

D R A F T
Carroll County Commissioners' Meeting
Minutes
February 8, 2012

Commissioners Present: David Sorensen, Dorothy Solomon, Asha Kenney

Public: Steve Brown, Ed Comeau, Kathleen Maloney, Mellisa Seamans, Maureen Spencer, Henry Spencer, Dominic Richardi

Chairman Sorensen called the public meeting to order at 8:30 am.

Public Input

Commissioner Sorensen: I would like to respond to the question asked, whether or not the Commissioners are practicing Censorship, because they are no longer keeping minutes of Public Input? Public comment is fine, and I have even opened it up for when a person gave a report for the public, to ask questions. Once we get into the minutes, it is seventeen plus pages. Then we started adding or correcting what everyone in the public said. It became a hassle, spending a half-hour correcting the minutes from the previous week. I know that the minutes are a legal document and needs to be correct. If we can eliminate some of the public comments, it would better serve the people.

Commissioner Kenney: I don't know if we keep all tapes, because the minute taker has the recordings. So I don't know what happens because the recording of the non-public minutes was erased. I don't know what we are doing with the public minutes. **Sandy:** I have not erased any minutes, but I am not sure what has happened in the past when the tape was full.

Commissioner Solomon: In the past, prior to 2009, there were no public comments, let alone minutes of public comments. There was no public input whatever during the public meeting.

Commissioner Sorensen: This is a Commissioners' meeting, and we can conduct the meeting the way we think it should be, within the law.

The Commissioners were asked how they felt about the decision made by the Delegation to stop all work on the old nursing home. **Commission Sorensen** and **Commissioner Solomon** both reported that they thought it was a poor decision. **Commissioner Kenney** stated that she thought it was a good decision. If the Board has no authority, then we shouldn't be spending. I think we need to come up with a plan for a million dollars.

Commissioner Sorensen: I have a copy of the budget, dated 11/25/09. In there it says additional design and professional services by architect Biomass Plan Operation – see alternative. The alternative is the soft cost, and the soft cost to me is the contingency money. My interpretation is that the Delegation is saying we cannot spend any money unless it has been identified in the budget. The Biomass Plan Operation is in the budget, and therefore we should be able to move forward. I don't want to get into a legal battle with the Delegation. I just want to get this up and running. The subcommittee of the nursing home met yesterday. In the nursing home budget, they were going to save \$67,000.00 out of their fuel cost, with the pellet furnace up and running. The longer we wait to get this installed, the more money we will lose. I think that the Delegation would like us to ask to use \$375,000.00 out of the contingency money.

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I have a copy of the draft letter that I have spent a great deal of time on. I am not sure it is proper. I tried to get the County Attorney to look at it. He cannot represent the County Commissioners, the Delegation and represent the County. He doesn't want to give any counsel. He suggested that we go to a private attorney. I spoke with Attorney Liz Bailey, on the telephone, and she said the same thing. She has been working with the Delegation and with the Commissioners; therefore, she feels she cannot advise us as to what is said in that letter. She feels that we need to find another attorney, and if it cannot be worked out, they would get together and decide where we could go to get guidance on that letter. I don't think we have to go to another attorney. It is clear, we knew from the beginning that the pellet furnaces were going to be the primary source of heat and that propane was going to be the secondary source.

The Delegation approved the Grant funding in March, 2010. Representative Umberger made the motion to approve the Grant to purchase the boilers and purchase the piping. If the Delegation thought it was going into the new nursing home, we would not have received a Grant for \$200,000 for the piping. I believe that they must have known, since then, that the piping was put in underground between the two nursing homes; that is where the pellet furnaces were going to go, in the old nursing home.

I felt it was presented properly. The only question I think is that they want to know the authority for the Commissioners to use the \$375,000. It's an interpretation, if it is in the budget, we can use it.

