

**PROTECTIVE SERVICES COMMITTEE MEETING  
PUTNAM COUNTY OFFICE BUILDING  
ROOM #318**

**CARMEL, NEW YORK 10512**

**Members: Chairman Gross & Legislators Gouldman & Nacerino**

**Thursday**

**December 10, 2015**

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The meeting was called to order at 6:30 p.m. by Chairman Roger Gross. He requested Legislator Nacerino lead in the Pledge of Allegiance. Upon roll call Legislator Nacerino, Gouldman and Chairman Gross were present.

**Item #3 - Approval/Protective Services Committee Meeting Minutes/October 2015**

Chair Gross approved the minutes as approved.

**Item #4 – Update/2015 Putnam County Coroners’ Office**

Chair Gross stated that Dr. Neshewait had a conflict in his calendar and was unable to attend. However, he did send correspondence that provided an overview of the total number of cases handled by the Coroners’ Office for 2015, to date, which was 70 cases. The correspondence provided a breakdown to show many cases each Coroner handled: Dr. Neshewait 37, Daniel Stephens 16 and John Bourges 17.

**Item #5 – Approval/Proposal-Municipal County Wide EMS Operating Authority**

- **Draft Resolution/Approval/Putnam County Establish ALS & BLS Care and Transportation Through a Contractor or Other Entity**
- **Correspondence Fr: Commissioner Sutton To: All Putnam County Fire & EMS Agency Officers Dated: November 20, 2015**
- **E-mails from Commissioner Sutton Dated: November 23, 2015/his communications w/ NYS DOH**

Chair Gross stated that Legislator Wright is not present (Legislator Wright did arrive later in the meeting). He stated he was asked to enter Legislator Wright’s e-mail dated December 9, 2015 in to the record. He stated that Legislator Wright’s has reservations with the correspondence that was received in the Legislative Office. He quoted from the e-mail: *“As I mentioned in prior emails, the Legislature is prohibited from doing this unless and until you have placed evidence into the record of your deliberations as follows: First, A demonstrated absence of care in ambulance or emergency medical services available; or an “inadequate level” of care in ambulance or emergency medical service available; and only then Second: after you have received such persuasive evidence (and made a fact based determination as to 1 of those 3 criteria)are you able to proceed to determine that whichever one of those three criteria which you have selected “is not readily correctable through the reallocation or improvement of existing resources”.*

Chair Gross stated that at the November 9<sup>th</sup> Protective Services meeting, it was discussed to hold a Special meeting in November. However due to many different factors the meeting was not scheduled. He stated that he did speak with Commissioner Sutton regarding the possibility that if something were to happen over the holidays in regards to Transcare’s ability to provide ALS services would there be a contingent plan in place. He stated Commissioner Sutton assured him that he did have a plan in place if that were to happen. He stated that Legislator Wright also

documents a concern regarding the County's liability in terms of expenses if the CON is obtained. He stated that Legislative Counsel Van Ross pointed out the fact that the County would be liable regardless if the County has a CON or not. He stated that there is a draft resolution before the Committee to be voted on this evening which would approve the Putnam County Commissioner of Emergency Services to make application seeking a Certificate of Operating Authority on behalf of Putnam County.

Commissioner Sutton stated that he continues to be concerned with the looming situation with Transcare. He stated that he did receive notice that their Workers Compensation was re-instated through to December 31, 2015. He stated this is approximately the fourth time since July of 2015 that there has been a lapse in Transcare's Workers Compensation. He stated his hope is that their inability to operate never happens; but as the Commissioner of Bureau of Emergency Services he believes he would not be doing his job if he did not bring this concern forward.

Chair Gross stated the focus of this Committee is the safety and protection of the residents. He is comforted by the fact that Commissioner Sutton has laid the ground work to provide temporary ALS coverage if Transcare were to go out of business.

Legislator LoBue stated she is not clear why Putnam County needs to have their own CON, rather than look for companies that have their own CON, as does Transcare.

Commissioner Sutton stated other than Transcare there are only two (2) companies that have a CON for Putnam County. He explained his hesitation of having Putnam County work with either of the two (2) companies. He stated the purpose of the County having its own CON is that it will provide the County the ability to select from a larger pool of ALS companies.

Legislator LoBue stated that she has previously stated, and will again, she is worried about the liability and the cost that will be incurred by the County as a result of having the CON. She stated to date nothing has happened with the service being provided by Transcare. She stated that she would like a copy of all the lawsuits involving Transcare that involves the County. She stated that also she does not see any written documentation that states that the County will not be responsible for the expenses. She stated she read the e-mails between Commissioner Sutton and the State DOH, but it is vague language. She stated nowhere is it clearly stated that the County will not be responsible for all of the costs and liability.

Chair Gross questioned can the County afford to have a gap if Transcare goes out of business tomorrow.

