

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: CRIMINAL JUSTICE

DATE: APRIL 1, 2015

COMMITTEE MEMBERS PRESENT:

SUPERVISORS DICKINSON
MONROE
VANSELOW
BROCK
SEEBER
SIMPSON

OTHERS PRESENT:

JOHN WAPPETT, PUBLIC DEFENDER
JOY LAFOUNTAIN, ASSIGNED COUNSEL ADMINISTRATOR
KEVIN B. GERAGHTY, CHAIRMAN OF THE BOARD
PAUL DUSEK, COUNTY ADMINISTRATOR
JOAN SADY, CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER
SUPERVISORS FRASIER
MERLINO
TAYLOR
AMY BARTLETT, FIRST ASSISTANT COUNTY ATTORNEY
DON LEHMAN, *THE POST STAR*
SAMANTHA HOGAN, ASSISTANT SECRETARY TO THE CLERK OF THE BOARD

COMMITTEE MEMBER ABSENT:

SUPERVISOR KENNY

Mr. Dickinson called the meeting of the Criminal Justice Committee to order at 10:07 a.m.

Motion was made by Mr. Monroe, seconded by Mr. Simpson, and carried unanimously to approve the minutes from the previous Criminal Justice Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Joy LaFountain Assigned Counsel Administrator, who distributed copies of the agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Commencing the agenda review, Mrs. LaFountain presented a request to amend the 2015 Budget to reflect the receipt of grant funding from the New York State Office of Indigent Legal Services in the amount of \$51,736 to be distributed between various codes.

Motion was made by Mr. Vanselow, seconded by Mr. Monroe and carried unanimously to approve the request as presented and refer same to the Finance Committee; *a copy of the resolution request form is on file with the minutes.*

Next, Mrs. LaFountain presented a request to amend the Table of Organization to create and fill the new position of Assistant to the Assigned Counsel Administrator, part-time (annual salary \$15,218). She explained she already had a candidate in mind to fill the position and that the salary would be completely covered by grant funding received from the New York State Office of Indigent Legal Services.

Ms. Seeber requested clarification that the position would not be advertised and that Mrs. LaFountain already had a candidate in mind; Mrs. LaFountain confirmed this was the case and she indicated the position was not subject to advertisement. Ms. Seeber asked Paul Dusek, County Administrator, to comment on why this position was not subject to advertisement and Mr. Dusek explained that because it was classified as less than part-time, he did not believe there was any type of eligible list for the position. He indicated that the position would be subject to Civil Service testing, and once the necessary test was scheduled, the opportunity to test for the position would be advertised for anyone interested. Mr. Dusek noted that the Personnel Officer could potentially determine the position would be exempt from testing, but he did not necessarily believe this would occur.

Motion was made by Mr. Simpson, seconded by Mr. Monroe and carried unanimously to approve the request as outlined above and refer same to the Personnel Committee; *copies of the resolution request form and Notice of Intent to Fill Vacant Position forms are on file with the minutes.*

Continuing, Mrs. LaFountain presented a request to enter into a new agreement with the Rural Law Center of New York, Inc. for a term commencing May 1, 2015 and terminating April 30, 2016 to provide Appellate Assigned Counsel Services. She explained that she, along with Amy Bartlett, First Assistant County Attorney, had reviewed the contract and felt it would bring a significant cost savings to the County. Mrs. LaFountain advised over the past 10 years, \$433,000 had been spent on appeals (*\$43,300 annually*), and she noted this contract would cost about \$30,000 a year. She advised Assigned Counsel averaged 11.8 cases per year and noted there was a large database that would assist in separating the cases and eliminate unnecessary appeals which would be a large time and cost savings.

Motion was made by Mr. Vanselow, seconded by Ms. Seeber and carried unanimously to approve the request as presented and the necessary resolution was authorized for the April 17th Board meeting. *A copy of the resolution request form is on file with the minutes.*

Next, Mrs. LaFountain presented a request to extend the current contract with Legal Aid Society of Northeastern New York, Inc. for Family Court conflict cases for a term commencing May 1, 2015 and terminating April 30, 2016 for an amount not to exceed \$84,718 annually (*\$7,059.80 monthly*).

Motion was made by Mr. Simpson, seconded by Mr. Vanselow and carried unanimously to approve the request as presented and the necessary resolution was authorized for the April 17th Board meeting. *A copy of the resolution request form is on file with the minutes.*

This concluded the review of the Assigned Counsel agenda and privilege of the floor was extended to John Wappett, Public Defender, who requested an executive session to discuss matters leading to the appointment of a particular person.

Motion was made by Mr. Simpson, seconded by Ms. Seeber and carried unanimously to enter into an executive session pursuant to Section 105(f) of the Public Officer's Law.

Executive session was held from 10:17 a.m. until 10:34 a.m.

Upon reconvening, Mr. Dickinson announced no action had been taken during the executive session. He explained Mr. Wappett had announced his retirement and had advised there were questions regarding the salary of his replacement.

Mr. Monroe commented he believed a study should be performed by the Human Resources Director and he noted the population and volume of cases in comparison to other counties should be considered, as well as the types of cases handled, such as felonies and misdemeanors. Ms. Seeber stated her opinion that along with the salary study, the departing Department Head should have some input as to what a fair salary for his replacement would be.

Mr. Wappett explained significant salary studies had been completed in the past for the Public Defender's Office which included contacting other counties of similar size and population to obtain salary information. He added that consideration should also be given to the person's level of experience, as well as whether they were working in a part or full-time capacity. Mr. Wappett indicated that he would put together a comparison for the Committee to review and consider in setting an appropriate salary.

Mr. Monroe apprised the State mandated salaries for the District Attorney's Office staff and he believed the Public Defender's Office was handling the same number of cases; however, he pointed out the prosecutor's salaries were more than the Public Defender's staff. Mr. Wappett stated the Public Defender's Office handled approximately 75% of the cases the District Attorney's Office handled, in

addition to parole and Family Court cases.

Mr. Simpson opined that they needed to be careful when comparing Warren County to other counties in New York and that they needed to do what was right for Warren County; he added that he felt comparing the counties was a disservice.

Mr. Brock stated he believed this matter should be treated as if it were a private industry, noting they should invest in a highly qualified individual for this position who would, and should, be paid a salary on the higher end of the pay scale.

Mr. Wappett informed the Court of Appeals recently found in New York State there was an illegal disparate balance between prosecution and defense as a whole, in services provided for indigents. He affirmed he had spoken with Public Defenders from other counties and noted Warren County took care of its indigents better than most.

There being no further business to come before the Criminal Justice Committee, on motion made by Mr. Vanselow and seconded by Ms. Seeber, Mr. Dickinson adjourned the meeting at 10:43 a.m.

Respectfully submitted,
Samantha Hogan, Assistant Secretary to the Clerk of the Board