

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: PERSONNEL & ADMINISTRATION

DATE: JULY 30, 2020

COMMITTEE MEMBERS PRESENT: OTHERS PRESENT:

SUPERVISORS SIMPSON
GERAGHTY
FRASIER
BRAYMER
CONOVER
MAGOWAN
MCDEVITT
MERLINO
WILD

JACKIE FIGUEROA, HUMAN RESOURCES DIRECTOR
FRANK THOMAS, CHAIRMAN OF THE BOARD
RYAN MOORE, COUNTY ADMINISTRATOR
MARY ELIZABETH KISSANE, COUNTY ATTORNEY
AMANDA ALLEN, CLERK OF THE BOARD
SUPERVISORS BEATY
DRISCOLL
LEGGETT
SEEBER
STROUGH

ERIN BROTHERS, ASSISTANT TO THE PUBLIC DEFENDER
TAMMIE DELORENZO, ASSISTANT TO THE COUNTY ADMINISTRATOR
MARCY FLORES, PUBLIC DEFENDER
KEVIN HAJOS, SUPERINTENDENT OF PUBLIC WORKS
CHRISTIAN HANCHETT, COMMISSIONER, DEPARTMENT OF SOCIAL SERVICES
DON LEHMAN, DIRECTOR OF PUBLIC AFFAIRS
ELIZABETH McLAUGHLIN, BOARD OF ELECTIONS COMMISSIONER (D)
MIKE SWAN, WARREN COUNTY TREASURER
ROBERT TERWILLIGER, FIRST ASSISTANT COUNTY ATTORNEY
WILLIAM VANNESS, BOARD ELECTIONS COMMISSIONER (R)
SARAH McLENITHAN, DEPUTY CLERK OF THE BOARD

Please note, the following contains a summarization of the July 30, 2020 meeting of the Personnel & Administration Committee; the meeting in its entirety can be viewed on the Warren County website using the following link: <https://www.warrencountyny.gov/gov/comm/Archive/2020/personnel/>

Note: As per Governor Cuomo's Executive Order 202.1: "Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such actions authorized by the law without permitting in public in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed". All committee members and attendees participated by video or teleconference, aside from Supervisors Simpson, Geraghty, Braymer, McDevitt and Merlino who were physically present.

Mr. Simpson called the meeting of the Personnel & Administration Committee to order at 10:01 a.m.

Copies of the meeting agenda were distributed to those in attendance, those participating remotely accessed the agenda via the Warren County website; a copy of the agenda is on file with the meeting minutes.

Motion was made by Mr. McDevitt, seconded by Mr. Magowan and carried unanimously to approve the minutes of the previous Committee meeting, subject to correction by the Clerk of the Board.

Mr. Simpson offered privilege of the floor to anyone present wishing to address the Committee on any matter, there being no one wishing to speak, he moved on to Agenda Item 1, which included an item/request to be discussed by

the Human Resources Director and/or Personnel Officer which consisted of the Report on Tracking of Vacancies Filled. It was noted that this report was provided as an informational item and anyone with questions could contact the Human Resources Director directly.

Mr. Simpson stated he had requested going forward for Jackie Figueroa, *County Human Resources Director*, to report on exit interviews, resignations, retirements and terminations to allow the Committee to have a better understanding regarding what was occurring with all of these vacancies and transitions. He apprised there had also been a question concerning complaints that had been filed, but he was unsure what the policy was for dealing with them. Jackie Figueroa, *County Human Resources Director*, advised any complaints her Office received were stored in locked files and could only be released if the complaint resulted in disciplinary action, as per the current County policy.

Proceeding to Agenda Item 2, Mr. Simpson presented a request from the County Treasurer to authorize payment to employees on paid administrative leave after June 17, 2020, without requiring use of their leave time accruals. He noted these employees were directed to stay home as a safety measure in response to the COVID-19 pandemic. Mike Swan, *County Treasurer*, apprised he was requesting a formal resolution because of the conflicting information available about how this paid administrative leave was supposed to work. He explained after the region moved into Phase Four of the reopening process there was some material which indicated it should not have been done, but then there was other guidance provided by the Governor's Office that indicated the County should keep staffing levels at a minimum for as long as possible. He said they were fortunate the County had decided to err on the caution side and keep staffing levels at the minimum level, but advised he would like a resolution stating the County understood what was occurring and wanted to keep paying employees while they were asked to stay home so he had back up when he was audited. He added he also felt it was important to have this in place going forward in case there was another spike in the Coronavirus which required the County to keep staffing levels at a minimum.