Representative Alhgren quoted some minutes from the 03/22/10 Delegation meeting, that we needed to go back to them to use any money out of the contingency fund. That is where I have a problem - that we need to go to them to get their permission to take it out of the contingency fund, even though it is in the budget and is separate from contingency money. I just want to get this up and working.

As far as the statement made that, we moved the meeting up to Monday rather than wait until our Wednesday meeting, was our mistake, not to have had a time limit when those bids had to be in, so we could have acted on it. To give every bidder an opportunity to get a bid in, we said that we would not act on it at that time because there was no time limit to when the bid had to be in. We called a special meeting on Monday, because we knew there was a Delegation meeting and that the Commissioners would be there; that was the only item we acted on at that meeting. We knew we had a deadline of March 10, 2012 for one of the Federal grants, and if we did not start to get things going, we could lose that Grant for \$200,000.00

Randy Remick was at the Delegation Meeting on Monday. He basically said, that he is the one that is more concerned about stopping work, as he has subcontractors, plumbing, electric ready to go, and their equipment has already been ordered. He is 90% committed of the \$375,000.00.

As I mentioned, I drafted up a letter stating that we thought we had the right authority because the boilers were purchased with Federal funds, and that we were going to use the boilers as the primary source of heat for the new nursing home. The Delegation may look at that and say,

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Okay, it is for the new nursing home, but maybe you don't connect to the old nursing home. That was not in there. It would be ridiculous not to connect it to the old nursing home.

In regard, to the Core section of the old nursing home, the Delegation voted twice to keep the Core section and tear down the four wings. They voted twice so that it could not be reconsidered. They want to keep the Core section, and have the Commissioners come up with a plan for less than a million dollars which they would approve or disapprove.

What is still unclear is what is involved in that one million dollars; is it taking down the wings, blocking up the walls, does it include the \$375,000.00? I never got clarification from the Delegation.

Commissioner Sorensen: Work in the old nursing home has stopped except for the pellet boilers. Their bill has been paid for and they are connecting their piece of it. Everything else has stopped.

Commissioner Sorensen: I told the Delegation that there was no dead line date set for coming in with a recommendation as to where the one million dollar process could work. It was never put on their agenda, and I did not request that we talk about the rehabilitation of the old nursing home. Discussion ensued.

Commissioner Sorensen: The Delegation felt that the 1.8 million was too expensive and I agreed with that. Discussion ensued – Why wasn't the \$375,000.00 bid presented before the Delegation?

Commissioner Solomon: The reason from my perspective that we did not go to the Delegation is that I don't believe we had to go to the Delegation. I believe that as Commissioners we are responsible for using the money that is in the budget to do what has to be done within that budget. From my perspective, that is what we did.

My interpretation is that as business managers for the budget, whether it was a budget that started in 2009 or a budget that started in 2004, it is the same budget; it is the work that we were doing for a particular project, and I saw no reason we had to ask to be micromanaged by the Delegation. That is not their job.

Commissioner Sorensen: The budget approved, by the Delegation, was for \$23,532,600 to build the new nursing home. Within that budget, there is a contingency fund and also stated in there was Biomass Plan Operations. To me that meant we could spend the money in the Biomass. In March 2010, the Delegation approved the acceptance of the Federal Grant for \$400,000.00 to purchase the boilers and the piping. BPS wrote up the RFP's brought it to Board of Commissioners at that time, and we approved the individual expenditures.

Minutes

Motion

Commissioner Kenney made a motion to approve the minutes of 02/01/12 as corrected. Commissioner Sorensen seconded the motion. All agree. Motion passed.

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Reports

Commissioner Solomon: I attended a meeting on 1/31/12 for the Transportation Advisory Committee on Carroll County projects. At that time, they talked about the operation of the new line, called the Flex line and reported that they were seeing some nice use of the line, but not something that cannot be improved upon. They had 50 rides in Conway and 41 in the Ossipee area. The Laconia area is a commuter line, which essentially is for people from this area going to work in Laconia. They only had run one line a day. There was some talk about increasing that run so there is more than one run a day. We also talked about making it clear as to what service we were talking about. The door-to-door service would be referred to as the Dial A Ride; the other would be the Flex line. The door-to-door service also called the Dial A Ride has cost an enormous amount of money with the Flex line not being available. please refer to www.governmentoversite.com for further information and scheduling..

