

**AGENDA
PERSONNEL COMMITTEE MEETING
TO BE HELD IN ROOM 318
PUTNAM COUNTY OFFICE BUILDING
CARMEL, NEW YORK 10512**

Members: Chairman Jonke & Legislators Nacerino & Sullivan

Monday **6:30PM** **September 27, 2021**
(The Audit & Administration Mtg. Immediately Followed)

The meeting was called to order at 6:34PM by Chairman Jonke who requested that Legislator Nacerino lead in the Pledge of Allegiance. Upon roll call Legislators Nacerino, Sullivan and Chairman Jonke were present.

Item #3 - Approval/Personnel Committee Meeting Minutes: August 10, 2021

Chairman Jonke stated the minutes were accepted as they were submitted.

Item #4 – Approval/ Fund Transfer (21T189)/ Funding to Cover Overtime Costs Incurred in March by Road Patrol, Due to Shortage of Deputies/ Sheriff Langley (Also Reviewed at 9/16/21 Protective Mtg)

Chairman Jonke stated this matter was reviewed at the Protective Services meeting on September 16th.

Legislator Nacerino stated this matter was discussed and approved by the Protective Services Committee. She stated it was explained that the overtime was due to the Sheriff’s Department being short 11 deputies. She explained the explanation was that deputies were out on 207C, attending academy training, retirements, family medical leave and military leave all resulting in the 11-deputy shortage. She questioned how did the shortage of 11 deputies result in the overtime. She stated Personnel Officer Paul Eldridge could not substantiate it at that time.

Personnel Officer Paul Eldridge stated that he submitted a chart at the Protective Services meeting on September 16th. He stated it was stated that it was confusing, so he submitted a revised chart this evening that focuses strictly on the vacancies in the Road Patrol Division.

Chairman Jonke made a motion to waive the Rules and Accept the Additional; Seconded by Legislator Sullivan. All in favor.

Personnel Officer Paul Eldridge provided an overview of his chart and in conclusion there were not 11 vacancies in the Road Patrol Division. He stated there were vacancies in other divisions. He stated the previous chart he submitted at the Protective Services Committee included all of the divisions and their vacancies.

Legislator Sullivan stated, doing quick math, based on the chart that Personnel Officer Eldridge just went over, the need for funding should be in line with the amount that was budgeted.

Undersheriff Cheverko questioned if Personnel Officer Eldridge's data is based strictly on RPC (Request For Personnel Change) forms.

Personnel Officer Paul Eldridge stated that is correct.

Undersheriff Cheverko stated there are other cases where Deputies are unavailable to cover their shift, that are not reflected on an RPC. He stated as an example a Deputy who is out on sick leave.

Personnel Officer Paul Eldridge stated that is not a vacancy.

Undersheriff Cheverko stated it requires that they backfill that patrol. He spoke to other reasons that Deputies have been unable to fill their patrols: Deputy- 207C, Deputy -Family and Medical Leave Act (FMLA), Deputies on Military Leave, Deputies are in field training, Deputies attending the Academy, Deputy at the Canine Academy, Deputy relocated from Road Patrol due to an injury and Retirements. He stated when they reference 11 vacancies, this is what they are referencing. He stated they are not necessarily vacant positions, it is a period of time that the Deputy lines are vacant and must be covered.

Chairman Jonke questioned how many positions are in the Road Patrol and how many of them are filled.

Fiscal Manager Kristin VanTassel explained a vacancy is when someone retires and there is not a body filling the position, that is a true vacancy. She stated when they use the phrase "someone is not available" they are still being paid, but they are out on military leave, 207C or FMLA. She stated those positions cannot be filled because there is a person still in the position. She explained also when a Deputy retires their shifts must be filled by someone else until the end of the year. She stated that is done through overtime.

Chairman Jonke questioned why in September is the Legislature addressing a request for overtime for March.

Fiscal Manager Kristin VanTassel stated she has been monitoring the finances throughout the year. She stated she recognized the funds were getting low due to 207C injuries. She stated back in March they did not need the money, but because of what occurred in March, April, May and June now they need the funding.

