



Tioga County Legislative Worksession Minutes **August 9, 2018 – 1:00 p.m.**

Legislators Present:

Legislator Hollenbeck
Legislator Monell
Legislator Mullen
Chair/Legislator Sauerbrey
Legislator Standinger
Legislator Sullivan
Legislator Weston

Legislators Absent:

Legislator Huttleston
Legislator Roberts

Guests:

Cliff Balliet
Matt Freeze, Morning Times Reporter (*departed @ 2:08 p.m.*)

Staff Present:

County Attorney Peter DeWind
Legislative Clerk Maureen Dougherty
Deputy Legislative Clerk Cathy Haskell
Chief Accountant/Budget Officer Rita Hollenbeck (*arrived @ 1:03 p.m.*)
Personnel Officer Bethany O'Rourke (*arrived @ 1:03 p.m.*)
County Treasurer Jim McFadden (*arrived @ 1:09 p.m./departed @ 2:11 p.m.*)
ED&P Deputy Director Teresa Saraceno (*departed @ 2:11 p.m.*)
Assigned Counsel/ILS Administrator Irene Graven (*departed @ 1:43 p.m.*)
Public Defender George Awad (*departed @ 1:43 p.m.*)

Call Meeting to Order –

Chair Sauerbrey called the meeting to order at 1:00 p.m.

Assigned Counsel/ILS Plan –

Assigned Counsel Administrator Graven presented the 2019 Assigned Counsel budget and noted an 11.65% increase in assigned counsel fees.

For the current budget year, Ms. Graven reported there is a resolution in the meeting packet for Legislature consideration at the August 14, 2018 Legislature meeting requesting \$60,000 in additional funds. Of this amount, \$55,000 is just for assigned counsel fees with the remaining \$5,000 for incidental expenses of mileage, supplies, and transcripts. It is anticipated these additional funds will carry the program through the remainder of the year, however, there is no real way of predicting expenses related to assigned counsel fees for family court, county court, and local justice courts. As of this date, Ms. Graven reported 92% of the \$200,000 2018 budgeted funds have been expended. In addition to the above-referenced courts, the Assigned Counsel funds cover appeals expenses, which has also increased this year as well as the expenses related to the 31 drug indictments. To date, Ms. Graven reported approximately \$55,000 has been expended exclusively on the 31 drug indictments.

County Attorney DeWind reported the Assigned Counsel monthly expenditures on average continues to be significantly high. Mr. DeWind reported this could be due to the change in eligibility criteria for Assigned Counsel services. Most likely, this trend will continue into next year.

Ms. Graven reported there is a shortage of Assigned Counsel attorneys in Tioga County, therefore, resulting in increased mileage expenses for counsel coming from outside the county.

Chief Accountant/Budget Officer Hollenbeck reported Assigned Counsel is 100% local share.

Public Defender ILS Plan –

Mr. DeWind reported Statewide Indigent Legal Services (ILS) has developed a caseload management and staffing management plan for all counties except for the ones who already have a plan in place. This plan is a result of reviewing 2016 data, which includes caseloads, staffing, and hours spent per case. Mr. DeWind reported the County is currently not providing public defender services at every arraignment. The State has identified a separate funding source to amplify current public defender services. As a result of several meetings with the State, Mr. DeWind reported the State indicated what they are willing to provide and the funding has already been included in the 2018 fiscal year budget. Mr. DeWind reported the next step is for the County to develop and propose a plan to the State, who in turn, drafts a contract for Legislature approval and signature. Once there is an executed contract, the County will need to move forward with establishing different positions and operations in the Public Defender's Office. The County is eligible to make reimbursement claims once funding has been expended.