Following that meeting, there was a meeting of the Regional Coordinating Council (RCC). They are trying to make it clear to the public, what transportation services are available for the community and to have a registry of all the transportation services that are afforded to the communities in Carroll County. In order to do that they will need to get Grant funding to be able to have a four-page brochure/ flyers available. They need a fiscal agent. Originally, they asked whether the County would do it. I was somewhat reluctant to take on that project, but they have decided to go with either Lakes Regional Council or North Country Council.

Department Heads

Jason Johnson

HOC

Current population is 59 in-house, 1 weekender, 10 transfers, 3 electronic monitors and 13 on pre-trial release for a total population of 86. Please refer to attached report

Commissioner Sorensen: Did you receive any estimates for the perimeter fence?

Jason: I have just the two we received in October 2011, nothing official has been received since then. We received one bid for fixing up the exercise yard, and that was for \$6,400-\$6,600.00.

Commissioner Sorensen: What is the pleasure of the Board? **Commissioner Kenney:** I would like a copy of that bid. How many bids did we have? **Jason:** Based on the RPF that went out, we only received one. **Commissioner Sorensen:** Asked Jason for the exact amount before we move to make a motion to approve.

Commissioner Sorensen: Jason, have you had finished your internal report on the escape?

Jason: Yes, and I will send you a copy of that report, and check with Sheriff Conley to see whether or not he has received a copy of Superintendent O'Mara's external report.

Commissioner Sorensen: We had two bids that came in on the wall. One was from BPS for \$16,800.00, and the other from Patandy's out of Rochester for \$9,013.00. There is a difference of almost \$8,000.00 between the two bids.

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Commissioner Sorensen: I am going to give these back to Commissioner Kenney and ask her to get three references as to the type of work that they do, and to make sure they are both bidding on the same RFP.

Sandi McKenzie

MVC

Census today is 103. We have 19 Private Pay residents, 7 Medicare residents, 7 pending Medicaid residents and 70 Medicaid residents.

Over the past week, I have contacted one of our Master Gardeners, Kim Espinosa, and I am awaiting a call back to set up a meeting. We are trying to understand what we are going to do with our neighborhood gardens in the spring.

Commissioner Sorensen: Regarding the landscaping, I am putting together a list of all the plant materials, live shade trees, hemlocks, sugar maples, red maples, and lilacs. What I would like to do is put this out on an RFP to the paper and to all the local nurseries so they could bid on it and include the planting of them. This is all the big plants, not the small shrubs or garden areas. My understanding is that we do not grow anything here, they order out, and if it is a mass order going to us, they might give us a better price. That will take care of the larger plantings and that will be done this spring.

I think we should have the Horticulturist from Cooperative Extension and Kim Espinosa look over the plans. Those gardens are very expensive.

Sandi: Eric Lewis, MD will be away 3/13/12 – 8/21/12. Donald Rose, MD will cover as Medical Director, in his absence.

In follow-up to the old building equipment and pharmacy, please refer to attached report.

My recommendation would be that we continue with Omnicare and review this again in another year.

Commissioner Sorensen: To respond, to a question asked from the public regarding, what is the benefit to Carroll County to own and run a nursing home, if there is no County list? I defer to the Delegation as they voted to keep the nursing home.

Sandi: I will invite our Admission Coordinator to come to a meeting to discuss that at a future meeting. **Commissioner Sorensen:** We will put her on the agenda for next week to discuss that.

Robin Reade

Human Resource Department

Robin: The Delegation had requested that an RFP go out for IT Services. I sent an email on Monday to the IT Committee to review the RFP and to the Commissioners. I am asking for approval to send this out, and when you want it back by.