Ms. Seeber inquired as to the cost of the paid administrative leave from June 17th and Mr. Swan responded it was around \$77,000 in wages. Ms. Braymer asked how many employees this encompassed and Mr. Swan replied he was unsure of the total number because the figure varied every payroll, but said he believed there were only a few employees remaining on paid administrative leave and those would be returning to work this week. Ms. Braymer questioned whether the \$77,000 covered the entire timeframe and Mr. Swan clarified the timeframe was from June 17th until now, but he would like the authority to remain in place going forward in case it was needed in the future. He mentioned it was dependent upon how they interpreted the guidance from the State and he wanted to ensure they were covered both ways when the County was audited next Spring.

Ryan Moore, *County Administrator*, advised the Governor's Office had issued a mandate by Executive Order that government staffing levels remained under 50% and that mandate turned into an option on June 17th. He stated the office reopening guidelines encouraged governments to do so gradually. He informed he had held a Department Head meeting in June to begin scaling the workforce back up with each Department having a safety plan in place. He mentioned those safety plans were put into place with the idea that any kinks occurring along the way would be worked out before each Department returned to full-staff. He indicated tomorrow was the last regular workday of the pay period, unless individuals worked on weekends; he added that according to the report he ran yesterday the only two Departments that had paid administrative leave recorded so far in this pay period were Public Health for all of last week, but this had been phased out of the department since then, and the Department of Social Services

for five individuals, only one of which had a full day and the others were for up to three hours. He stated according to Christian Hanchett, *Director, Department of Social Services*, paid administrative leave would be phased out during the next pay period which began on Monday, August 3rd. He stated if they went back further to review the prior pay period which ended on July 17th the only Departments that were still using full days paid administrative leave were the District Attorney, Department of Social Services, Real Property Tax Services and the Sheriff's Office, but all had ceased using the leave with the exception of the Department of Social Services. He apprised there was a resolution in place for paid administrative leave when it was applicable to medical quarantines, but they had none in place for paid administrative leave for the 50% reduction in the workforce because it was a result of a State mandate from the Governor's Office. He stated they were seeking a resolution to provide authority for the time when the Governor changed staffing levels from a mandate to an option on June 17th.

A discussion ensued during which Mr. Swan clarified in the future if it became necessary to use paid administrative leave again he would not do so without notifying the Board members beforehand. During the discussion Ms. Seeber requested that in the future the decision regarding paid administrative leave be brought before the Board before any action was taken. Ms. Braymer concurred with Ms. Seeber that the Board needed to be involved with this decision making in the future; she said she understood this was an unprecedented time, but opined that going forward they should not be taken by surprise. She advised Mr. Moore had done a great job keeping them informed, but said she felt that Mr. Simpson, as the Chair of the Personnel & Administration Committee, could have kept the Board better informed and involved in the decision making process. She pointed out she had requested a few weeks ago that they consider furloughing employees on a voluntary basis, specifically over the Summer, but this suggestion was never brought before the Committee for consideration nor was it ever discussed at any point. She advised if they had to repeat the process of sending employees home on paid administrative leave she felt this was something that should be brought before the Committee to allow them to deliberate about it and have a discussion and come to a decision by the Board. Mr. Simpson pointed out Ms. Braymer had brought the suggestion for furloughs before them at a previous Committee meeting, but the Committee took no action. Ms. Braymer apprised she could not recall discussing furloughs at a previous Committee meeting; however, she noted, it was something she would urge them to consider going forward to prevent the County from paying \$77,000 for employees who may have been willing to stay at home this summer with their children and not be paid on a voluntary basis.