Legislator LoBue stated she believes the Legislature is being asked to make a decision based on limited information. She stated that she does not support the Legislature taking on additional responsibility and growing government.

Legislator Nacerino stated that she believes this is a common sense pro-active approach. She stated if the County incurs the liability, well we need to do it. She stated this is a service that needs to be provided. She stated it is a necessary expenditure. She stated that Commissioner Sutton is keenly aware, and has made the Legislature aware, that there is a potential problem

with the ALS service in the County. She stated if the County has to pay for the equipment and/or the personnel then so be it, the people of Putnam County need to be protected.

Chair Gross stated that he does not agree with the statement made that this is an action resulting in “growing government”. He stated the County would be growing in terms of responsibility.

Legislator LoBue stated that she respects her colleagues opinions, however she does not agree. She stated that the Legislature is being presented with a “titanic” scenario and the Legislature needs to act. She stated that it was discussed that there would be a public hearing providing an opportunity for all of the emergency response employees and volunteers of the County to be heard regarding this proposal.

Commissioner Sutton stated that each department head of the different agencies was invited to attend this meeting.

Legislator Gouldman stated anyone who owns a business understands the issue of making payroll. He stated if you do not make payroll employees will not stay and work for you. He stated if payments are not made towards Workers Compensation the financial responsibility is really high. He stated this company, has not made payroll several times and they have not paid their Workers Compensation several times. He stated the penalty for not making the Workers Compensation payments is very high. He stated if a company is having difficulty making their payments they will have an extremely difficult time making the penalty payments. He stated the fact that they are not meeting these payments speaks to the fact that they are not financially stable. He stated that he supports moving forward with this approval.

Chair Albano stated that he values Commissioner Sutton’s recommendations. He stated in reference to the liability concern; any attorney will tell you that in a law suit they go after the deepest pockets. He stated he believes it would be more irresponsible if the County were not prepared to take action. He stated if something does occur with Transcare, there will need to be much more discussion and review of the options; however the County will have the control in their midst to move forward.

Legislator Wright *(arrived late)* questioned who is the Company that the County is interested in engaging to provide the service.

Commissioner Sutton stated that there is no intention to change from the County’s use of Transcare, that is not the intention.

Legislator Wright stated to the extent that there is a potential emergency crisis kind of situation, has there been vetting of alternate vendors.

Commissioner Sutton stated that if Transcare goes out of business the RFP process within the County would be exercised and at that point the County would see which vendors reply to the RFP and are interested. He stated with all due respect this is his fourth or fifth time in front of this Committee with this proposal. He stated that he was asked to look into liability, he looked into the liability and got an opinion from the County Attorney, he was asked to get more

assurances from the State Health Department; he did, he was asked again for more assurances from the State Health Department; he did it, he was asked to set up a Public Hearing for the EMS Services- Fire based or Volunteered based in the County to attend tonight's meeting; he did. He stated he believes that this issue should be called and make a decision or if it is not the intention of the Legislature to go down this path, that is fine. He stated he sees himself as carrying out the responsibilities of his position as Commissioner. He stated that he has nothing to gain, he has no problem with Transcare's service, his concern is related solely to the corporate structure of the Transcare Corporation. The fact that they did not meet payroll and have missed their Workers Compensation is a sign that they are not a fiscally healthy company. He stated the idea to get the County a CON, came about during a conversation with the NYS Department of Health, when he communicated to them that Putnam County could wake up one morning and have a real problem here. He stated he was told that New York City would even be faced with a bigger crisis, because they have Transcare as well. He stated that he knows that the New York City Fire Commissioner is trying to add more units to the Fire Departments' ambulance side in an attempt to insulate them against a lawsuit. He stated he has given a conscious effort not to come in with a "chicken little" very dramatic approach in his presentation of his concern. He stated that he has tried to respond to every request from the Committee. He views it as his responsibility to put the Committee on notice that there is a potential problem. He stated what the Committee Members do with the information that he has brought forward is entirely up to them. He stated that he fully respects the responsibility of this Committee and the Legislature, and the difficulty in understanding how EMS operates. He stated he has no personal agenda here, other than to do his job. He stated he will not take it personally if this does not get approved. He stated he will be here along with Director of EMS Robert Cuomo and deal with the situation if there is a loss in the County's ALS vendor. He stated he is just trying to take the County from being vulnerable. He stated the only difference currently if the decision is to move forward with applying for the CON is that Transcare will work under the County's CON, everything else will remain the same. He stated as it is documented with the CON, the County would have the authority to assign all of the responsibilities to a contractor. He stated as long as the vendor operates under the rules and regulations of the Public Health Law Article 30, all is good to go. He stated that he cannot articulate this proposal anymore clearly.

