

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: SHERIFF & COMMUNICATIONS

DATE: MAY 24, 2007

COMMITTEE MEMBERS PRESENT:

SUPERVISORS BENTLEY
VANNESS
O'CONNOR
BELDEN
HASKELL
STEC

COMMITTEE MEMBER ABSENT:

SUPERVISOR MASON

OTHERS PRESENT:

SHERIFF CLEVELAND
CHAIRMAN THOMAS
PAUL DUSEK, COUNTY ATTORNEY
HAL PAYNE, COMMISSIONER OF ADMINISTRATIVE & FISCAL
SERVICES
JOAN SADY, CLERK
SUPERVISORS CAIMANO
GABRIELS
GERAGHTY
KENNY
SOKOL
MARVIN LEMERY, ADMINISTRATOR OF FIRE PREVENTION &
BUILDING CODE ENFORCEMENT
AMANDA ALLEN, LEGISLATIVE OFFICE SPECIALIST

Mr. Bentley called the meeting of the Sheriff & Communications Committee to order at 9:35 a.m.

Motion was made by Mr. Belden, seconded by Mr. Stec and carried unanimously to approve the minutes of the April 26, 2007 Committee meeting, subject to correction by the Clerk of the Board.

Privilege of the floor was extended to Larry Cleveland, Sheriff, who distributed copies of the agenda to the Committee members; *a copy of the agenda is on file with the minutes.*

Sheriff Cleveland apprised that the first agenda item pertained to a resolution request to ratify actions taken with respect to a Homeland Security Grant application completed and the subsequent receipt of the grant funding in the amount of \$24,800. He explained that a percentage of the grant funding received would be distributed to the City of Glens Falls Police Department, because the grant application had been filed on their behalf, and the remainder would be used to install surveillance cameras at the Warren County Airport. Sheriff Cleveland noted that Committee approval was necessary to ratify his actions, as he had mistakenly signed the grant application upon confusing it with another Committee approved order of business.

Motion was made by Mr. Stec, seconded by Mr. Haskell and carried unanimously to approve the request to complete a grant application with the NYS Division of Criminal Justice Services for the State Homeland Security Program and to ratify actions already taken to secure such grant; thereby amending the County Budget to increase estimated revenues and appropriations in the amount of \$24,800, to reflect the receipt of said grant funding, and refer same to the Finance Committee. Copies of the resolution request forms supporting these requests are on file with the minutes, and the

necessary resolution was authorized for the June 15th Board meeting.

Proceeding with the agenda review, Sheriff Cleveland announced that the second item listed referred to information requested by the Finance Committee with respect to the credit cards used by various Departments. He advised that his Office maintained two Mastercard credit cards, as well as several gas cards, (*twenty Mobil/Exxon, twenty Sunoco and ten Gulf Oil*), which they had possessed for approximately thirty years. Sheriff Cleveland apprised that the gas cards were advantageous to the County because they allowed for the purchase of gasoline at State contract prices while on the road and away from County fuel farms, eliminating the need to pay the taxes added to gasoline prices. He added that these cards were also used by the boat patrol units to purchase fuel from the marinas on Lake George while patrolling the lake during the summer months.

Mr. Camino noted that the credit cards referenced by Sheriff Cleveland were not the ones in question and Joan Sady, Clerk of the Board, clarified that the request had been made by the Finance Committee to determine the use of department store credit cards. Sheriff Cleveland replied that although the Sheriff's Office had acquired account cards for stores such as Home Depot, Lowes and Staples, they were not credit cards. He expounded the account card simply identified the Sheriff's Office and its tax identification number for tax free purchases at State contract pricing, and all purchases were subsequently billed to the Sheriff's Office. Sheriff Cleveland added that each of the stores at which an account card was issued had been given a list of those employees authorized to use it. He stated that although he could certainly provide a listing of the businesses that had provided the account cards, he was fairly certain they were limited to only the three stores previously mentioned and it was important to remember that these were not credit cards, but simply an account card used for identification purposes.

Mr. Caimano asked if the purchases made with the account cards were audited and Sheriff Cleveland explained that the same purchasing procedure was used as in all other Departments, requiring a billing for purchases be forwarded for payment; he reiterated that the account card was used to identify the Sheriff's Office as the buyer and listed the pertinent tax identification information.

Paul Dusek, County Attorney, entered the meeting at 9:40 a.m.

Hal Payne, Commissioner of Administrative and Fiscal Services, noted that as part of the purchasing agreement recently adopted by the Board, all supply purchases were to be directed to the Stock Room and not independently made from Staples. Sheriff Cleveland replied that the purchases made through Staples did utilize the purchasing procedure; for example, he stated, they had recently purchased a literature cabinet for the new Sheriff sub-station in the Town of Warrensburg and in doing so had contacted Staples and given their account card information to authorize the purchase, which would then be delivered and billed through the Stock Room as per the purchasing agreement. Sheriff Cleveland confirmed that all office supply orders were being made directly through the Stock Room, as required.

