

**Hillsborough County Executive Committee  
Hillsborough County Nursing Home  
Goffstown NH  
September 26, 2008 9:00 AM**

**Present:** Representatives D. Essex, M. Pilotte, L. Movsesian, P. Cote, B. Francoeur, S. Harvey, P. Hinkle, S. Jasper, N. Kurk, M. Reuschel, G. Shattuck, S. Stepanek, J. Ulery, S. Vaillancourt, M. Villeneuve. Also present: Comm. Holden, Comm. Pappas, Comm. Clemons, County Attorney M. Wageling, J. Macdonald Registry of Deeds, Attorney Kirby, B. Moorehead, D. Reidy, , M. Rusch, and G. Wenger, S. Wilson.

Chairman Essex called the meeting to order at 9:05 AM and requested Rep. Ulery to lead the pledge to the flag.

Chairman Essex recognized Attorney Kirby for an introduction. Attorney Kirby introduced Ms. Susan Wilson noting that she is her new assistant and will be helping out the Delegation Office when Ms. Rusch goes on her medical leave of absence for surgery. Attorney Kirby also stated that she would help when necessary. Chairman Essex thanked Commissioners Holden and Clemons for attending today's meeting.

**Minutes**

Motion made Rep. Vaillancourt, second by Rep. Jasper to approve the minutes from the March 28, 2008 Executive Committee meeting, April 25, 2008 Executive Committee meeting, May 20/21, 2008 Delegation Meeting, May 29, 2008 Executive Committee, May 29, 2008 Executive Committee Budget Review, May 30, 2008 Executive Committee Budget Review, June 2, 2008 Executive Committee Budget Review, June 18, 2008 Executive Committee and July 18, 2008 Executive Committee. Rep. Movsesian noted a correction on the July 18, 2008 minutes stating that she was not present at that meeting. Rep. Vaillancourt accepted that as an amendment to the motion, second by Rep. Harvey. On a voice vote motion adopted.

Chairman Essex stated that at the July Executive Committee Meeting there was a discussion regarding the "Gentlemen's Agreement" and it was suggested that it be brought up again at this meeting. He noted it will be discussed under Old/New Business.

**Appropriation Control Report**

Chairman Essex stated that there is a copy of the Appropriation Control report if any member of the Executive Committee would like a copy.

**Nursing Home**

Mr. Moorehead stated that he has a change to a position at the Nursing Home. He stated that he would like to change a full time RN position to a full time LPN and noted that there will be savings in the salary line of \$17,815. I am recommend continuing to fund the RN position at \$1.00. Brief discussion ensued. Motion by Rep. Pilotte, second by Rep. Movsesian to change the full time RN position to a full time LPN position. On a voice vote motion adopted.

**Business Office**

Mr. Wenger stated that he is requesting a change in the Business Office at the request of the employee to change a full time Account Clerk III position to 32 hours a week. He noted that technically this is a creation of a new position because of the retirement system. He stated that this individual made the request and it was discussed with other staff members and they felt there would be no impact on the office duties. Brief discussion ensued regarding the benefits the employee would still be eligible for. On a voice vote motion adopted unanimously.

**Old/New Business**

**Goffstown District Court**

Chairman Essex stated that while waiting for Rep. Stepanek, who will be discussing the issue of RSA 135:e, he asked Mr. Wenger to give an update on the 2<sup>nd</sup> floor of the Bouchard Building. Mr. Wenger stated that everything is on schedule and he thanked the Executive Committee for moving the meeting today to the Nursing Home because paving was supposed to have been done, however it is raining and it will now be done on Monday. Mr. Wenger stated the move in date should be at the end of December or beginning of January.

**Tax Apportionment**

Chairman Essex stated that in the packet that was mailed there was the FY 08 Tax apportionment for the towns noting that this is FYI only. There was a brief discussion regarding assessment and what it actually means.