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Commissioner Sorensen: I would like to have it back by the first week of March. Our contract expires 03/31/12. That would give us a little bit of time to review the bids. I would like you to ask the IT Committee whether it should be a one-year contract or a three-year contract. What they would do for a one-year contract and what they would do for three years? Is there any difference? **Commissioner Solomon:** Ask about a one year with the possibility of an extension. I have a question regarding this request for proposal. Are they all as intricate as this? **Robin:** You want to make it intricate, to be sure that you get every service possible. It is my understanding that they would be bidding on the whole complex. The Sheriff's Department had asked if that included them, and I said yes. In addition to our website, where do you want to advertise?

Commissioner Sorensen: Mr. Brown, can I ask your suggestion or recommendation on where we should post the IT RFP?

Mr. Brown: In the Union Leader, the Conway Daily Sun, the Carroll County Independent, Fosters Daily Democrat, Portsmouth, Chamber of Commerce in Manchester and Concord area. You may have some IT people in those areas that would be interested in coming up here.

Commissioner Sorensen: Please find out from the Union Leader their price to advertise for one day.

Commissioner Sorensen: Robin, all three Commissioners have read the 2011 non-public minutes. Do you have all those non-public minutes on your computer? **Robin:** Yes, I do up until the point that I stopped taking the non-public minutes. **Commissioner Sorensen:** If we gave you all of the non-public minutes that we read, and identified along the margins what we felt could be released and what we felt could not be released, could you print the ones that could be released and send them to Liz Bailey to get her approval. **Commissioner Kenney:** What does Liz Bailey cost an hour? **Robin:** I believe it is \$225.00 an hour.

Commissioner Sorensen: The way we are going, I would rather have an attorney look at them. **Commissioner Kenney:** I think we have legal consultation in many of those minutes, which we could take out. **Commissioner Sorensen:** The issue is that all three of us have reviewed them and documented which non-public minutes we think we can review. **Commissioner Kenney:** Can the County Attorney not look at it? **Mr. Albee:** He is not going to be able to give you an opinion; it is a conflict. If someone filed a suit, you are not going to be able to use his opinion to back up your decision. If you feel comfortable letting them out, let them out.

Commissioner Sorensen: Okay, Robin, do not send to Liz Bailey. Print them out and let us look at them and release next week. **Commissioner Kenney:** We can look at them and if you really thought something was questionable, and then we could send those. If not we can release them. I will have to tell you what has to be taken out. **Robin:** I will need the dates.

Robin: The union lawyer will be here this afternoon. **Commissioner Sorensen:** We started union negotiations and had three meetings. Unfortunately, he passed away on Tuesday morning. We have hired another attorney out of that same firm. They normally charge \$300 per hour, but this attorney is going to charged us the same rate for this year, that Attorney Flagger charged, which was \$160.00 per hour.

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Commissioner Kenney: What is the firm? What is the new attorney's name?

Commissioner Sorensen: The firm is Jackson and Lewis, out of Portsmouth, NH. His name is Attorney Clausen. This is to inform the public about what we are doing with union contracts.

Commissioner Sorensen: The issue came up regarding non-public minutes as to how they are approved. We were beginning to think that we were doing something wrong, that we were not approving them and sealing them in public session. I have a document here entitled, Attorney General's Memorandum on New Hampshire's Right-To-Know law, RSA Chapter 91-A.

There are examples in this document on how to go into non-public session, how to come out of non-public session, roll call, and so forth. This document is available on line.

I was at Primex for a meeting and prior to leaving was able to speak with Mike Ricker, an attorney with Primex. He provided me with this Memorandum. He spent over an hour with me going over this and could not find anything that said the non-public minutes have to be approved in the public session as long as they are approved and sealed in non-public session. That is what the standard is according to the Attorney General's Office

Many requests had come in from Mr. Brown regarding releasing some of those non-public minutes because they were not properly sealed and approved. I think this clarifies it now, Mr. Brown, and if you want to have a copy, it is available on line.