Chairman Jonke stated the Legislature has communicated in the past, that we want to be kept updated and not have the end of the year request for a couple of thousand dollars to be moved. He stated ts looks like the Sheriff's Department is running short.

Fiscal Manager Kristin VanTassel confirmed they are running short on the overtime line for patrol. She stated they have done projections for October, and they project they will fall short for the remainder of the year. She stated she is confident in the salary lines for the Sheriff's Department because of all the retirement. She stated there will be salary money available that she will be requesting to be transferred to the overtime line.

Chairman Jonke questioned what is the best estimate in the amount of money that will be available in the salary lines.

Fiscal Manager Kristin VanTassel stated approximately \$100,000- \$125,000.

Chairman Jonke questioned if that will be enough to cover to the end of 2021.

Fiscal Manager Kristin VanTassel stated she is very confident, barring something unexpected occurring, that the salary lines will cover the overtime.

Legislator Nacerino stated we needed clarification regarding the reference of the "11 vacancies". She stated that has been substantiated and clarified. She stated it was also discussed at the Protective Services meeting that the way this was presented was in violation of the Charter and the Overtime Policy. She stated we cannot ignore the County policies. She stated moving forward, she would like to have the justification not after the fact, but before. She stated we understand the dynamics, adhering to policy and procedure must be done. She stated the Sheriff's Department needs to implement and respect the policy and procedures of the County, as does every other County Department.

Chairman Jonke stated the past practice was to stay current, so for the Legislature to receive these transfers at the end of September, it is not in keeping with the way things have gone in the past.

Legislator Sullivan stated he agrees with everything Legislator Nacerino mentioned. He stated there are 32 budgeted positions, and questioned how many of those positions are filled. He said it seems the shortage would explain what is driving the overtime.

Fiscal Manager Kristin VanTassel stated she does not have that information with her.

County Attorney Bumgarner stated currently there are 31 individuals budgeted against the 32 positions. She stated that does not account for some of the other reasons the individuals may not be available to cover their shifts, as was stated earlier. She stated in terms of straight forward vacancy, Commissioner of Finance indicated to her that there are actually 31 individuals budgeted against the 32 positions, with the one (1) vacancy.

Legislator Albano stated he has heard of the challenge that retirements present in department's budget. He questioned if there is a required time, in terms of notice, that an employee must notify their department head and/ or Personnel.

Undersheriff Cheverko stated we encourage employees to provide as much advance notice as possible.

Personnel Officer Paul Eldridge stated the New York State Retirement System requires an employee to file their retirement within 15 days prior and no sooner than 90 days prior. He explained the County's procedure is if someone wants to leave the County and they want to run out some of their vacation, that delays the filling of the position, because it comes out of the budget line of the position.

County Attorney Bumgarner stated she is facing those challenges in her department due to many recent vacancies. She stated that is why she requested the Legislature approve her to move money from a vacant position in her department into another position so she could take action more quickly. She stated if the situations are anticipated and there are other vacancies within the department, as they do in the case of the Sheriff's Department, they could bring forward a similar proposal/ request.

Personnel Officer Paul Eldridge stated it is no easy task to hire people in the Sheriff's Department. He stated for example, there are 65 different medical exams that have to be done on any Deputy Sheriff and there are background checks that must be conducted. He stated he agrees with County Attorney Bumgarner that some anticipated action could be taken.

Chairman Jonke facilitated further discussion.

Chairman Jonke made a motion to approve/ Fund Transfer (21T189)/ Funding to Cover Overtime Costs Incurred in March by Road Patrol, Due to Shortage of Deputies (Also Reviewed at 9/16/21 Protective Mtg) / Seconded by Legislator Nacerino. By Poll Vote: One Nay Legislator Sullivan. Motion Carries.