Motion was made by Mr. McDevitt, seconded by Mrs. Frasier and carried unanimously to approve the request brought forth by the County Treasurer to authorize payment to employees on paid administrative leave after June 17, 2020, without requiring use of their leave time accruals, and the necessary resolution was authorized for the August 21st Board Meeting.

Agenda Items 3A-B, Mr. Simpson advised, pertained to the following requests/items to be discussed by the County Administrator:

- 3A) Request to amend Resolution No. 484 of 2019, *Adopting Amended Warren County Travel Policy and County Vehicle Use Regulations*, to update the included Authorization to Attend Meeting/Convention form to include online training.

Mr. Moore stated this request was for clean up purposes, as the current policy did not require Departments to submit their requests for online training to him for approval, but some of them did anyway and he felt it was better practice to have all requests submitted to ensure everyone was aware of what was occurring.

Motion was made by Mr. Geraghty, seconded by Mr. McDevitt and carried unanimously to approve the request and the necessary resolution was authorized for the August 21st Board Meeting.

3B) On behalf of the Public Defender - Request to authorize rental of office space.

Marcy Flores, *Public Defender*, stated that Amy Clute, *Self-Insurance Administrator*, and the Risk Assessment group had toured her Office when the pandemic first occurred and determined they could not use their Office conference room as one due to ventilation issues resulting in her using an office she planned to use for the two new positions she received approval for that were fully funded through grant funding and use that space as a conference room which meant she had no office space for these positions. She stated the proposal before them was to lease office space at 333 Glens Street., Suite 102, Glens Falls, NY at no cost to the County through the use of Hurrell - Haring Grant funding received through NYSOILS (*New York State Office of Indigent Legal Services*); she added the grant funding would also cover the cost of furnishings, electricity, etc. for the office space. Mr. Magowan recognized Ms. Flores for locating funding to pay for the additional office space and praised her efforts.

Motion was made by Mr. Magowan, seconded by Mr. McDevitt and carried unanimously to approve the request and the necessary resolution was authorized for the August 21st Board Meeting.

Mr. Simpson apprised he had spoken with Amanda Allen, *Clerk of the Board*, and Mr. Moore about the possibility of providing a report on which resolutions adopted by the Board of Supervisors were executed and which had not, as he was aware there were some resolution adopted which were not subsequently used; he said he believed a report would also keep them informed about when costs were less then anticipated and a savings was achieved.

Mr. Simpson indicated there were no items to be discussed by the County Attorney, as noted in Agenda Item 4.

Mr. Simpson apprised Agenda Item 5 was for informational purposes only and pertained to Chairman Thomas appointing Michael J. Grasso to the Warren/Washington Counties Industrial Development Agency at the August 21, 2020 Board Meeting.

Mr. McDevitt advised he was uncomfortable supporting Mr. Grasso's appointment due to the commitment he made to Travis Whitehead, *Town of Queensbury Resident*, to support his appointment to the Warren/Washington Counties Industrial Development Agency. He stated although Mr. Grasso was qualified and would likely do a good job, he could not support his appointment until Mr. Whitehead's appointment was resolved. He stated he believed Mr. Grasso's appointed created needless controversy and until the issue with Mr. Whitehead was resolved he would be voting in opposition of the appointment.

Ms. Braymer inquired what the County's policy was for keeping files on non-employees in the Human Resources Department and Ms. Figueroa responded any complaint made by an employee under one of the Warren County Policies was kept on file for six years regardless of who the complaint was against. Mr. Beaty asked if this was applicable to private citizens, as well, and Ms. Figueroa replied this was for any complaint made by a County employee under one of the County's policies. Ms. Seeber requested clarification as to whether these complaints were

confidential, as Ms. Figueroa had previously indicated the only things that would be public, and which the Committee could discuss in an executive session, would be complaints resulting in disciplinary action taken; Ms. Figueroa confirmed complaints that did not result in disciplinary action would remain confidential. Ms. Seeber asked what the internal policy was for complaints filed by employees and Ms. Figueroa responded once they were resolved they were stored in a locked drawer for six years to be available and used as part of the investigation process in the event a future complaint occurred. In response to a question asked by Ms. Seeber, Mr. Figueroa advised if a previous complaint was unfounded it would not be used moving forward to establish a pattern of behavior, but noted the current policy was different than what it had been in previous years. Ms. Seeber inquired whether the unfounded claims remained on file, and if so, who had access to them; Ms. Figueroa responded regardless of whether a complaint was unfounded it would remain on file for six years and only she and her assistant had access to them.