Mr. DeWind reported the State based the Public Defender's ILS Plan on a 5-year funding scheme. Mr. DeWind reported by Year 5 (2022), the State wants to give Tioga County \$771,014. The State's allocation for this funding is as follows:

- **Caseload Improvement** – This ensures we have enough attorneys to handle the caseloads as identified by the State. The allocated amount is \$427,000.
- **Quality** – The allocated amount is \$200,000 and Tioga County is at the floor. Tioga County is not actually entitled to this amount based on the 2016 data, but that is the least amount the State will provide to ensure staff working on the files are doing the best possible job.
- **CAFA (Counsel at First Arraignment)** - The allocated amount is \$143,441.

Mr. DeWind reported annual allocations will be in 1/5 increments, therefore, Year 1 will be 1/5 of the total allocated amount, Year 2 will be 2/5, etc. up to Year 5 when the County is fully funded. Mr. DeWind reported 1/5 of Tioga County's allocation has been included in this year's budget, however, the County needs to finish the plan and execute a contract.

Mr. DeWind provided the following breakdown based on the above-referenced amounts:

	Public Defender	Assigned Counsel	Data Officer	Unallocated Funds	Comments
Caseload Improvement	\$278,000	\$112,000	\$36,000*		*This will require the creation of a new position, which is part of an existing position in the Public Defender's Office.
Quality Improvement	\$23,000	\$4,669		\$172,000	
CAFA				\$28,688*	This State did not provide a breakdown for this funding, however, it most likely will fall under the Public Defender's purview.

Mr. DeWind reported the County needs to develop a budget for Year 1 (\$154,202) based on the State's 1/5 allocation.

Mr. DeWind presented the following proposed Public Defender Plan:

Staffing:

- ✓ Increase Public Defender from PT to FT
- ✓ Increase Chief Assistant Public Defender from PT to FT
- ✓ Create a new FT Confidential Secretary to Public Defender
- ✓ Maintain the PT Assistant in the Public Defender's Office
- ✓ Maintain the FT Family Court Public Defender
- ✓ Increase the Family Court Public Defender Secretary/Data Officer from PT to FT
- ✓ Maintain PT Paralegal
- ✓ Year 2 Potential: Expansion of two PT Public Defenders to cover CAP court and evening CAFA.

Office/Equipment:

- ✓ Rent a fully furnished office
- ✓ Equip with County IT services
- ✓ Purchase new software license
- ✓ Purchase misc. office equipment

Mr. DeWind reported the following proposal for the existing 2018 budget:

- ✓ Request ILS to fund an expansion of personnel for the remaining five months of the fiscal year based on a November 1, 2018 start date for an allocation of \$74,759.
- ✓ Request ILS to fund Rent for an allocation of \$6,250.
- ✓ Request ILS to fund IT services for an allocation of \$25,000
- ✓ Request ILS to fund Unallocated Funds allocation of \$45,692.

Mr. DeWind reported the total current expenses for the Public Defender's Office is \$358,490, which includes salaries, fringe, retirement, etc. The proposal would increase this amount to \$537,913 for an overall increase of \$179,423 that the County would request ILS to fund.

Mr. DeWind reported for the 2019 budget, the State should be paying for the full expense of \$179,000 for the personnel expenses.

Mr. DeWind reported the proposed office rental is the current Public Defender's Office. Mr. DeWind reported this would entail closing the private practice and convert into a County Public Defender's Office. The Family Court Public Defender's Office would remain in its current location.

Mr. DeWind reported in the event the State decides to cease funding at any given time during the 5-year plan, the County would need to revert to the current structure. Legislator Sullivan inquired as to what happens at the conclusion of Year 5. Mr. DeWind reported the same would apply for Year 6 in the event the State does not continue funding. Mr. DeWind reported the current plan is to enter into a 5-year contract with a base year budget with amended budgets and contracts for each given year.