Item #5 – Approval/ Fund Transfer (21T190)/ Funding to Cover Overtime Costs Incurred in April by Road Patrol, Due to Shortage of Deputies/ Sheriff Langley (Also reviewed at 9/16/21 Protective Mtg)

Chairman Jonke made a motion to approve Fund Transfer (21T190)/ Funding to Cover Overtime Costs Incurred in April by Road Patrol, Due to Shortage of Deputies (Also reviewed at 9/16/21 Protective Mtg); Seconded by Legislator Nacerino. By Poll Vote: One Nay Legislator Sullivan. Motion Carries.

Item #7 - Approval/ Fund Transfer (21T193)/ Funding to Cover Overtime Costs Incurred in May by Road Patrol, Due to Shortage of Deputies/ Sheriff Langley (Also reviewed at 9/16/21 Protective Mtg)

Chairman Jonke made a motion to approve Fund Transfer (21T193)/ Funding to Cover Overtime Costs Incurred in May by Road Patrol, Due to Shortage of Deputies (Also reviewed at 9/16/21 Protective Mtg); Seconded by Legislator Nacerino. By Poll Vote: One Nay Legislator Sullivan. Motion Carries.

Item #8 - Approval/ Fund Transfer (21T194)/ Funding to Cover Overtime Costs Incurred in June by Road Patrol, Due to Shortage of Deputies/ Sheriff Langley (Also reviewed at 9/16/21 Protective Mtg)

Chairman Jonke made a motion to approve Fund Transfer (21T194)/ Funding to Cover Overtime Costs Incurred in June by Road Patrol, Due to Shortage of Deputies (Also reviewed at 9/16/21 Protective Mtg); Seconded by Legislator Nacerino. By Poll Vote: One Nay Legislator Sullivan. Motion Carries.

Item #9 - Approval/ Fund Transfer (21T195)/ Funding to Cover Overtime Costs Incurred in July by Road Patrol, Due to Shortage of Deputies/ Sheriff Langley (Also reviewed at 9/16/21 Protective Mtg)

Chairman Jonke made a motion to approve Fund Transfer (21T195)/ Funding to Cover Overtime Costs Incurred in July by Road Patrol, Due to Shortage of Deputies (Also reviewed at 9/16/21 Protective Mtg); Seconded by Legislator Nacerino. By Poll Vote: One Nay Legislator Sullivan. Motion Carries.

Item #10 - Approval/ Fund Transfer (21T196)/ Funding to Cover Overtime Costs Incurred in August by Road Patrol, Due to Shortage of Deputies/ Sheriff Langley (Also reviewed at 9/16/21 Protective Mtg)

Chairman Jonke made a motion to approve Fund Transfer (21T196)/ Funding to Cover Overtime Costs Incurred in August by Road Patrol, Due to Shortage of Deputies (Also reviewed at 9/16/21 Protective Mtg); Seconded by Legislator Nacerino. By Poll Vote: One Nay Legislator Sullivan. Motion Carries.

Item #11 - FYI/ 2021/ Accident Report– Duly Noted

Item #12 - FYI/2021/ Incident Report – Duly Noted

Item #13 - Approval/ Budgetary Transfer (21T230)/ County Attorney/ Reorganization/ Part Time Paralegal Position Increased to Full Time Position Effective 10/25/21

County Attorney Bumgarner stated this is what she was referring to earlier. She stated as a result of a retirement, there is a vacancy in her department as of October 22, 2021. She stated there is vacation and time to be paid out which will bring her to December 9, 2021. She stated since she will only be left with two (2) Full- Time Administrative Staff members it would be great if the part-time position, which she did request that position be made full-time in her 2022 budget, be moved to full-time position now. She stated that will give her department three (3) full time administrative positions as opposed to the 3 ½ the department currently has.

Chairman Jonke made a motion to approve Budgetary Transfer (21T230)/ County Attorney/ Reorganization/ Part Time Paralegal Position Increased to Full Time Position Effective 10/25/21; Seconded by Legislator Sullivan. All in favor.

