

## WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: **PERSONNEL**

DATE: **DECEMBER 10, 2009**

**Committee Members Present:**

Supervisors Thomas  
Kenny  
VanNess  
Belden  
Stec  
Sokol  
Tessier

**Others Present:**

Fred Monroe, Chairman of the Board  
Joan Sady, Clerk of the Board  
JoAnn McKinstry, Deputy Commissioner of  
Administrative & Fiscal Services  
Paul Dusek, County Attorney  
Kevin Geraghty, Budget Officer  
Supervisor Bentley  
Supervisor Champagne  
Supervisor Merlino  
Supervisor Pitkin  
Supervisor Strainer  
Supervisor Taylor  
Rich Kelly, Personnel Officer  
Todd Lunt, Director, Human Resources  
Frank O'Keefe, County Treasurer  
Rob Lynch, Deputy Treasurer  
Rob Metthe, Director, Information  
Technology  
Shane Ross, Chief Deputy  
Sheila Weaver, Commissioner, Department  
of Social Services  
Margaret Smith, Director, Youth Bureau  
Don Lehman, *The Post Star*  
Thom Randall, *The Adirondack Journal*  
Nicole Livingston, Deputy Clerk

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Mr. Thomas called the Personnel Committee meeting to order at 9:00 a.m.

Motion was made by Mr. Sokol, seconded by Mr. Tessier and carried unanimously to approve the minutes of the November 10, 2009 Committee meeting, subject to correction by the Clerk of the Board.

Copies of the Personnel Agenda were provided to the Committee members, and a copy of same is on file with the minutes.

Commencing the Agenda review, Mr. Thomas apprised Item 1 was a referral from the County Treasurer, requesting to fill the vacant position of Senior Account Clerk, base salary of \$28,532, Grade 7, Employee No. 7730, due to retirement.

Motion was made by Mr. Kenny and seconded by Mr. Sokol to approve the request as presented.

Mr. Geraghty interjected that with the State creating a Tier 5 pension plan in the New York State Retirement System, he recommended that the Committee wait to add new employees to the County's payroll until after December 31, 2009. Mr. Kenny suggested that if the Committee approved the request, it become effective January 1, 2010.

Following discussions, Mr. Thomas called the question and the motion was carried unanimously to approve Item 1 as outlined above, effective January 1, 2010, and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas stated that Item 2 was a referral from the Criminal Justice Committee, Probation, requesting to amend the Table of Organization within the Probation Department as follows:

Transfer Employee No. 8028 from A.3144-Probation Day Reporting to A.3140-Probation; Transfer Employee No. 9611 from A.3143-Probation-Pre-Trial to A.3144 Probation-Day Reporting; and Transfer Employee No. 10416 from A.3140 Probation to A.3143 Probation-Pre-Trial.

Motion was made by Mr. Tessier, seconded by Mr. Kenny and carried unanimously to approve Item 2 as outlined above and the necessary resolution was authorized for the next board meeting.

Mr. Thomas asserted that Item 3 was a referral from the Human Services Committee, Youth Bureau, and was a request for the Director of the Youth Bureau to continue employment with the County following retirement on a part-time basis, base salary of \$19 per hour not to exceed 19 hours per week.

Motion was made by Mr. Kenny and seconded by Mr. Tessier to approve the request as presented.

Mr. Kenny requested an explanation for this request. Margaret Smith, Director of the Youth Bureau, explained that she would be retiring at the end of the year and it was acceptable by the State to have a part-time Director of the Youth Bureau. She further stated that she would like to continue as the Director of the Youth Bureau on a part-time basis. She added that the Deputy Director within her Department would become an Administrative Assistant and work part of the time in the Youth Bureau and part of the time in the Department of Social Services (DSS). She noted that this change would allow for the fiscal duties within the Youth Bureau to continue. Ms. Smith said that this would also enable the Youth Bureau to continue to receive reimbursements from the State.

Mr. Stec entered the meeting at 9:10 a.m.

Discussion ensued concerning the request for the Director of the Youth Bureau to continue employment with the County following retirement on a part-time basis.

Mr. Thomas clarified that there would be no benefits included with this part-time position. Mr. Sokol questioned if this scenario provided a cost savings for the County. Sheila Weaver, Commissioner of DSS, responded affirmatively, in that she had given up a full time position in the DSS and her Department would be assuming the part-time salary of the Administrative Assistant, which would be 87.5% reimbursed, as well as additional savings with Ms. Smith retiring and becoming a part-time employee.

Chairman Monroe entered the meeting at 9:12 a.m.