Legislator Weston inquired about the office rental contract. Mr. DeWind reported this would be a lease with a terminable clause whereas if the funding ceases so does the office rental commitment. Legislator Weston inquired as to whether the current office is in need of modifications. Public Defender Awad reported the office is first floor accessible, therefore, does not foresee any issues or need for modifications. Mr. DeWind reported the unallocated funding could include any necessary ADA modifications, as well as office signage. Legislator Weston inquired as to who would be responsible for monthly utility bills. Mr. DeWind reported the property owner would be responsible and this would be addressed in the lease contract.

Based on Mr. Awad's proposed plan, Tioga County will most likely be one of the first counties in the State to provide CAFA services during both the day and evening once the jail court is operational.

Mr. DeWind reported he is requesting Legislature approval to move forward with finalizing the plan and budget for submission to the State, who in turn, will draft the contract to start in November. Mr. DeWind reported the Legislature would still need to approve the Plan at a future date.

Ms. Hollenbeck inquired as to whether an alternative plan such as contracting with outside law firms has been considered to avoid adding staff to the County workforce and the need for office rental. Mr. DeWind reported this is possible and has been done in the past with Assigned Counsel, however, proved expensive compared to the current structure. Mr. DeWind reported this would most likely involve several outside law firms to avoid potential conflicts and may be cost prohibitive and not a viable option due to finding interested law firms.

Legislator Sullivan requested Mr. DeWind inquire about the State reimbursement details as to whether these are monthly or quarterly reimbursements.

Legislator Sullivan inquired as to who will be responsible for overseeing the billing administration and claiming reimbursements. Ms. Graven reported current staff could do this to start. However, Mr. DeWind reported this could lead to additional headcount or changing the status of a part-time position to a full-time position.

Mr. DeWind reported he foresees presenting a resolution for Legislature consideration at the September meeting in order to be ready for November implementation.

Personnel Officer O'Rourke reminded staff and Legislature that all staffing changes will require resolutions, therefore, if the Plan resolution comes forth in September the staff change resolutions should be presented in October for a November 2018 effective date.

Delinquent Property Discussion –

Mr. DeWind reported the County completed the tax foreclosure proceedings in preparation of tonight's County's tax foreclosure auction. Mr. DeWind reported today's discussion centers around the process of handling these properties. Mr. DeWind reported the County currently has a policy (former policy #50) in place stating upon the County taking title, the County Treasurer has discretion when it is in the best interest of the County. As of the policy's last amendment in 2012, the policy states if there is not a separate lien holder whose interest has been foreclosed or stripped by the County taking title then the County Treasurer can sell the property back for the price of the back taxes within 30 days with a 20% premium and recordation cost. Once this has occurred, the County Treasurer reports back to the Legislature on the transactions that have occurred. Mr. DeWind reported the County has not been following this process and for the most part, we have been taking everything back including last month when there were two different parcels. Mr. DeWind reported the County currently has six properties that have some type of issue.

Mr. DeWind reviewed the current foreclosure procedure:

- ✓ County files with the court through the Treasurer's Office indicating the parcels have remained unpaid.
- ✓ The property owner has until March to pay the owed amount or the process moves forward.
- ✓ After the established date, the County Attorney drafts a motion indicating the amounts owed and the County is interested in taking title.
- ✓ Court schedules a date and any time prior to the established March date any property owner who has an interest in the property as a defense that they were not served gets a final certified answer.
- ✓ County acquires the property title and files at the County Clerk as the new property owner.

Mr. DeWind reported this year the County has had a fair number of property owners following the proceeding come forward with different situations and extenuating circumstances such as lien, title, and notice issues.

Mr. DeWind reviewed the two resolutions that are in the meeting packet for Legislature consideration at the August 14, 2018 Legislature meeting and the process leading up to these resolutions. Legislature was in favor of retaining these resolutions in the meeting packet.

In addition to these two resolutions, Mr. DeWind reported there are other outstanding cases:

- ✓ One property from the foreclosure process continues to move forward in light of the property owner filing an answer. Through a court order process, the County segregated this particular foreclosure process from the rest of the action and this is still pending. Property owners were scheduled to pay by the end of the month, however, to date payment has not been received. Ultimately, if the County were able to resolve this it would result in a withdrawal of the action.
- ✓ The Land Bank is not interested in pursuing one of the Town of Candor properties therefore, the property will need to go back through a future foreclosure auction process. A resolution to return this property to a future auction process will be required.