Mr. Wild voiced his hope that the Committee could resolve the issue with Mr. Whitehead's appointment, which he said he was no longer supportive of, but acknowledged there were others who would like to see his appointment approved. He stated Mr. Whitehead's appointment had been dragged on since the beginning of the year, and although he did not believe there was sufficient support for it to be approved by the full Board, he felt they needed to put this issue to bed in order to appoint someone else; he asked whether a motion was required to bring Chairman Thomas' appointment to the floor for approval and Mr. Simpson replied in the negative. Mr. Simpson explained Chairman Thomas had asked that his appointment of Mr. Grasso be placed on the agenda for informational purposes only. Mr. Wild apprised there were so many other important issues the Board had to deal with and he wanted to move past this one so they could focus on more pressing matters.

Although unnecessary, a motion was made by Mr. Wild and seconded by Mr. Conover to approve the appointment of Michael J. Grasso to the Warren/Washington Counties Industrial Development Agency at the August 21, 2020 Board Meeting to show the support of the Personnel & Administration Committee.

Ms. Braymer advised they had decided the policy for appointments was that the Chairman would make a recommendation which would be brought before the full Board and she questioned why they were making a motion in this Committee when that was not the correct process. She said she would be voting in opposition because she would like their appointment to be someone who was impartial and not politically connected in this manner, as Mr. Grasso was the Chairman of the Warren County Republican Committee; she added she was appreciative of being able to review Mr. Grasso's resume. She mentioned her second comment related to something Chairman Thomas had said at the July 17th Board Meeting about how he had viewed the complaints made against Mr. Whitehead and she was requesting permission of the Committee to review that file in the Human Resources Office, as well.

Mr. Simpson asked Don Lehman, *Public Relations Manager*, to read aloud the public comments he had received from Mr. Whitehead regarding the motion before they voted on it. Mr. Lehman advised Mr. Whitehead indicated "he was taken aback by the disclosure from Mr. Thomas that suggested he had multiple harassment complaints against him. He said he had tried to verify this via FOIL (*Freedom of Information Law*) and was told that information was not available to anyone including the accused so if there were multiple charges pending he was unaware of them. He mentioned he had also checked with the Sheriff's Department and asked for all harassment complaints directed against him and was told the only one was filed six years ago, was investigated, was forwarded on to the District Attorney and from what he was told at the time was laughed it off as a non-incident. He continued,

if anyone would like to know more about that it was covered in depth at *The Post Star* and those articles were still available online. He advised his question for the Board was can a workplace harassment charge be accepted when it involved a non co-worker or outside of the workplace and if a complaint was warranted would not the Sheriff be the place to file it. He mentioned his second question was do members of the Board believe in the concept of due process and the right to even know about charges before the conclusions were drawn and whether or not an individual was presumed innocent until proven otherwise. He informed all lives mattered, even the ones they may not like. He stated if there were past or pending charges that remained against him when would he have the opportunity to even be made aware of them and would he be allowed to contest any evidence to present the defense.” Mr. Lehman advised Mr. Whitehead had also made a comment regarding Mr. Grasso, but before making that he wanted to know if Mr. Simpson had any response to his comments. In regard to Mr. Whitehead’s question whether a harassment charge could be accepted when it involved a non co-worker outside of the workplace, Mr. Simpson advised Ms. Figueroa had indicated to him that it could be accepted. Mr. Simpson inquired whether the Sheriff’s Office would be the place to file a warranted complaint and Mary Elizabeth Kissane, *County Attorney*, replied these type of complaints could be filed under the County’s Workplace Harassment Policy or with the Sheriff. Mr. McDevitt questioned whether the Workplace Violence Policy specifically mentioned a harassment complaint by a non-employee of the County and Ms. Kissane replied affirmatively. Mr. McDevitt requested that a copy of this portion of the policy be emailed to him.