The Committee expressed concern with the hourly rate of \$19 for the part-time position of Director. Ms. Smith stated her current hourly rate was \$21.03, including her longevity. Mr. Pitkin questioned if the salary had been reviewed by either the Personnel Office or the Human Resources Department or compared to other wages for part-time Directors in the area. Todd Lunt, Director of Human Resources, explained that the hourly rate was determined by taking the base salary, not including longevity, and dividing it by the number of hours determined to be worked for the year. He noted that other municipalities had not been questioned as to what Directors of Youth Bureaus were paid.

Following discussions, Mr. Thomas called the question and the motion failed due to the lack of majority vote.

Motion was made by Mr. Belden and seconded by Mr. Kenny to approve the request for the Director of the Youth Bureau to continue employment with the County following retirement on a part-time basis, base salary of \$12 per hour not to exceed 19 hours per week. The motion failed due to the lack of majority vote.

Motion was made by Mr. Stec, seconded by Mr. Sokol and carried by majority vote to approve the request for the Director of the Youth Bureau to continue employment with the County following retirement on a part-time basis, base salary of \$15 per hour not to exceed 19 hours per week, with Messrs. Kenny and Belden voting in opposition. The necessary resolution was authorized for the next board meeting and a copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Returning to the Agenda review, Mr. Thomas remarked that Item 4 was a referral from the Public Safety Committee, Sheriff & Communications, requesting to fill the vacant position of Correction Officer, base salary of \$32,400, Employee No. 10725, due to resignation.

Motion was made by Mr. Kenny, seconded by Mr. Belden and carried unanimously to approve Item 4 as outlined above, effective January, 1, 2010, and the necessary

resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas reported that Items 5A through K were referrals from the Social Services Committee. Item 5A, he said, was a request to fill the vacant position of Intake Clerk, base salary of \$24,480, Grade 4, Employee No. 11368, due to resignation. He added that Item 5B was a request to fill the vacant position of Intake Clerk, base salary of \$24,480, Grade 4, Employee No. 11408, due to resignation.

Motion was made by Mr. Tessier and seconded by Mr. Sokol to approve the requests as presented.

Mr. Belden noted that these should be effective for January 1, 2010 as well. Ms. Weaver apprised that these two positions were in the reception unit and the two employees currently in those positions were leaving December 21, 2009. She added that the Office could not operate without these positions. She noted that one of the Intake Clerk positions was for the Medicaid Unit and was 100% reimbursed and the other Intake Clerk was in the HEAP Unit and was also 100% reimbursed. Ms. Weaver reiterated that these positions were critical for the operations in the DSS and if they were not filled, it would create a hardship in the Department.

Following discussions, Mr. Thomas called the question and the motion was carried unanimously to approve Items 5A and B as outlined above, effective dates of December 21, 2009, and the necessary resolutions were authorized for the next board meeting. Copies of the Notices of Intent to Fill Vacant positions are on file with the minutes.

Mr. Thomas said Item 5C was a request to create the position of Director of Child Support Enforcement and Fraud, base salary of \$37,934, Grade 17, effective December 21, 2009 and deleting the position of Supervising Support Investigator, base salary of \$35,169, Grade 15; thereby amending the Department's table of Organization.

Motion was made by Mr. Tessier and seconded by Mr. Kenny to approve the request as presented.

Ms. Weaver asserted that this request was part of the reorganization plan and was supposed to take place in March of 2010; however, she said, the Supervising Support Investigator had retired early on November 30, 2009. She noted that, if necessary, she could wait to fill this position until January 1, 2010.

Mr. Thomas called the question and the motion was carried unanimously to approve Item 5C as outlined above, effective January 1, 2010, and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas advised Item 5D was a request to fill the vacant position of Director of Child Support Enforcement and Fraud, base salary of \$37,934, Grade 17, due to creation.

Motion was made by Mr. Tessier, seconded by Mr. Belden and carried unanimously to approve Item 5D as outlined above, effective January 1, 2010, and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas remarked that Item 5E was a request to fill the vacant position of Social Welfare Examiner, base salary of \$29,199, Grade 8, Employee No. 1629, due to a lateral transfer.

Ms. Weaver expounded that this was due to the abolishment of a position through the reorganization plan and the employee would be bumping into this position and needed to be effective December 21, 2009.

Motion was made by Mr. Stec, seconded by Mr. Tessier and carried unanimously to approve Item 5E as outlined above, effective December 21, 2009, and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas stated that Item 5F was a request to fill the vacant position of Senior Account Clerk, base salary of \$28,041, Grade 7, Employee No. 11103, due to resignation, effective January 1, 2010.