- ✓ One property in the Village of Waverly is still occupied. Per Legislature approval, Mr. DeWind will continue with the eviction process and the property would still be going to the Land Bank.
- ✓ One property in the Village of Waverly that was previously slated to go to the Land Bank will continue to do so for either demolition or rehabilitation and proceed with a public auction process for purchase.

Mr. DeWind reported in regards to the current process, if within 30 days there are no other lien holders, the County Treasurer can pursue making deals to sell the property back plus 20% and recordation fees. Mr. DeWind inquired as to whether the Legislature was interested in continuing the current practice, which is bringing properties back to the Legislature on a case-by-case basis.

Chair Sauerbrey expressed concern of accommodating some, but not necessarily all with the current practice.

Legislator Weston inquired how far down the genealogy chain is someone allowed to pursue the buy-back process. Mr. DeWind reported the policy indicates prior owner. County Treasurer McFadden reported predominately this includes immediate relatives.

Mr. McFadden reported the Town of Nichols Clerk contacted him last week regarding a vacant parcel the County foreclosed on and is scheduled for tonight's foreclosure auction. Mr. McFadden reported the Town Clerk initially contacted him last October inquiring as to whether the demolition fee could be added to the next tax bill. Since this is the current practice, Mr. McFadden reported he advised the Clerk to do this as soon as possible as tax bills would be printed in December. Mr. McFadden reported demolition did not occur within this timeframe. Mr. McFadden reported last week's call was to inquire whether a \$20,000 demolition fee could be added to the 2019 taxes for the property that is now owned by the County and is scheduled for tonight's auction. Mr. McFadden reported anyone interested in purchasing this property tonight would be responsible for the tax bill, which includes this \$20,000 fee. Mr. McFadden requested Legislature approval to withdrawal this property from tonight's auction, write off the bill in another year, and then auction it off clear next year. Mr. McFadden reported this same scenario occurred with a property in the Village of Owego last year and is now being auctioned tonight. Legislators were in favor of Mr. McFadden withdrawing this property from tonight's auction, writing it off next year, and then re-auctioning next year.

Legislative Clerk Dougherty reported Mr. McFadden has started the precedent of preparing resolutions for the two above-referenced properties, but stated there is not a resolution for this third property that is being withdrawn from the auction process. Mr. DeWind reported the two above-referenced resolutions are ancillary to the buy-back process. As a stand-alone issue such as this, Mr. DeWind reported a resolution is not necessary to simply withdraw a property from the auction.

Chair Sauerbrey reported she would like more information and discussion on this topic.

ACTION: Meeting with Chair Sauerbrey, County Treasurer, and County Attorney, as well as any other interested Legislator, will be scheduled to obtain more information on the current process and the pros and cons of such process.

Mr. McFadden reported a late-file resolution is forthcoming on Tuesday, August 14th, at the Legal/Finance Committee to accept the auction bids from tonight's foreclosure auction.

OTB Letter –

Chair Sauerbrey reported a copy of the letter was previously distributed to the Legislature for consideration.

Legislator Sullivan inquired as to whether the County ever received OTB revenue. Chair Sauerbrey reported OTB had offices located in Tioga County years ago. Ms. Hollenbeck reported the County still receives minimal OTB revenue. However, Ms. Hollenbeck reported she was unsure of the actual allocation, but stated the amount continues to decline.

The Legislature decided not to proceed with the issuance of a letter of support.

Approval of Worksession Minutes – July 19, 2018:

Legislator Monell motioned to approve the July 19, 2018 Legislative Worksession minutes as written, seconded by Legislator Standinger with Legislators Hollenbeck, Monell, Mullen, Sauerbrey, Standinger, Sullivan and Weston voting yes with Legislators Huttleston and Roberts being absent. Motion carried.