Legislator Wright stated that the correspondence from the NYS Department of Health did make it clear that with the CON the County could hire any vendor they want. He stated however, it did not state that the County could delegate its responsibility or liability. He stated that would stay with the County forever.

Commissioner Sutton stated that the County would be named in a Lawsuit now as the contractor with Transcare.

Legislator LoBue stated that the County would have a bigger liability if it were holding the certificate. She stated this brings her point back to her request that the County Law Department send a copy of the Lawsuits that the County has incurred association with ALS against the County.

Chair Gross stated that this has been being discussed since the summer. He stated that he would like to commend Commissioner Sutton for bringing this information and recommendation for

action on behalf of the County forward. He stated he does not want to wait any longer on this and he believes his fellow Committee Members are in agreement to approve this and move it forward.

Legislator Scuccimarra stated that she agrees with Chair Gross. Commissioner Sutton for the past several months has been discussing this matter with us. She stated that he is warning us. She stated that the health and safety of the County is of the utmost importance. She stated that there is always a chance of getting sued, which is seen all of the time. She stated she supports having things in place for the County to take action if Transcare does go out of business.

Chair Albano stated he agrees as well. He stated that he believes the Legislators have heard enough on this proposal and it should be brought forward for a vote by this Committee.

Legislator Nacerino stated that she values Commissioner Sutton's opinion and integrity. She stated that the red flag is there and obvious. She stated that she believes it is encumbered upon the elected officials to recognize that the people of the County could be jeopardized should an emergency situation occur. She stated this proposal is about being proactive and projecting into the future that the County is prepared. She stated that she is very comfortable as a member of this Committee to move this matter forward for a vote of the Full Legislature at the Year End Meeting on December 21, 2015.

Legislator LoBue stated she would like clarification from Commission Sutton. She stated based on a statement made by Legislator Scuccimarra it sounds like nothing will change unless Transcare goes out of business; she does not understand that to be the fact.

Commissioner Sutton stated if the County applies for the CON and is granted it, then the contract with Transcare would need to be amended. He stated that the amendment would be that Transcare will work under the County's CON not theirs. He stated that it will not affect anything else in the contract. He stated he will state again, in an effort to make sure everyone is clear on the facts. If the County obtains the CON, after two (2) years, the County will have to go through the process with the Regional EMS Council.

Chair Gross read the proposed amended resolution.

Legislator Nacerino made a motion to approve Resolution which grants permission to the Commissioner of Emergency Services to make application seeking a Certificate of operating Authority on behalf of Putnam County; Seconded by Legislator Gouldman. All in favor.

**Item #6 – Approval/Request to Apply Grant/NYS Division of Homeland Security & Emergency Services – 2015/16 Public Safety Answering Points (PSAP) Operations Grant Program**

Deputy Commissioner Lipton stated this is a non-competitive Grant, it requires no financial match from the County.

Chair Gross made a motion to approve; Seconded by Legislator Gouldman. All in favor.

**Item #7 - Approval/Fund Transfer (15T291)/ Cover Overtime Due to open Personnel Line-Sept. & Oct. Sheriff's Dept.**

Undersheriff Convery and Lieutenant Hanley were present to address the items from the Sheriff's Department.

Undersheriff Convery stated that the never ending issue of the County Jail being used as a mental health hospital still exists. He stated that an actual hospital bed is now part of the equipment in the Jail. He stated that Lieutenant Hanley has broken down some of the financial facts that she would like to present to the Committee.

Lieutenant Hanley stated unfortunately the mental health issues in the County Jail are pervasive. She stated that she broke down the amount of money spent on constant watches. She stated in the first six (6) months of 2015 \$68,140 was spent. She explained the constant watches were mostly comprised of people who had suicide ideations or were withdrawing from alcohol or drugs. She stated in November alone \$55,640 was spent on constant watches. She stated November alone was \$12,500 less than the previous six (6) months total. She stated from December 1<sup>st</sup> to yesterday, December 9<sup>th</sup>, there have been four (4) constant watches. She stated that the approximate cost for December's constant watches is \$15,000. She stated unfortunately, as Undersheriff Convery stated, the mental health of the clientele coming into the Jail is getting worse. She stated that the Social Workers who work with the Jail see approximately 55 people per week. She stated it is very difficult to keep up with this.

Undersheriff Convery stated that there is also a more psychotic inmate base. He stated that the heavy drug use of the incoming inmates is creating challenges. He stated that he has been in the Corrections Business for many years. The demands being placed on the operations of the Jail have increased and changed. He stated that he wants the Legislature to know that the Sheriff's Department is overwhelmed with these new demands and requirements. He stated that the Sheriff's Department appreciates everything that the Legislature is doing. He stated that he believes it is very important that the Legislators be made aware of the day to day demands being placed on the operation of the County Jail.

Chair Gross questioned if there has been dialogue with the other jails. He questioned if the other jails are all facing these challenges as well.