Item #14 - Discussion/ COVID Leave/ Sheriff's Department/ Information Requested & Received/ Finance Access to Time Records

COVID Leave at the Sheriff's Department and that there is a transmittal issue with data from the Sheriff's Department to the Finance Department. He stated he hopes through tonight's discussion we can get some clarification and move forward.

County Attorney Jennifer Bumgarner stated she did receive a response from the Sheriff today. She stated that at the Protective Services Meeting, Undersheriff Cheverko made a statement that the Sheriff's Department had not been provided with any guidance regarding COVID Leave. She stated she provided the copy of the January 4, 2021, memo that she sent to "All County Employees". She spoke to that memo. She stated it was communicated to her by the Sheriff that the Undersheriff, in his statement at the Protective Services meeting was referring to no guidance was provided in 2020. She stated the guidance regarding COVID Leave came from the Personnel Department in 2020.

Sheriff Langley read the memo that he sent to Chairman of Protective Services Paul Jonke Dated September 27, 2021. (The Sept. 27th Memo was deemed and marked confidential upon receipt at the Legislative Office) Chairman Jonke stated he received a memorandum from County Attorney Bumgarner regarding

Legislative Attorney Robert Firriolo stated if the Sheriff confirms his memo is not in fact confidential, then there is no issue with him reading it.

Sheriff Langley stated he never made his memo confidential.

Chairman Jonke stated generally when personnel items are being addressed, they are stamped confidential. He stated as Legislative Counsel said if Sheriff Langley feels it is appropriate to read, he should continue.

Sheriff Langley continued reading his memo of September 27th. In summary his memo stated that the Sheriff's Department did not receive any guidance in 2020 as to how to handle COVID cases. He stated also in his memo that he had recently been provided a memo from the County Attorney advising him of an Article 78 decision involving one of the Correction Officers.

Chairman Jonke requested clarification by Sheriff Langley on the statement in the 2nd paragraph "the County Attorney's dissemination and circulation of spreadsheets containing unredacted confidential information relating to his office personnel to apparently determine their right to COVID leave."

Sheriff Langley stated the information referenced was attached to a memo regarding the Article 78.

County Attorney Bumgarner stated the information on the spreadsheet was not medical information, it was rationale from the Sheriff's Department for whatever leave was taken on that

given day. She stated the information on the spreadsheet does not constitute as protected health information under HIPA. She stated she did confer with several health officials prior to initially releasing the time sheets to anyone.

Chairman Jonke questioned if the Sheriff stopped supplying information through the Department's VCS, payroll system.

Sheriff Langley stated no. He explained there was an explanation as to why suddenly the County's Payroll Manager access was discontinued. He stated now that it has been brought to their attention, the Payroll Manager was given full access to VCS.

Legislator Sullivan stated he would like County Attorney Bumgarner to speak to that.

County Attorney Bumgarner stated she did speak to the Payroll Manager today, and she reported she did not have access to print reports. She explained she was given limited access.

Chairman Jonke was trying to get clarity on who in the Sheriff's Department issues access to the VCS system.

Legislator Sullivan stated to hear that we did not have access to the payroll system for months is mind boggling to him. He stated it does not sound like the Sheriff was aware of this. He stated the fact that the Commissioner of Finance could not access the VCS system is unacceptable. He stated the Commissioner of Finance should have unfettered access to all financial records throughout the County. He stated he is very disappointed to hear this occurred. He stated, we did hear it is partially rectified today. He stated the Payroll Manager still needs full access to see past records.

Legislator Sullivan requested that the Sheriff tell Commissioner Carlin who he should contact to get unfettered and unconditional access to the VCS system tomorrow.

Sheriff Langley stated if Commissioner Carlin had notified him, it would have been rectified immediately. He stated he should not have to learn about this via a Legislative agenda.

Commissioner Carlin stated he was not aware of the latest. He stated there were two (2) issues. He stated the first incident occurred last summer and he spoke to that.

Undersheriff Cheverko stated Fiscal Manager VanTassel was just notified last week by the Payroll Manager that she had lost access.