Action Items:

ACTION ITEMS FROM JUNE 7, 2018:

ACTION ITEM #2– 6/7/18 – Property Demolition Committee –

Property Demolition Committee Recommendation to Legislature: Chair Sauerbrey reported the Property Demolition Committee needs to be reorganized, as Legislator Weston stepped down as the committee chair. **This action item will be carried forward from the August 9, 2018 Worksession.**

Legislative Support – Legislative Clerk Dougherty:

Approval of Legislative Support Committee Minutes – July 5, 2018:

Legislator Monell motioned to approve the July 5, 2018 minutes as written, seconded by Legislator Standinger with Legislators Hollenbeck, Monell, Mullen, Sauerbrey, Standinger, Sullivan and Weston voting yes and Legislators Huttleston and Roberts being absent. Motion carried.

Legislative Clerk Dougherty reported the following:

- The August Legislative Meeting is Tuesday, August 14, 2018, at 12:00 p.m. in the Hubbard Auditorium. The Finance/Legal Committee will meet prior at 10:30 a.m. in the Legislative Conference Room.
- Legislator Mullen is slated to do the prayer and pledge and start the voting process at the August 14, 2018 Legislature meeting. However, Legislator Mullen announced he would not be able to attend. Ms. Dougherty will ask Legislator Roberts to assume this role in Legislator Mullen's absence.
- 2018 Legislative Budget is tracking well.
- 2019 Proposed Budget was presented. Ms. Dougherty noted a budget increase of \$14,000 for the ISO audit. Legislature was in favor of the budget submission to Ms. Hollenbeck.

Proclamations (3) –

- ***Overdose Awareness Day*** – Legislator Standinger will read and present this proclamation to Kylie Halochak, Public Health Educator, at the August 14, 2018 Legislature meeting.
- ***Immunization Awareness Month*** – This proclamation will just be noted in the minutes of the August 14, 2018 Legislature meeting.

- **Suicide Prevention Awareness Month** – Legislator Standinger will read and present this proclamation to Director of Veterans Services Holton at the August 14, 2018 Legislature meeting.

Resolutions:

All resolutions were reviewed for the August 14, 2018 Legislature meeting with discussion occurring on the following:

- **Transfer Funds and Fund Capital Reserve Account** – Legislator Sullivan reported the Legislature previously discussed using some of these funds to create and build a property demolition reserve fund. Ms. Hollenbeck reported she was of the understanding the funds for the property demolition reserve would come from the property foreclosure auctions. Legislator Sullivan inquired as to whether funds can be transferred from one reserve fund to another via resolution. Ms. Hollenbeck provided information on the proper usage of capital reserve accounts, however, stated she and Mr. DeWind would review the capital reserve guidelines prepared and submitted to the County by outside counsel. For now, the Legislature chose to keep the resolution as is in the meeting packet for Legislature consideration at the August 14, 2018 Legislature meeting with the option to withdraw or amend at time of meeting, if necessary.
- **Erroneous Assessment Town of Tioga** – Ms. Hollenbeck reported this is the result of an individual claiming a double exemption in NYS as well as Florida for the years 2015-2017.
- **Adoption of Tioga County Title VI Plan, Environmental Justice Plan, Limited English Proficiency Plan, Data Collection Plan, ADA Transition Plan and Employee Training Plan**
Mr. DeWind reported additional discussion regarding this resolution will occur at the Finance, Legal & Safety Committee on August 14, 2018.

Other: None

Executive Session:

With no confidential topics of discussion, an Executive Session was not necessary.

Meeting adjourned at 2:33 p.m.

Next worksession scheduled for Thursday, August 23, 2018 at 10:00 a.m.

Respectfully submitted by,

Cathy Haskell

Deputy Legislative Clerk