Sheriff Cleveland reminded the Committee that the two Mastercard credit cards possessed by the Sheriff's Office had been approved by Board resolution and were used for overnight trips necessitated by prisoner transport and training courses. He said that these were also used for internet purchases and in those cases purchase orders were obtained prior to finalizing the transactions. Sheriff Cleveland explained that two cards were necessary because when staff members traveled a card was often needed upon registering at the lodging location, while the second card remained at the Sheriff's Office at all times in the event that it might be needed.

Mr. Belden asked how many staff members were authorized to utilize the department store account cards and Sheriff Cleveland advised that authorization was limited to himself, the three Division Commanders, and the two Senior Maintenance Workers, who used the account cards most frequently.

Mr. VanNess stated that due to credit card issues in other Departments, the Finance Committee had discussed the need for a more controlled system and suggested that it might be suitable to require all cards be held by Mr. Payne for distribution as needed. Sheriff Cleveland countered that the Sheriff's Office had instituted a complete written procedure for the use of the credit cards, developed to avoid any misuse, and he noted that if the Committee were to speak with Judith Harris, County Auditor, they would find that there had been no issue with the use of the credit cards by the Sheriff's Office. He added that he would be very reluctant to surrender the credit cards used by the Sheriff's Office to Mr. Payne because frequently their use was required after normal business hours.

Mr. Caimano stated that the procedures used by the Sheriff's Office were not at issue, rather, instituting a more controlled procedure for credit card use was the intention of the Finance Committee, as certain unfavorable issues had arisen in other Departments. He advised that a single point of control was necessary for all County credit cards; otherwise, he said, an unfavorable incident might occur in the future that would cast a disparaging light on the County as a whole for not instituting such controls, possibly even drawing criticism from the State Comptroller's Office. Sheriff Cleveland responded, stating that the State Comptroller's Office had performed a complete audit, including the credit cards used by the Sheriff's Office, within the past six months and had given their approval of the system they used.

Mr. Kenny entered the meeting at 9:44 a.m.

Mr. Haskell reminded the Committee members that this matter had been discussed in the past and the Board had adopted a resolution authorizing the use of the credit cards currently held by the Sheriff's Office. He noted that it would be impossible for the Sheriff's Office to continue to function as they had if the cards were remanded to Mr. Payne for safekeeping, especially in light of the fact that the Sheriff's Office was a 24-hour operation while Mr. Payne worked normal business hours.

Mr. O'Connor stated that although he rarely disagreed with Mr. Caimano's logic, he did in this case. He noted that if the Department were much smaller with foreseeable expenses he would certainly

agree to the constraints suggested by Mr. Caimano. However, Mr. O'Connor stated, as the Board had already authorized the possession of these credit cards, and in light of the fact that there had never been an issue with the use of such credit cards, he said that he saw no reason to change the procedures used by the Sheriff's Office.

Marvin Lemery, Administrator of Fire Prevention and Building Code Enforcement, entered the meeting at 9:48 a.m.

Discussion ensued.

It was the consensus of the Committee that the Sheriff's Office be allowed to retain the credit cards possessed and continue to utilize the credit card procedures currently in place and Mr. Caimano asked that Sheriff Cleveland provide a written copy of such procedures to Mr. Payne.

Returning to the agenda review, Sheriff Cleveland apprised that the final item listed referred to a diesel fuel spill on Gore Mountain. He explained that semi-annually inspections of the Gore Mountain radio tower site were performed, the most recent of which was during the past week, when the fuel spill was found. Sheriff Cleveland stated that the site was a crucial part of the radio system used for the fire departments and EMS (Emergency Medical Squads); he added that the tower was owned by EnCon (New York State Department of Environmental Conservation) while the County supplied and maintained the building, radio structure and generator used on the site. Upon inspection, he stated, it was assumed that during the power outage in April, when the generator had run continuously for five days, its fuel filter had deteriorated allowing the fuel seepage. Sheriff Cleveland said that although they could not give a definitive answer as to how much fuel was spilled, they estimated that approximately 30 gallons had been lost.

Sheriff Cleveland advised that he had immediately contacted Mr. Payne, the insurance carrier and EnCon to report the incident, and EnCon had sent personnel directly to the site to review the spill. Upon visiting the site, he stated, EnCon determined that the seepage had to be cleaned up as quickly as possible to avoid any extended pollution caused by rain spreading the seepage and leading to additional damages. Sheriff Cleveland said that he had contacted William Lamy, DPW Superintendent, to inquire whether his staff was qualified to perform the clean-up of the polluted area and he had been advised that they were not certified to do such work. As there was no other option, Sheriff Cleveland explained that he had contacted Op-Tech Environmental, the State contract vendor used by EnCon, to perform the mitigation and the job had been completed within two and a half days. Sheriff Cleveland apprised that although the job had been performed quickly and in an efficient manner, the cost of the clean-up would be up to , but not more than, \$20,000. He explained that excavators and other certified equipment had to be transported to the site, which was difficult to reach during seasonable months and impossible to reach during the winter, to perform the clean-up.