Civil Captain Lisa Ortolano stated it was revealed that the Payroll Manager had turned over some personnel records from the personnel records of the Sheriff's Department to the County Attorney who was then going to give the information to the Legislature. She stated after learning that the access was cut off to VCS, but within 24 hours it was reinstated. She continued to speak to this incident.

Chairman Jonke facilitated further discussion on this matter. He requested how many employees went out on COVID Leave.

Sheriff Langley, Undersheriff Cheverko or Captain Ortolano stated they did not know how many.

Personnel Officer Paul Eldridge stated he believed it was mentioned at a different meeting and that there were 70 employees who went out on COVID Leave.

Sheriff Langley stated the Deputies were still going out and having direct contact with members from the public, so they were very exposed.

Chairman Jonke stated many of us had exposure situations. He stated, how the exposures were handled by the Sheriff's Department is what is important.

Captain Ortolano stated that one employee who had a reason to work from home, had the majority of the 70 hours. She stated the employee was working from home, however they did input COVID in the system to track that it was COVID related. She stated the Sheriff's Department followed the CDC Guidelines. She stated if you look back to the correspondence from March & February of 2020 with the County almost every correspondence stated "see CDC Guidelines". She stated the very first meeting the Bureau of Emergency Services held it was stated that the best indicator of what to do, was to follow the CDC Guidelines and that was in February of 2020. She stated so that is what the Sheriff's Department has been doing. She stated that they have made changes as the CDC Guidelines have changed. She continued to speak to that. She stated she wanted to reference a case that speaks to the authority of the Sheriff. She cited the case and read from the document.

County Attorney Bumgarner stated based on what Captain Ortolano stated, there may be cases of Sheriff's employees who were out on COVID Leave who may not be entitled to paid leave under the New York State Law. She stated the New York State Law says an employee is only entitled to paid leave when a quarantine order is received. She stated a positive COVID-19 test does not satisfy that under the law.

Chairman Jonke facilitated further discussion.

Legislator Nacerino questioned what proof is required in the Sheriff's Department.

Captain Ortolano stated in the very beginning they did not require any proof. She stated they met with the County Attorney and Personnel and told them they would get proof. She stated so they required medical documentation and/or an order. She explained the process. She stated if it was determined that they were lacking in their procedure, someone could have contacted them.

Chairman Jonke stated he believes the Sheriff's Department should have contacted the Personnel Department and/ or the County Attorney Office.

Chairman Jonke stated a lot of money was spent and they want to make sure it was spent in accordance with the law. He stated that Judge Grossman's decision, from the case Captain Ortolano read from, was in relation with Union Contract. He stated COVID Leave does not fall under the Union Contract, that falls under the realm of the Personnel Director. He stated there was a lack of communication. However, he is not sure it falls in the responsibility of the Personnel Director or County Attorney to check on every department.

Legislator Sullivan stated he would like to read from an opinion of Judge Grossman. In summary, Judge Grossman stated that Sheriff Langley acted outside his authority in granting COVID Leave to an employee of the Sheriff's Department.

County Attorney Bumgarner stated she does agree with the information that Captain Ortolano read. She stated, however she interprets it very differently. She spoke to her opinion of the information shared. She stated in summary the granting of time of within the number of days that are given to the Deputies and the employees in the collective bargaining agreement is within the Sheriff's discretion. She stated if the Sheriff is looking to grant additional leave and additional time off outside the collective bargaining agreement, that is for us to decide. She stated she reiterated some past discussions. She stated we are not subject to a new law and guidelines related to COVID, it is an interpretation of the law to determine when and if an individual is entitled to a Leave. She stated as the County Attorney, it is her professional opinion that she should be consulted on whether, based on the individual's circumstance, that the employee be entitled to time off with pay by the County. She stated if there were circumstances in 2021 where employees within the Sheriff's Department were granted time off, she had no idea about it.