Motion was made by Mr. Kenny, seconded by Mr. Stec and carried unanimously to approve Item 5F as outlined above and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas apprised Item 5G was a request to fill the vacant position of Administrative Assistant, base salary of \$29,710, Grade 8, pro-rated to 20 hours per week, Employee No. 8496, due to creation of the position.

Motion was made by Mr. Sokol, seconded by Mr. Stec and carried unanimously to approve Item 5G as outlined above, effective January 1, 2010, and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas noted Item 5H was a request to fill the vacant position of Case Supervisor Grade B, base salary of \$37,934, Grade 17, Employee No. 8259, due to resignation.

Motion was made by Mr. Tessier, seconded by Mr. Stec and carried unanimously to approve Item 5H as outlined above, effective December 21, 2009, and the necessary

resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas expounded Item 5I was a request to fill the vacant position of Senior Caseworker, base salary of \$35,169, Grade 15, Employee No. 9641, due to resignation.

Mr. Thomas asked what the reimbursement for this position was and Ms. Weaver replied 75%.

Motion was made by Mr. Tessier, seconded by Mr. Kenny and carried unanimously to approve Item 5I as outlined above, effective December 21, 2009, and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas reported that Item 5J was a request that Lisa Zulauf receive the Employee Suggestion Award of \$100 for her efforts to negotiate lower motel rates for Temporary Assistance recipients.

Motion was made by Mr. Tessier, seconded by Mr. Sokol and carried unanimously to approve Item 5J as outlined above and the necessary resolution was authorized for the next board meeting.

Mr. Thomas stated Item 5K was a request to change the job status description of the Deputy Commissioner position to either non-competitive or exempt so that they could serve at the will of the Commissioner.

Motion was made by Mr. Kenny and seconded by Mr. Tessier to approve the request as presented.

Rich Kelly, Personnel Officer, interjected that he was not aware of this request. He clarified that at the time that the Deputy Commissioner was hired, and interviews were held, the Commissioner had been advised to notify the candidate that it would be a provisional appointment subject to a civil service examination. Currently, he said, the Commissioner of Social Services has an exempt employee which was approved by the New York State Civil Service Commission, that position being Confidential Secretary to the Commissioner; therefore, he stated, the Deputy Commissioner would be a competitive position, along with Warren County competitive positions of Nursing Home Administrator and Director of Probation. He explained that the position could not just circumvent civil service and make this a non-competitive or exempt position because it was a reimbursable department and based on the exempt Secretary, it probably would not be approved. Mr. Kelly summarized that the condition of the appointment was that the position was provisional.

Paul Dusek, County Attorney, asserted that Ms. Weaver had spoken with him concerning this issue and he recommended that a resolution be obtained with the

understanding that it did have to be approved by the Civil Service Department. He advised that there was a provision under civil service law that allowed the Board of Supervisors to make applications for non-competitive positions, which included a public hearing and the board also had the right to pursue an Article 78 proceeding, if they did not agree with the determination that was made by the Civil Service Department.

Mr. Kelly countered that the decision of a position outside of competitive class rested solely with the Personnel Officer, not with the County Attorney or any inspection of Article 78 with what the perception may be as far as Civil Service Administration. He added that with this particular appointment, division of civil service law mandated a promotional examination when the field of candidates was greater than three. He noted that Ms. Weaver had requested an open competitive consideration, along with a promotion. Mr. Dusek interjected and asked Mr. Kelly if he was representing to the board that there was not a procedure for a public hearing and an application to New York State Civil Service to ask for a position to be non-exempt. Mr. Kelly reported that only the Personnel Officer could move a position from the competitive class. Mr. Dusek questioned if there was a public hearing and a procedure in which to be followed and Mr. Kelly responded there could be a public hearing as required. Mr. Kelly asked if Mr. Dusek was implying that the Personnel Officer did not have to approve a request for a position to be submitted in front of the New York State Civil Service Commission and Mr. Dusek explained that there was a process that was provided for under law that could be challenged if the board did not feel that the process had been conducted properly. Mr. Kelly concurred and added that an argument would have to be made why the decision was not made to remove a position from the competitive class, which, as he previously indicated, the position of Confidential Secretary to the Commissioner of Social Services had already been approved to be in the exempt class. He noted that most executive officers in positions with enforcement were allowed one exempt position. Mr. Dusek stated he wanted to make sure the Committee had the correct information and that it was possible to make an application for a non-competitive or exempt position for the DSS. Mr. Kelly expounded that the Committee should be aware that a condition of employment for the Deputy Commissioner in Social Services was that it was a competitive position subject to a competitive examination. He expressed his discouragement when there was no history as to how certain events had occurred.