A discussion ensued.

Mr. Lehman advised Mr. Whitehead’s next comment concerned the Chairman’s appointment of Mr. Grasso to the Warren/Washington Counties Industrial Development Agency at the August 21, 2020 Board Meeting which indicated he was aware the Chairman had appointed the Chairman of the GOP (*Grand Old Party*) to fill the position on the Warren/Washington Counties Industrial Development Agency which had been vacant for five months. He stated this was on the eve of a heated general election in three months time where the GOP had just nominated a person to run against him for a seat on the Queensbury Town Board. He informed the timing smelled bad to him and he inquired if the Board members present could detect that odor, as well before they cast their votes today. He mentioned the County Ethics Law decreed the mere appearance of a conflict of interest was questionable and while he harbored no ill will towards the GOP Chairman, he and others should be aware of how bad this appeared when Chairman Thomas, also a republican, appointed his party’s chair and at the same time discredited a GOP election opponent.

A discussion ensued following which Mr. Simpson called the question and the motion to approve the request to appoint Mr. Grasso to the Warren/Washington Counties Industrial Development Agency was carried by majority vote, with Ms. Braymer and Mr. McDevitt voting in opposition, and a resolution supporting the Chairman’s selected candidate was authorized for the August 21st Board Meeting.

Concluding the agenda review, Mr. Simpson noted Agenda Item VI consisted of a listing of vacancies approved for filling by Standing Committees since the last Personnel & Administration Committee meeting, which included the following:

Vacancies Approved for Filling by Oversight Committee:

Public Defender - Coordinating Assistant Public Defender, Annual Salary \$94,475, due to creation - original authorization expired and was re-authorized by Committee.

- 8th Assistant Public Defender, *Annual Salary \$69,891*, due to reassignment.

Ms. Seeber stated she wanted to ask a question regarding the Workplace Violence Policy, as she disagreed that this was a work around and she would request that any particular questions regarding candidates for this position be reviewed by the Committee. She said she believed it was appropriate to hold these discussions at the Personnel & Administrative Committee meetings regarding personnel. She informed a crime victim had a right to determine whether or not they would like to file a report with the police or file a civil suit, if they wanted to go to the hospital, etc. and she felt it was appropriate for the County to ensure they were considering the policy when responding to employees and providing them with all of their options and kept files that were supposed to remain on file with the understanding that if action was taken this Committee would be made aware of it on a monthly basis in executive session; she added she was requesting that this be a standing item on the agenda for the Personnel & Administration Committee meetings. She remarked she felt as part of their job as Supervisors it was important for them to review policies and protect the employees and the citizens of the community. She restated she would like this to be added as a standing item to the agenda for discussion regarding resignations, retirements, terminations, exit interviews and founded action taken pursuant to personnel complaints. Mr. Simpson interjected he had mentioned this was going to be standing item on their agenda at the beginning of the Committee meeting. Ms. Seeber remarked she thought it was appropriate to have these discussions at the Personnel & Administrative Committee meetings and she thanked Mr. Simpson for bringing this matter forward.

Mr. Simpson asked if any other questions and/or public comments had been made and Mr. Lehman responded there were a few comments from Mr. Whitehead which had been made during the beginning of the meeting when they had experienced technical difficulties with the public comments, the first of which was questioning the agenda which stated it was convenient the agenda should be followed and the public should have the opportunity to offer input before a vote was taken otherwise what was the point. Mr. Lehman apprised Mr. Whitehead also inquired how the accused never got notified of a complaint and yet the Chairman could not only review it, but also publicly disclose portions of it. He continued, there was nothing in the County rules that gave the Chairman the power to appoint and he asked how many members of the Board had heard comments about President Obama or Trump that were well within first amendment rights, but disagreeable at the same time.

There being no further business to come before the Personnel & Administration Committee, on motion made by Mr. McDevitt, seconded by Mr. Geraghty and carried unanimously, Mr. Simpson adjourned the meeting at 10:48 a.m.

Respectfully submitted,
Sarah McLenithan, Deputy Clerk of the Board