**Old/New Business**

**Update on RSA 135:e**

Rep. Stepanek stated that during the budget process the sexual predator law that was passed last year was brought up numerous times. He stated that the County Attorney's Office will handle all the costs associated with reviewing all the sexual predators via the State Prison and whether they should be incarcerated in the State Hospital beyond their allotted sentence. He noted that this law was passed by the Legislature. The Legislature thought the Attorney General's office was going to handle the issues and the Attorney General suggested turning this over to the Counties. The Hillsborough County Attorneys office was asked to handle the issues related to 135:e but did not receive any funds to cover the costs associated and he noted that this is becoming a very costly endeavor. Rep. Stepanek stated that this was mandated by the State Legislature and given to the Attorney General's Office and he does not understand how the County Attorney ended up with the job on a pro bono basis. His goal is to investigate this matter and either cease performing the function and turn it back over to the Attorney Generals Office or the County should start billing the Attorney General's Office for services rendered. Attorney Wageling stated that she attended the Legislative session when this legislation was being discussed and but she was not involved in the civil commitment aspect of the legislation. She noted that as she understood the matter it does not appear that the Attorney General's office would prosecute these cases other than those in rare circumstances where they were involved in the underlying prosecution. The language in the statute specifies that where the prosecution originated that caused that individual to be incarcerated for most recent offense i.e. the most recent rape case for which he is being incarcerated that the civil commitment would revert back to the prosecuting office and this is the language in the statute and it also allows for the Attorney General to bring prosecutions. Lengthy discussion ensued. Rep. Stepanek stated that this is a mandate that the Legislature came up with and it is now being passed on to the Counties and he is questioning whether this is a 28:A issue. Rep. Kurk suggests that Hillsborough County Legal Counsel look into the possibility of 28:A issue and report back to the Executive Committee before making a decision. Chairman Essex asked Attorney Kirby if she could do this. Attorney Kirby stated that she could do this and would need the assistance of County Attorney Wageling with respect to any costs that she assumes or costs resulting from the legislation. Discussion ensued regarding getting the legislative history and the fiscal notes on this issue. In response to a question Attorney Wageling stated that she currently has 5 pending cases and this was out of 100 cases reviewed. Attorney Wageling stated that no other County, except Belknap is instituting this process. She noted that she has received phone calls from the press and they have asked her whether or not she agrees with other County Attorneys with regard to paying for these services, the other counties state they do not have the money in their budgets

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and they can not afford to do these cases. Attorney Wageling noted that none of the County Attorneys have said that to her directly, however the press has insinuated they have received those comments. Discussion ensued.

Rep. Kurk congratulated Attorney Kirby on her recent win and saving Hillsborough County considerable money. Attorney Kirby noted that this was a team effort and wanted to thank Superintendent O'Mara, the rank and file at the Department of Corrections and also Attorney John Curran, from the Insurance Co. firm, for a job well done and the jail should be commended. She briefly cited the case and noted that the verdict came down within an hour and a half.

Rep. Vaillancourt stated that "I am not a reporter however, I used to be one and I think I have a reporter's instinct and if I were a reporter here, there would be headlines screaming across the front page of my paper tomorrow; Hillsborough County Attorney accuses other County Attorneys of not obeying the law. He stated that when a prosecutor does not obey the law that is really alarming. What I really heard here this morning here alarms me tremendously, because while it is statistically possible that there are only 5 cases here in Hillsborough County and 1 in Belknap and none in the rest of the State the odds of that being is not statistically feasible are so remote as to lead me to believe, that in fact other County Attorney sworn to obey the law are breaking the law and if attorney Wageling has an indication that that is occurring, and does not report the other County Attorney, she is breaking the law. So before this goes public I would like to give her a chance to comment if she does in fact lead us to believe that other County Attorney are breaking the law. That is what I got from the tenor of the comment made earlier". Maybe I am the only one but I think I heard that.

Attorney Wageling stated that "not for a second did I indicate that, I am only stating what the press said to me" at the meeting she attended at the AG office, it was stated that the CA offices are all reviewing their cases." She proceeded with examples of other counties and cases noting that the cases have not gone anywhere. She also noted that she believes they are acting in good faith and are doing exactly what they said." She did note that the press calls her everyday looking for a story. Rep. Vaillancourt stated that knowing something about statistics, on a state of 1.3 million people he does not think it is statistically feasible that there would be only five cases in Hillsborough County and one case in Belknap County and no else in the rest of the state if everyone is following the law to the same degree. So maybe the AG is complicit in this as well. Rep. Vaillancourt requested this information to be part of the minutes.

