



Board of Corrections SPECIAL SESSION Meeting Minutes
May 31, 2012
10:00 AM – 1:30 PM
Located in: The Board of Corrections
Conference room
32 Blossom Lane, Marquardt Building – 3rd Floor,
Augusta, Maine



Members Present:

Chair Mark Westrum, Two Bridges Regional Jail (Maine County Jail Administrators); **Douglas Beaulieu**, Aroostook County (County Manager); **David Bowles**, York County (County Commissioner); **Sheriff Randall Liberty**, (Kennebec County), (Maine Sheriff's Association); **Commissioner Joseph Ponte**, (Maine Department of Corrections); **Stuart Smith**, Maine Municipal Association; Commissioner Anne Head, (Maine Department of Professional and Financial Regulation; **Ric Hanley**, Spring Harbor Hospital (Mental Health); **Vinton Cassidy**, Washington County (Public Representative and Washington County Community College); Anne Head, Commissioner of the Department of Finance and Regulation

Members Absent:

None

Executive Director: Michael Tausek, Board of Corrections

Secretary Specialist: Jane Tower, Maine Department of Corrections

Handouts:

- Agenda for 5/31/12
- Title 30-A, §709. County correctional services budgets presented to State Board of Corrections
- Title 34-A, §1803. Board responsibilities and duties
- Title 34-A, §1805. State Board of Corrections Investment Fund program
- Title 34-A, §1806. Community corrections funds distributed by board
- 4th Quarter Request – Hancock County
- 4th Quarter Request – Penobscot County
- 4th Quarter Request – Washington County
- 4th Quarter Request – Two Bridges Regional Jail
- Phil Roy Email requesting funds to satisfy BOC obligation to fund OPEB balance
- York County Jail memorandum proposing a pod opening with corresponding staff plan
- Note: RHR Smith's Power Point Presentation will be available to the public by June 19, 2012.

Welcome and Introductions:

BOC Chair Mark Westrum welcomed everyone and introductions of all Board members proceeded. It was noted that the Board of Corrections meeting would be broadcast live over the internet at: <http://www.maine.gov/corrections/>. Members from the audience introduced themselves.

Report of the Chair:

BOC Chair Mark A. Westrum reported that:

- The Department of Corrections recently helped Two Bridges Regional Jail with their female population which opened up a pod at TBRJ. MDOC and Maine Correctional Center also accepted several Franklin County inmates in response to Franklin County's population issues. Those inmates were transported from Franklin County.
- Kennebec County was recently presented with two awards dealing with their inmate garden and the CARA program. Specifically, Kennebec County Jail received notice that the National Association of Counties had announced the Criminogenic Addiction Recovery Academy (CARA) as an "Achievement Award Winner" in the Criminal Justice and Public Safety Category. Second, the Kennebec County Restorative Community Harvest Project (Inmate Garden) has been awarded the 2012 National Criminal Justice Association *Outstanding Criminal Justice Program*.
- Inmate management issues continue to emanate from Franklin County Jail due to the transfer of inmates to other correctional facilities. Franklin County Detention Center Manager Douglas Blauvelt provided an update on Franklin County's current inmate situation (e.g. difficulty finding beds for inmates, wear and tear on transport vehicles, manpower shortage and using bed capacity inappropriately) and requested assistance in finding a solution to this management issue; and
- Rod Miller and Becki Ney would soon submit their draft report to the BOC highlighting the findings from their visit to Maine.

Business Meeting

RHR Smith Presentation:

- Ron Smith and Charemon Davis of RHR Smith provided the BOC with a comprehensive financial presentation on BOC related FY 2012 Revenue, Expenditures and Unused Fund Balance Projections, etc. Specific items discussed were BOC statutes, Tax Cap funding, CCA funding, Investment Fund status, Surcharge Funding, Boarding Revenue, County and Regional Jail Expenditures and some Projected balances.
- Mr. Smith introduced himself to the audience and recognized the talent on the Board and in the audience.
- Handouts for applicable statutes (see above) were distributed to Board members.

Some of the comments made during this presentation were as follows:

- County and Regional Jails are statutorily required to submit their FY 14 and FY 15 biennial budgets to the BOC by July 1, 2012. (Note: The BOC is required to submit their FY 14 and FY 15 biennial budget request to the Budget Office by September 1, 2012.);

Regarding Title 34-A, §1803. Board responsibilities and duties:

- The BOC has a lot of important duties and responsibilities as delineated in the statute. For example: the BOC must show the state that the system can work and they do have the ability to define cost savings and cost avoidance within our coordinated correctional system – need to look at definitions and benchmarks in order to achieve success in this area;
- The BOC is statutorily required to amend and adopt county budgets. Pursuant to sub-section (E) – the

Board should submit a biennium budget every other year that should reflect actual costs of operations;

