for a Jamestown facility. So, we reached out to Lynn regarding this matter and as everyone is probably aware, the Post Office they had purchased down there a couple years back- I'm sure that Paul's very familiar with this- they transformed it into office space. The first floor is where this particular lease would run and it's really- they've gutted out the entire first floor. We went in and drew up plans with them as to what we actually wanted. So, the entire lease space is done per our specifications and suggestions. They worked with us- they were tremendous about it- they worked with us concerning what we wanted and more importantly, what we really needed. That was access right to the street, so we would be located- as you walk in the front doors, our office space would be right there. So, it's convenient to the community, it's convenient to people just coming off the street, but more importantly, it's convenient to Jamestown City Court. It's right across the street. When we're- our plan would be that the space is large enough for us to grow into, but I would be placing at least two assistant public defenders there immediately on a fulltime basis, so our office would be open from 8:30- 4:30 each day with clerical staff as well. So, we would have the ability to really serve the needs of our clients within the community. It's not just after the fact when someone's arrested; we would be there able to help individuals who really need- sometimes it's more important- the help they receive before they're arrested and we can maybe direct them to where they have to go. So, that's why I believe that having a good location, a good office space, close to the City Court is very, very important and that's why we did this. Again, when we came up with these figures the total cost per year was actually provided to OILS. We had to give them a specific breakdown of our cost for the lease space, the length of the lease because they wouldn't approve anything unless they saw where each dollar is going. They're the ones that sometimes adjusted figures. We came up with this and it provides for utilities to be included in the lease as well, and for a rather large space and an open space-

Chairman Niebel: And the parking.

Mr. Barone: We're also given two fulltime parking spots, so it will save- ultimately, I guess it saves the County because otherwise they would have to pay for the parking.

Chairman Niebel: OK. Any questions for Ned on this?

Legislator Whitford: What's the time frame on this?

Mr. Barone: We're expecting to get in by mid-April- late April. They'll move right along and complete everything. They've cleared out the space; they've started getting some things in there. They've been expecting this for a while. We've been working with them for a while.

Chairman Niebel: Ned, just a quick question or two. Did you guys negotiate this, or does the County negotiate the lease? The only reason I ask is because it appears to be a little high, as far as the price per square foot. Kathleen, you're thinking about \$20/square foot? That seems to be a little high. I understand the explanation as far as the proximity to the courts and stuff like that. Did you guys shop around and see if there was other stuff available?

Mr. Barone: Yeah, we did. Actually, we looked at a couple different locations in the City for possibilities. One of them, of course, right now we have a one room office in City Hall and they were willing to renew that lease, but it's literally one room not even the size of this room. Don't get me wrong, it's worked out great for us as far as having a spot to hang our hats, but the City really couldn't provide for what we needed. We wanted a separate- we didn't want to be in City Hall because of the difficulties for- let me put it this way, for clients to have access to us. Anytime they came into City Hall, they'd have to go through security and for some clients to do that, it could be a problem. There could be a lot of things- warrants- there could be a number of issues. So, for them to access us in City Hall is difficult. The other thing is that when we're literally working at nighttime and on weekends, they can't get into City Hall. We needed somewhere that we could go that was right there, adjacent to City Hall, that they had access to, as well us on a 24/7 basis. That's why we shied away from trying to work something out long term with the City.

Chairman Niebel: Ned, you're satisfied with the accommodations?

Mr. Barone: I'm more than satisfied. I'm extremely happy with the accommodations. Again, just to be very upfront, it probably is a little bit higher than other areas that we could have obtained, but I would like to point out the utilities are included and the work that has to be done on the space is per our specifications. So, everything that's done in that space is from the ground up- literally renovating, taking and transforming an open area into an office space. The cost could be tremendous there and we took that into consideration when paying the square footage. As you're probably aware, a lot of times the cost associated with renovating an area the tenant would be required to pay some of those costs. So, we're not asked to do that and that's why we could justify that cost.

Chairman Niebel: And OILS has preapproved this?

Mr. Barone: Yes. They saw the cost that we would have to pay on this. They actually authorized up to, I believe, it was \$26,000. So, the grant for lease space outside of Mayville was approved at \$26,000 and some odd dollars. What we're going to do is come up with difference to rent a space in Dunkirk for offices. So, we'll be able to rent to spots.

Legislator Bankoski: Have you got a spot in Dunkirk yet?

Mr. Barone: Yeah, we're looking at the Stearns building. Actually, we're talking to them if we decide to take a spot in the Stearns building it needs some work done, but I think we can get it very reasonably with the work done and it really would work out well. Again, we have attorneys that are doing arraignments on weekends, so we really need a spot.

(Cross-talk)

Chairman Niebel: Any further questions for Mr. Barone? All in favor? Opposed?

Unanimously Carried

Proposed Resolution- Authorize Contracts and Agreements with Local Police
Departments for 2019-2020 STOP-DWI Enforcement Efforts

Undersheriff Braley: Good afternoon. This is a continuation of a program that's taken place for many years. (*Inaudible*) established the precedent for a STOP- DWI program in every county. The county administers that. The proposed resolution requests that we enter into a contract with local police departments to help us with those enforcement efforts and in return for that, fine money that's collected from the local municipal courts is collected to that vehicle and traffic law requirement and we reimburse the local PD's for their efforts.

There's also a provision for a program called Operation Crack Down, which is a grant funded program through the state and the reimbursement of those funds, which we filter back to the police departments is included.

Chairman Niebel: Yeah, this is an ongoing program. We have it every year and there are no adjustments to the budget. I don't have any questions.

Undersheriff Braley: It is a two year contract.

Chairman Niebel: Committee, anything for the Sheriff's Department? Those in favor? Opposed?

Unanimously Carried

Discussion- Mental Health and Chemical Dependency Services Provided at Chautauqua
County Jail- Patricia Brinkman and Tammy Gates

MOVED by Legislator Bankoski, SECONDED by Legislator Pavlock to adjourn.

Unanimously Carried (5:07 p.m.)

Respectfully submitted and transcribed,
Olivia Ames, Deputy Clerk/Secretary to the Legislature