Chairman Essex stated that Rep. Pilotte called my attention to an omission that was made during a previous motion about the two new positions at the Nursing Home. Rep. Pilotte stated that when the motion was approved it should have included the approval to fund the vacant position at \$1.00.

Motion by Rep. Ulery, second by Rep. Villeneuve to reconsider the previous motion pertaining to the approval of the new positions at the Nursing Home. On a voice vote motion adopted.

Motion by Rep. Cote, second by Ulery to approve the change in the position of full time RN position to a full time LPN position and to recommend the funding of the full time RN position at \$1.00. On a voice vote motion adopted.

In response to a question pertaining to the discussion earlier regarding 135:e Chairman Essex stated that this issue would be brought up at the October Meeting, the two Attorneys will supply the information and by November the new Legislatures will be known.

Chairman Essex stated that in the packet today there was a letter of inquiry to the Sheriff from Red Wheeler, who is a candidate for Sheriff, who is requesting under the freedom of information act. This

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letter and the letter of acknowledgment from Sheriff Hardy is for informational purposes only. Rep. Hinkle wanted to know if the Executive Committee could be copied on the response to this request. There was a brief discussion and Attorney Kirby noted that the Sheriff is in the process of compiling the information that is being requested.

**Gentlemen's Agreement**

Chairman Essex stated that at the last meeting there was a discussion regarding the reconsideration of the Gentlemen's Agreement he stated that it is on the agenda today. Chairman Essex requested that Rep. Vaillancourt refresh the committee on the discussion held in July. Rep. Vaillancourt briefly described the rotation of the officers which he states should continue but noted that the officers should be comprised of a member of the minority party and two members of the majority party, which would include the Chairmanship. Rep. Kurk stated that the Executive Committee has been non-partisan in their responsibilities on the Executive Committee; he noted that Rep. Vaillancourt's idea is a good one and the rotation insures that business will be conducted fairly. Chairman Essex continued by noting that he has been really pleased with the non-partisan nature of the way County business is done. He stated that there is still time to discuss and research this issue before the Organizational meeting in December; he did note that it would be a recommendation only to the new Delegation. Rep. Jasper reiterated the idea of a recommendation to the new Delegation and leave it up to them as to how they want to proceed. Discussion ensued. Chairman Essex suggested that it might be helpful for some folks to try and carry forth discussion through informal discussion or email. There was some discussion on how to handle the issue at the Organizational meeting. Chairman Essex suggested that he would do some research and draft an email and bring it up at the Executive Committee after the November election, noting he would like some input from various members who have served on the Executive Committee in the past. Rep. Jasper suggested that either the Clerk or the Vice Chairman depending on the political census. He also stated which of the three divisions had the most of the minority party of the Vice Chairman or Clerk. Discussion ensued.

**Surplus**

Rep. Vaillancourt stated that he has been corresponding with Mr. Wenger regarding the surplus figure for FY 08 and noted that Mr. Wenger does not have the final number as the books are being audited at this time. Rep. Vaillancourt stated that the County's surplus could be as high as \$8,000,000 or maybe more noting this is a very high number. Rep. Vaillancourt stated that he is concerned with such a high number and we are not doing the taxpayer any favors. In response to a question Mr. Wenger stated that the final audit should be completed by next month, noting he does not have a firm date. Discussion ensued regarding the surplus figure and what the meaning of surplus is.

Brief discussion regarding the sprinklers replacement and the awarding of the bid by the Sheriff's Office to Kustom Kreations to modify the cruisers for transporting prisoners Bid #2009-04. Rep. Ulery had an issue with the single source bidder, noting that Kustom Kreations is a good company; however there are other companies in Massachusetts. The budgeted amount is large enough to look at more vendors a little more closely.

Chairman Essex stated that the next meeting will be October 17, 2008.

Motion by Rep. Cote, second by Rep. Reuschel to adjourn at 10:25 AM

Date \_\_\_\_\_

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Rep. Lori Movsesian, Clerk  
Hillsborough County Executive Committee