Mr. VanNess asked if the generator was serviced on a regular basis and Sheriff Cleveland replied affirmatively. Sheriff Cleveland added that his staff was researching the service history to determine if liability for this loss might be attributed to the company hired to service the generator.

Mr. Belden asked if the clean-up costs could be submitted to the County's insurance carrier for coverage and Paul Dusek, County Attorney, replied that so far it did not seem to be a viable claim. He explained that the Gore Mountain site was not covered on the pollution policy and the NYMIR (New York Municipal Insurance Reciprocal) policy limited coverage to causal events, such as a storm or fire, leading to the loss.

Mr. Geraghty stated that although secondary containment of the generator's fuel barrel was not required, it might be a legitimate consideration in light of the loss the County now faced for the pollution mitigation. Sheriff Cleveland advised that he would certainly look into this matter for future consideration.

Mr. VanNess stated that in order to fund the clean-up costs, Sheriff Cleveland might need to pay for the costs from his existing budget and return to the Committee later in the year if the funds were needed and Sheriff Cleveland replied that he could certainly do this.

Supervisor Sokol entered the meeting at 9:58 a.m.

In response to Mr. Bentley's query as to why the loss could not be covered by one of the County's insurance policies, Mr. Dusek emphasized that the NYMIR policy was not a pollution coverage policy, although they had been very willing to visit the site and review the policy coverage to determine if the claim was viable. As such, he said that it would not be fair to hold NYMIR accountable for this loss when theirs was not a pollution policy. Mr. Dusek stated that AIG was the company underwriting the County's pollution coverage and a claim had been submitted to them for the loss; however, he said this site had been recently removed from the listing of covered sites, as it had not been considered a risk, and therefore it did not seem that coverage was available. He said that he was currently working with AIG to try to determine exactly when the seepage occurred, because if the event could be dated back to the time when the location was listed on the pollution policy, coverage might be granted. Mr. Dusek added that they would also review the liability of the party designated to service the generator to determine if the responsibility for the loss might be attributed to them.

Discussion ensued.

Motion was made by Mr. VanNess, seconded by Mr. Belden and carried unanimously to authorize Sheriff Cleveland to pay for the costs of clean up for the fuel spill on Gore Mountain, estimated in the area of \$20,000, from his budget, and the necessary resolution was authorized for the June 15th Board meeting. *(Note: Subsequent to the meeting a resolution request to ratify the actions of the Sheriff and to authorize payment of the costs incurred was received and a copy is on file with the minutes.)*

Mr. Gabriels asked if there might be any value in selling the fuel barrel to EnCon for their maintenance and liability in the future, provided that the County continued to provide the fuel needed to run the generator. Sheriff Cleveland replied that although he could certainly inquire about the possibility, EnCon allowed the County free use of their tower in return for maintaining the building and generator located there, which they also benefitted from. He said that if EnCon were

forced to incur additional liability they may decide to charge the County for the use of their tower, which would not be economically prudent.

Mr. Bentley advised that as per Mr. Dusek, an executive session was necessary to discuss matters relating to proposed, pending or current litigation.

Motion was made by Mr. Haskell, seconded by Mr. Belden and carried unanimously that executive session be declared, pursuant to Section 105(d) of the Public Officers Law.

Mr. Payne left the meeting at 10:02 a.m.

Executive session was declared from 10:02 a.m. to 10:13 a.m.

Upon reconvening, Mr. Bentley stated that no action was necessary subsequent to the executive session.

Mr. Dusek reminded the Committee that during the prior month's meeting they had approved Local Law No. 6 of 2007, which was intended to eliminate the use of auto-dialing systems in connection with the 911 Emergency Call Center. He advised that although the Local Law had been drafted and approved by the Board of Supervisors at their May 18th meeting, it had come to his attention that the amendment did not cover all of the facets needed. Mr. Dusek stated that in speaking with Sheriff Cleveland he had determined that a completely separate Local Law should be produced in lieu of the initial one drafted to amend a previous Local Law. He apprised that the notice of public hearing for Local Law No. 6 of 2007 had not been published and therefore had resulted in no cost to the County. Mr. Dusek stated that a separate Local Law would be presented at the June Board meeting addressing the automatic dial-up issues and keeping it separate from the Local Law pertaining to the routing of 911 calls.

Motion was made by Mr. Belden, seconded by Mr. Haskell and carried unanimously to authorize Mr. Dusek to proceed in developing the new Local Law as outlined above. (*Note: Subsequent to the meeting a resolution request to rescind Resolution No. 308 of 2007, which introduced Local Law No. 6 of 2007, was received and a copy is on file with the minutes.*)

As there was no further business to come before the Sheriff & Communications Committee, on motion made by Mr. VanNess and seconded by Mr. Belden, Mr. Bentley adjourned the meeting at 10:14 a.m.

Respectfully submitted,
Amanda Allen, Legislative Office Specialist