Chairman Jonke stated the Legislature has a fiduciary responsibility to the taxpayers. He stated we want to make sure whatever was given out, was given out appropriately. He stated that is what this discussion is about. He stated there has to be an understanding that while the Sheriff has great authority to the department, this falls outside of said authority. He stated there needs to be better communication between the Sheriff's Department, the County Personnel Officer and the County Attorney.

Sheriff Langley stated he would like to see the County's COVID policy.

County Attorney Bumgarner stated it is the law. She stated in terms of COVID in general, a policy cannot be written that will cover every set of facts and circumstances. She stated each individual case needs to be considered on a case by case basis.

Sheriff Langley requested confirmation that every time an employee of his reports a COVID exposure, he should contact the County Attorney or Personnel Officer, is that correct.

County Attorney Bumgarner stated that is correct. She stated that is what all the other Departments of the County do.

Legislator Sullivan stated it is his opinion if the Sheriff had followed the policy the County had, it would have saved hundreds of thousands of dollars in overtime.

Undersheriff Cheverko stated for the record the last 4 (four) or 5 (five) cases they have had, he did contact a member of the Health Department.

Chairman Jonke stated from here forward, contact County Attorney Bumgarner or Personnel Officer Eldridge.

Legislator Nacerino stated she is still not clear in her mind how the criteria was substantiated for a member of the Sheriff's Department to be out. She questioned why would the Sheriff's Department have a different policy from the rest of the County.

Captain Ortolano stated there was no County policy. She stated that she does not agree with County Attorney Bumgarner's anticipation of the opinion she read. She spoke to her opinion. She stated there is an article 72 or 73 that says the Sheriff has the authority for the safety of his office to direct somebody out on leave.

Personnel Officer Eldridge stated any appointed authority has that right.

Captain Ortolano stated from day one of this situation, when nothing was known about COVID, the Sheriff took a proactive stance, to prevent COVID from coming into the Department. She stated what he did worked. She stated the overtime costs can be made up by the COVID Relief Act. She stated a Sergeant position was removed from her department in the 2021 budget, that funding could go towards covering the overtime. She stated the County has the money to pay for this overtime. She stated these were men and women who work everyday since this all started. She stated again, the decisions on handling COVID in the Sheriff's Department was based on the CDC Guidelines.

County Attorney Bumgarner stated there were a lot of people who worked through COVID-19. She stated she is not saying that she would have disagreed with the Sheriff's employees being out. She stated what she is saying is that it is the authority of the County as to whether an employee should be out with pay or not.

Legislator Sullivan stated we were denied access, and that is what the agenda item is.

Legislator Montgomery questioned if there have been a lot of recent COVID cases. She stated she asks this question because she is not sure why this discussion is occurring now.

Sheriff Langley explained the cases that they have recently been faced with.

Legislator Montgomery questioned if the Sheriff is now following the State's guidelines that were shared with the County in January of 2021. She stated many of the cases being discussed were from 2020, when there were no guidelines provided. She continued to speak to some of the unknown circumstances as COVID-19 was becoming a real concern and beginning to affect the day to day lives of people.

Chairman Jonke facilitated further discussion.

Item #15 - Discussion/ Memo from Law Department/ Sheriff's Department/ Potential Discipline

Chairman Jonke stated this matter is related to an employee in the Sheriff's Department. He stated the memorandum was initiated by County Attorney Bumgarner. He requested that she speak to this matter in a way that will not require an executive session.

County Attorney Bumgarner stated she was informed by Captain Ortolano that Sheriff Langley did not see her memo. She suggested this matter be tabled until she and Sheriff Langley can meet on this matter.

Chairman Jonke stated he agrees with that. He understands part of the matter here is the statute of limitations.

Sheriff Langley stated his agreement with County Attorney Bumgarner and Chairman Jonke.

Item #16 - Other Business - None

Item #17 - Adjournment

There being no further business at 8:15 PM Chairman Jonke made a motion to adjourn; Seconded by Legislator Sullivan. All in favor.

Respectfully submitted by Deputy Clerk Diane Trabulsy.