Undersheriff Convery stated that the County Jails are all overwhelmed. He stated that there is a trend in sending people to the County Jails and not the State Prisons. He stated he has no explanation for that. He stated the State Prison population is coming down.

Chair Gross questioned if it is correct that a person can only be sentenced to one (1) year in County Jail.

Lieutenant Hanley stated a person can be in County Jail for two (2) years. She stated as Undersheriff Convery has stated, the clientele, unfortunately have more problems than ever before. She explained there is a person in the jail currently who has been in the jail for 30 days, who has been on constant watch for 22 days. She stated thanks to the collaborative efforts of Commissioner Piazza and Deputy Commissioner DeMarzo there is a plan being worked on to get

this person to a home in Pennsylvania. She stated this person suffers from so many different modalities of mental health issues that it has been extremely challenging to find a place that can handle him. She stated the Putnam County Jail is not equipped to help this individual.

Undersheriff Convery stated the extreme drug use is resulting in people coming into the jail medically in very bad shape. He stated the mental health issues are severe. He stated Lieutenant Hanley does an excellent job, the medical contract, Correction Medical is excellent.

Legislator LoBue stated this goes back to the New York State Governor and the State Officials because they have eliminated the mental institutions in New York.

Undersheriff Convery stated that is a sad fact.

Legislator LoBue questioned if there has been room for board-ins in the jail.

Undersheriff Convery stated yes, they have federal and state board-ins currently.

Legislator Nacerino stated the Fund Transfer before the Committee is to cover overtime cost for September and October because of the open personnel lines. She questioned if the candidates have been hired to fill the positions.

Undersheriff Convery stated that one (1) of the candidates has recently been contacted and there are two (2) in the works.

Legislator Nacerino made a motion to approve Fund Transfer (15T291)/ Cover Overtime Due to open Personnel Line-Sept. & Oct. Sheriff's Dept.; Seconded by Legislator Gouldman. All in favor.

**Item #8 – Approval/Fund Transfer (15T304)/Cover Overtime Due to three (3) Correction Officers in Basic Corrections Academy/Sheriff's Dept.**

Legislator Nacerino made a motion to approve Fund Transfer (15T304)/ Cover Overtime Due to three (3) Correction Officers in Basic Corrections Academy/Sheriff's Dept.; Seconded by Legislator Gouldman. All in favor.

**Item #9 - Other Business**

**a) Approval/Budgetary Amendment (15A085)/NYS Division of Criminal Justice Services Awarded Putnam County Sheriff Grant Funding 2015-16 Livescan Equipment Grant Program/Sheriff's Dept.**

Undersheriff Convery stated that the Livescan Equipment is a mandated computerized finger printing system.

Legislator Nacerino made a motion to approve Budgetary Amendment (15A085)/NYS Division of Criminal Justice Services Awarded Putnam County Sheriff Grant Funding 2015-16 Livescan Equipment Grant Program/Sheriff's Dept.; Seconded by Legislator Gouldman. All in favor.

**b) Approval/Budgetary Amendment (15A089)/Amendment required to cover reimbursable expenses incurred by the Sheriff's Department**

Legislator Gouldman made a motion to approve Budgetary Amendment (15A089)/ Amendment required to cover reimbursable expenses incurred by the Sheriff's Department; Seconded by Legislator Nacerino. All in favor.

**c) FYI/Fund Transfer (15T323)/Purchase Lab Supplies/Probation Department**

Duly Noted.

**d) Approval/Fund Transfer (15T335)/Additional Funding needed to Y/E/Sheriff's Dept.**

Legislator Nacerino made a motion to approve Fund Transfer (15T335)/Additional Funding needed to Y/E/Sheriff's Dept.; Seconded by Legislator Gouldman. All in favor.

**e) Legislator LoBue/Speed Enforcement by Sheriff's Department/East Lake Boulevard/Mahopac**

Legislator LoBue stated that last month at the Physical Services Committee meeting there was a discussion regarding the speeding on East Lake Boulevard in Mahopac. She stated that there was discussion regarding posting speed signs along the road. She stated some of the speed signs have been posted. She stated that she is aware that this matter will be discussed during the next meeting, Physical Services. However, she is requesting that the Sheriff's Department get involved, and she would like to address the request to Undersheriff Convery, since he is present.

Undersheriff Convery stated the Sheriff's Department has helped out the Town of Carmel Police Department before. He stated he will get in touch with Town of Carmel Chief Michael Cazzari on this matter. He stated that he agrees that it is a very busy road.

**Item #10 - Adjournment**

There being no further business, at 7:20 P.M., Chair Gross made a motion to adjourn; Seconded by Legislator Nacerino. All in favor.

Respectfully submitted by Deputy Clerk of the Legislature Diane Trabulsy.