

Legislative Committee

May 3, 2023

11:00 a.m.

Attendees

Committee: Allen Hinkley, Art Merrill, Lisa Driscoll, Tina Molé

Absent: Mark Tuthill, Patti Valente, Shawn Smith

Staff: Deb Goodrich, Judith Garrison, Maria Kelso, Joe Ermeti, Amy Merklen, Penny Bishop

Mr. Hinkley called the meeting to order at 11:05 a.m. On a motion by Mr. Merrill and seconded by Mrs. Driscoll, the draft minutes of the April 3 committee meetings were unanimously approved.

Mrs. Goodrich distributed a year-to-date report of revenues received. She noted that revenues are lower than this time last year because not a lot of properties are being sold at this time. She reported a change in the county DMV retention fees. Counties will retain a straight 10.75% for in-office services and 3.25% for online services.

Mrs. Garrison reported that Delaware County will have a republican primary election and sample ballots will be posted on their website soon. Delhi has two people running for Town Supervisor, Mark Tuthill and Pete Bracci and Franklin has two people running for Town Supervisor, Jeff Taggart and Don Smith. Some towns have positions for county clerks and town council members.

Mrs. Kelso stated Independent petitions are due April 18. She said they had received grants and purchased a machine to make their own ballots. They arranged with IT to get a service contract and get set up with Xerox for code keys. However, IT works with their vendor which is CDW and she found out recently that Xerox will not set up the equipment. They are trying work this out with IT, CDW and Xerox. Issues such as the licensing code, activation code, remote install, etc. all have to be worked out. She reported the New York State Board of Elections will visit DC BOE to inspect the new site and she had one more plea for a closet. Ms. Molé stated Mr. Tuthill had let her know that he has the plans for the ramp and if the commissioners do not have copies, he will get them to their office. Mrs. Kelso said they were originally slated to have the space where Veterans Services is now. They planned to put contents from their pod in that space which would allow them to be able to lock up their stuff. She noted when the space was given to Veterans, BOE was given less space. Mr. Merrill stated these details should have already been worked out, however, a closet would be built for BOE storage. Mrs. Kelso stated Maintenance has two closets at BOE. Mrs. Driscoll questioned if one of the closets could be used to lock up ballots until another closet is built. Mr. Merrill stated BOE would have to give up the space to build another closet. Mrs. Kelso indicated the steel cage from the pod needs to be installed to hold the pod contents. Mrs. Merklen asked if the old ballots have to be stored on sight. Mrs. Kelso stated they are charged with care, custody, and control of old ballots, absentee ballots, old petitions for five years. Mrs. Merklen expressed that does not mean the documents have to be physically in their building. She said the County Attorney's office has to keep legal records but does not have room in their office for everything and they have to store documents off site and that meets care and custody code. She questioned how often BOE has to access records that are five years old. Mrs. Kelso said they get FOILs continuously to which the County Attorney said she does not see these FOILs which are supposed to go through the FOIL Officer and herself. Mrs. Kelso said she would contact the democratic and republican general counsel to get an accurate answer on storage.

Ms. Molé concluded that there are two choices here: either Maintenance builds a closet from space designated by BOE or BOE takes one of the maintenance closets, then maintenance will build a separate closet. She will contact Mr. Montgomery about these options.

Mrs. Bishop mentioned that a resolution needs to be brought to the Board to address new weighted votes. Mrs. Merklen said she needs to discuss this with the Board. She said the calculations are complicated and they hired a firm to do those calculations and they have received the results. She will send the data to all of the Supervisors and will request that an executive session be called to review the data. Mrs. Bishop said she received a message from Senator Oberacker's office to confirm if the county would want him to bring up a redraft of Bill 6016 from 2021 to have one polling place in the county seat for early voting. Upon recommendation from BOE, she asked the Senator to introduce the redraft.

Mr. Ermeti stated that things are going well in his office. He has a good group of people who work very well together. In reply to Ms. Molé regarding the Centralized Arraignment Part (CAP), Mr. Ermeti said he believes it will be positive for the Public Defender's Office. He said he will have trouble retaining people when arraignments are held throughout the night in another town and still have commitments at work the next day. He understood from the CAP meeting that holding arraignments by telephone is illegal and that all arraignments are to be held in person. Virtual arraignments were allowed during the pandemic but going forward, there will be no exceptions to this rule. Mr. Ermeti said they have to comply with on-call protocol or they could lose all of their funding. Even though there is \$41,800 attributable to on-call pay, if they do not follow protocol, they could lose the remaining \$650,000 to \$700,000, so this is necessary. One of the assistant public defenders lives in Albany and cannot physically comply with on-call and there are only three people to cover the entire month. They have to be available to go to court no matter what and they have been able to comply as needed. Mr. Ermeti stated he hopes the CAP support system gets passed and noted all stakeholders need to sign a letter of support and the court has to physically be built at the jail. Every county except one in the district has CAP. It is not perfect, but he believes it could run very efficiently in Delaware County. Mrs. Merklen asked who would coordinate and police the CAP. Ms. Molé asked who does that in other counties? Mr. Ermeti said he will seek those answers from Otsego County. He said he will do everything he can to make sure it works. Mrs. Merklen stated she believes that holding people until the next scheduled arraignment time does not coincide with the whole basis of Hurrell-Harring. Of course there were longer time periods and more egregious violations, however, she believes the county could be sued for following this plan. But because everyone is on board with the CAP including Hurrell-Harring cheerleaders, then she has no reason not to be on board. Ms. Molé stated there were no objections to the CAP at the meeting and that the Sheriff's Office signed a letter of support. She noted the Public Safety Committee supports the CAP.

Mrs. Merklen reported her office continues to do their work with no new prospects for additional attorneys. She said it will be even more difficult to find help now that the state has increased 18B rates to \$158 per hour. The increase is retroactive to April 1 with a cap of \$10,000 per client. Mr. Ermeti said there will be no oversight for padding vouchers. Mrs. Merklen noted that the education of new law school graduates and their experience using newer technology for electronic filing, office applications, and other tasks, will be difficult to compete with since they will be able to work at home with very little overhead. Mr. Ermeti said it has been the norm in private practice to only expect to receive 60% of their billings but with the 18B cases, they know they will get paid 100% from the county. He noted it would not behoove anyone to be in private practice. In addition, the judge assigns these 18B clients so attorneys don't have to find their own clients. He also believes this move to \$158 will hurt public employers. Mrs. Merklen indicated that the new rate is twice what she makes. She said she likes her job. She likes what she does at the County. Mr. Ermeti commented that what keeps them in the game is the benefit package.

On a motion the meeting adjourned at 12:00 p.m.