Mr. Dusek apprised that Mr. Kelly's concern was that there was an advertisement for the position and interviews were conducted with the thought that it was a tested position, and the concern was for the impact it would have on other individuals in the system. Mr. Kelly agreed that what Mr. Dusek had said was a valid argument and if it had been advertised that there would not be a civil service examination, there may have been a broader field of candidates. He added his other concern was that if the Deputy Commissioner of DSS, who was in charge of all the various program areas, was not successful on the civil service examination and no one had warned of that possibility, he wanted the board members to be aware that the Personnel Officer had advised that it was a competitive, tested position.

Ms. Weaver explained that she could understand the position being a competitive one if she had the two Director positions, which she had been directed to abolish and led to the creation of the Deputy Commissioner position. She added that she needed a Deputy Commissioner that would serve at her will and if that person was not capable of fulfilling those duties, she needed the ability to remove them from the position.

Mr. VanNess entered the meeting at 9:48 a.m.

Discussion ensued. Mr. Kelly concluded that the Deputy Commissioner of Social Services was hired with the understanding that it would be a competitive position. He reiterated that if there was a promotional field of three or more candidates, under civil service law, the examination must be held promotionally. He stated that this would change the terms and conditions of the employment of the Deputy Commissioner of Social Services along with the recruitments. Ms. Weaver said that she had asked Mr. Kelly to offer the test open competitively and promotional was not her request. Mr. Kelly countered that anyone that had been involved with civil service for any length of time would know that promotional examinations were mandated and were a requirement. For instance in Wyoming County, where Ms. Weaver previously worked, he asked if there were any positions that Ms. Weaver was aware of that were not competitive or promotional and Ms. Weaver replied that the Deputy Commissioner position was exempt and the Confidential Secretary position was exempt.

Mr. Thomas questioned the desire of the Committee and reminded them that there was a motion on the floor. Mr. Thomas called the question and the motion was carried unanimously to approve the request to make the position of Deputy Commissioner of Social Services exempt. The necessary resolution was authorized for the next board meeting.

Continuing, Mr. Thomas advised Items 6A through C were referrals from the Support Services Committee. Item 6A, he said, was referred from the Information Technology (IT) Department, requesting to decrease the salary of the Director of Information Technology from the former base salary of \$78,963 to the current base salary of \$63,170; thereby amending the Department's Table of Organization. He noted that as per the County Attorney, an affirmative action resolution providing for health insurance coverage as special circumstance is needed.

Mr. Dusek explained that he had recommended this action because the Director of IT was reducing his hours and decreasing his salary and the reduction in hours caused the Director to fall below the minimum number of hours outlined by resolution for health insurance; therefore, he said, this was a unique situation and he suggested that a resolution be adopted allowing the Director to continue his health insurance coverage.

Mr. Belden asked what the hours were being reduced to and Rob Metthe, Director of IT, responded he was reducing his hours, as well as his salary by 20%.

Motion was made by Mr. Stec, seconded by Mr. VanNess and carried by majority vote, with Mr. Thomas voting in opposition, to approve Item 6A as outlined above and to authorize an affirmative action resolution providing for health insurance coverage as special circumstance; and the necessary resolutions were authorized for the next board meeting.

Mr. Kenny noted that this was an exceptional circumstance in which the Director of IT stepped forward with this proposal in order to save a position within his Department and he commended him for such.

Mr. VanNess exited the meeting at 9:51 a.m.

Mr. Thomas noted Item 6B was referred from the Office of Administrative & Fiscal Services, requesting to fill the vacant position of Messenger, base salary of \$26,558, Grade 6, Employee No. 4055, due to retirement.

Motion was made by Mr. Kenny, seconded by Mr. Belden and carried unanimously to approve Item 6B as outlined above, effective January 1, 2010, and the necessary resolution was authorized for the next board meeting. A copy of the Notice of Intent to Fill Vacant Position is on file with the minutes.

Mr. Thomas added that Item 6C was also referred from the Office of Administrative & Fiscal Services requesting permission for the Deputy Commissioner of Administrative & Fiscal Services to enroll in job related course entitled "Program Planning and Evaluation" at Empire State College, commencing January 19, 2010 and completing April 30, 2010, for a total cost of \$491.20.

Motion was made by Mr. Tessier, seconded by Mr. Sokol and carried unanimously to approve Item 6C as outlined above and the necessary resolution was authorized for the next board meeting.

Mr. Pitkin announced that due to the amount of confusion surrounding salaries, he suggested that the Director of Human Resources and/or the Personnel Officer review these requests prior to them being presented to the Personnel Committee.

There being no further business to come before the Committee, on motion made by Mr. Belden and seconded by Mr. Stec, Mr. Thomas adjourned the meeting at 9:55 a.m.

Respectfully submitted,

Nicole Livingston, Deputy Clerk