It is clear now that as long as they are sealed and approved in non-public session, and when we go out of non-public session and go into public session, they could be sealed and approved then also. We are covered for all of our non-public minutes.

Commissioner Kenney: What was the question you asked Mike Ricker? **Commissioner Sorensen:** The question was whether we had to approve and seal the non-public minutes in public session. He said we could do it in non-public or public session.

Commissioner Kenney: The issue is that if you look at the 2010 minutes they were not approved in non-public or in public. Then I get a request from Mr. Brown, he wanted to have the non-public minutes for 2008, 2009, 2010. I went back to review 2008 and 2009 and they were never sealed, just meeting adjourned. The 2011 non-public minutes were approved in non-public and some in public. **Commissioner Sorensen:** I would like to look at those non-public minutes for 2008, 2009, 2010.

Commissioner Sorensen: There is nothing in the Memorandum that says it has to be approved and sealed in public or non-public session, as long as it is done. Any questions should be taken up with the Attorney General's Office. We have his interpretation and that is what we will follow, as it is the law.

Commissioner Kenney: There is a web site you can go on, review, and see what is there.

Mr. Albee: As Mr. Brown stated earlier, you cannot add language to an RSA. RSA 91-A directs you to approve the minutes and seal the minutes. There is no specific direction as to where you can do that without adding language to the RSA.

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The Attorney General is not going to add language to the RSA and direct you to do that in non-public or public. If it is not in the RSA, you can do it either in non-public or in public.

Commissioner Kenney: You need to do it the same day and seal the minutes or release within 72 hours. We meet only once a week. The approval can be maybe the following week.

Mr. Albee: At your next public meeting, announce that at the non-public meeting you had a discussion, approved the minutes and sealed them. **Commissioner Sorensen:** That is in there, you are right.

Hales Location

Commissioner Sorensen: We have a contract here for the taxpayers of Hales Location. We do have a contract with her as the Clerk and Tax Collector of Hales Location. It talks about the job description, compensation, additional expenses and expiration. The agreement expired 12/31/12. It maybe negotiated, if agreeable by both parties, to extend it. She signed the contract on 2/3/12.

Commissioner Kenney: I thought this was going by the Delegation. I remember last year that Commissioner Solomon brought it up, how much she was going to make and they approved it.

Commissioner Sorensen: You didn't hear what I said. The budget has to be approved by the Delegation, in March 2012. Her salary is in that budget. This is an annual contract and we should have had it back in January 2012. This is dated 2/8/12

Motion

Commissioner Sorensen made a motion that we as Board of Commissioners and Selectmen in Hales Location accept the contract for the Clerk of Hales Location. Commissioner Solomon seconded the motion. Vote was 2-1. Commissioner Kenney-opposed. Motion passed.

As you remember, we met at the Nursing Home with Hales Location and went over the budget line by line. The questions that they had were in regards to the school, the ambulance and the roads that are in rough condition. They provided three bids to pave the roads. The bid that came in that they wanted to approve was for \$186,000.

Motion

Commissioner Sorensen made a motion that we put into Hales Location's budget up to \$200,000.00 for the paving for the roads in Hales Location. Commissioner Solomon seconded the motion. All agree. Motion passed.

Public Input

Commissioner Sorensen responded to Mr. Brown's question about how the public would know if the minutes were approved and sealed. We will come out of the non-public session, and go into public session, where we would announce that the minutes were approved and sealed in non-public session. This would be documented in the public minutes of that meeting.

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Regarding the status of the attorney investigating a grievance against one of the Commissioners is that he has been interviewing people. His final report will be due on March 20, 2012. To clarify this, it is strictly a report to the Commissioners. What happens to it will have to be discussed.

Commissioner Solomon made a motion to adjourn the meeting at 10:15 am.

Respectfully submitted,

Sandra Twyon
Recording Secretary