- There is a certificate of need process in statute but is unclear;
- Administrative duties and responsibilities of the BOC are well defined in statute;
- The Inverse Debt funding requirement of approximately \$5-8 million dollars (as determined by RHR Smith) has not been forthcoming by the state. Historically, the inverse debt was captured from 2007-2008 figures regarding debt service. Balances were “freeze-framed” at that time. Therefore, state has the obligation to fund the debt service;
- There is no mechanism to fund future jail construction;
- The BOC must promote and support the use of evidence based practices;
- The BOC has limited authority with county and regional jail personnel issues and labor contracts;

Regarding Title 34-A, §1806. Community corrections funds distributed by board:

- Community Corrections Act (CCA) funds of \$5.6 million is appropriated to the BOC on an annual basis;
- CCA funding is based on FY 1987 and FY 1996 funding figures;
- Ron reviewed the 80%/20% rule contained in the statute and that this current formula is not applicable to the mission of the Board and should be adjusted to reflect increased inmate programs vs. operational needs. The BOC has the statutory authority to deviate from the formula but has not;

Regarding Title 34-A, §1805. State Board of Corrections Investment Fund program:

- The statutes reflect that Interest earned on balances in the Other Special Revenue Funds accounts of the Board of Corrections should be retained by the BOC and this should be checked into by staff;
- The chair of the board shall report at least annually on or before the 2nd Friday in December to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The report must summarize the financial activity of any BOC funds or accounts. Mr. Smith commented that the last (2) financial reports did not meet this expectation and did not offer financial information.

General Points Made:

- Pursuant to Title 17-1 (Tax Cap Reduction) York County will receive less revenue Fiscal Year 2014;
- Jail funds must be used for county jail purposes;
- Counties have the big money from the Tax Cap when compared to funds received from the Investment Fund but counties still occasionally experience cash flow problems waiting for payments;
- It was also suggested by Mr. Smith that the Board of Corrections needs a Financial Analyst to properly reconcile the CRAS data and work jointly with each county. This is an immediate need for the Exec. Director does not have the capacity to dedicate the amount of scrutiny needed to ensure each county complies with accurate CRAS accounting entry;
- Sheriff Clark asked about the origin of supplemental CCA monies and where it came from. Sheriff queried Mr. Smith why his county hasn't been receiving such funding and if the fund still exists;
- All county and regional jails must have current 10 year Capital Improvement Plans. Currently, not enough funds in the system to sustain CIP or routine maintenance schedules;

- Board Member Commissioner Anne Head articulated her concern about CIP within the system. Specifically, how would the Board or facility respond to a catastrophic or operational event that requires significant funds?
- Cumberland County Manager Peter Crichton expressed his concern about the dynamic effects our system has on each county. For example, will the lack of a comprehensive capital improvement plan or an individual county's lack of plan negatively impact his county's ability to maintain a high bond rating?
- Androscoggin Jail (Sheriff Desjardins) questioned the accuracy of the Surplus figure (\$235,943) at the end of FY12 presented in Slide #2. Mr. Smith responded that he would further analyze his facility's financial situation;
- Conversation surrounded risk analysis and the assumption of risk. Board Member Doug Beaulieu stated he would like to see level funding (FY12 budget) for FY13. He further stated that if level funding is not appropriate for a particular facility the BOARD should review the budget and determine the submission on its merits. If appropriate, the Board should seek supplemental funding.
- Ron Smith mentioned that the proposed 1% reduction is not in the best interest of the BOC and confidently recommended that **flat funding** for FY 13 county jail budgets should be considered. With that said, Mr. Smith advised the Board that with a flat funding approach to the Investment Fund, Waldo/York/Cumberland will show a significant loss of operating income of approx. \$1.3 million at the end of FY 2013. Consequently, there will be a projected balance at the end of FY 2013 of \$605,386.00. *It is imperative that the Board address this critical issue;
- Mr. Smith generated conversation about "Kicker Payments." A term used routinely by those in the field and on the Board to describe a payment made to a requesting county in a subsequent fiscal year to rectify/correct a deficit from the prior fiscal year. Mr. Smith projected that (8) counties would need such a payment by the end of FY 2013 (see previous bullet and various counties projected to end FY 2013 with significant losses in operating income). Although a motion was not made, Board conversation focused on the need for all participants to move away from using the term "kicker payment." The approx. amount designated for such payments is \$670K.
- Currently, Board of Corrections views all revenue (i.e. Tax Cap, CCA, Investment Fund, major mission change, Fines and Surcharges, etc.) as one comprehensive fund. It was recommended to designate funds to either "Fund 010" or "Fund 014" categories thus ensuring interest on special revenue (e.g. Major Mission Change Payments, Fines and Surcharges). The Board's ultimate goal should be to protect surpluses from being "swept" to State Government. The approx. amount for each fund would look like the following:

<u>Fund 010</u>	<u>Fund 014</u>
\$12.6 million	\$1.8 million

Investment Fund Information:

- Beginning of FY 2012 - \$2,525,547.00
- On May 31, 2012 - \$2,710,422.58
- C.I.P. Funding (Beginning of FY 2012) - \$504,000.00
- Contingent Liabilities (as of May 31, 2012) - \$2.5 million (OPEB obligation)
- Board Member R. Hanley asked Mr. Smith if he was comfortable with the accounting mentioned above. Mr. Smith stated "No." Mr. Smith's explanation was that the paperwork and data is only as good as the numbers transferred into CRAS at the county level. RHR worked jointly with the counties to verify the accounting and cross-referenced information with different governmental entities. Currently, CRAS input

not consistent or accurate. CRAS needs adjustments (e.g. fund transfer recognition, capital reserves, etc.). ** Mr. Smith reported \$1.1 million in different county reserve accounts not reflected in CRAS. Mr. Smith also expressed a need for each county to “take ownership” of CRAS and improve upon the system.

- Chairman Westrum shared with the Board his extensive conversations with Ron Smith (RHR Smith), Dianne Tilton and Charemon Davis over the past couple of months. One topic that has risen is that of financial projections for FY12. Chairman Westrum pronounced his decision to modify the RHR contract to include a more extensive financial projection for this year. His decision was based, in part, on RHR Smith’s work for the Board, contractual language, and that RHR has gone above and beyond the four corners of the contract to expedite their work in order to present the Board with sufficient information to assist in the budget decision making process (e.g. provide the Board with projections for the final remaining quarter of FY12). Chairman Westrum stated that he recognized the difficult financial situation facing the Board and it made sense to him have two sets of eyes looking at FY12 projections. Finally, Chairman Westrum stated that the additional work would cost approximately \$8,000.00 and did not go beyond the amount originally set aside for RHR Smith’s.

Motions made during meeting:

There was general board discussion on approving level funding for county and regional jail FY 13 budgets.

Motion #1

After much discussion on the possibility of approving level funding for FY 13 county and regional jail budgets, the Board unanimously passed a motion (7-0) to appropriate flat funding to the Investment Fund for FY 2013. It must be understood that each county’s Investment Fund distribution will mirror FY 2012 payments. **The motion was offered by BOC member Doug Beaulieu and seconded by BOC member Sheriff Randal Liberty.** (Please note: Board Member Beaulieu was contacted to confirm that my recollection of his motion was correct. He affirmed my recollection).

BOC member Doug Beaulieu also suggested that the Board consider:

- Releasing the 1st and 2nd Quarter payments in July;
- Establishing a fund balance policy for the county and regional jails; and
- Respond to county and regional jail requested funding adjustments at the next BOC meeting.

No action was taken on these proposed suggestions.

Motion #2

There was also general discussion on a recommendation to hire a Financial Analyst for the Board of Corrections. It was suggested that \$100,000 be set aside out of the Investment Fund for the position. It was also suggested that there is a significant need to have a good working relationship between the BOC Fiscal Agent and the proposed Financial Analyst position. Upon conclusion of this discussion, **the Board unanimously passed a motion to move ahead** and start a process to hire a Financial Analyst position either as a limited period position or by contract. **The motion was offered by BOC member Anne Head and seconded by BOC member Richard “Ric” Hanley.**

FY 12 and 4th Quarter Funding Review

The Board had a brief discussion on FY 12 4th Quarter Funding Requests for county and regional jails.

Motion #3

The **Board unanimously** (7-0) **passed a motion to approve** 4th Quarter payments to Hancock County, Penobscot County, Washington County and York County for FY 12. (Please note: York County was to submit an ex post facto 4th Quarter Request. Mr. Rod Smith had included this facility's financials into his power point presentation and confirmed a need for payment.). **The motion was offered by BOC member Doug Beaulieu and seconded by BOC member David Bowles.**

It was understood that the Board of Corrections would deal with further FY 12 funding adjustments requested by County and Regional Jails at the next BOC meeting on June 19th. (Please note: Somerset County Administrator Larry Post approached me about Somerset's 4th Quarter request. I informed him that a formal request had not been received.)

BOC Chair Mark A. Westrum reported on the following potential Agenda Items that could be discussed at future BOC Meetings:

- There is a proposal to have York County Jail open up a 44 bed pod;
- Oxford County Jail would like to add some forensic beds to their facility; and
- Rod Miller and Becki Ney will soon be submitting their report to the BOC as a result of their recent visit;
- MCC and Riverview Hospital partnership (10 bed program);
- Discussion on the revisiting of budgeted capacity vs. operational capacity:

Finally, BOC Chair Mark A. Westrum reported that he, BOC Executive Director Michael Tausek, DOC Commissioner Joseph Ponte, Ralph Nichols, Melissa Grondin and Attorney Dan Billings met with the Governor on May 30th. The meeting was set up to assist the Governor in obtaining a better understanding of the Board of Corrections operations and statutory responsibilities. The Governor will invite the group back at a later date to allow further discussion.

Meeting Adjourned:

Motion:

- Co-Chair Westrum made a motion to adjourn the meeting; seconded by Stuart Smith.

Vote:

- All were in favor; passed as unanimous

The Next Tentatively Scheduled Board of Corrections Meeting is:

- Tuesday June 19, 2012 1:00 p.m.

Respectfully Submitted by:

Michael Tausek, Executive Director