

## COMMISSIONERS MEETING

November 17, 2021

*YORK,ss*

### **SPIRIT OF AMERICA AWARDS HELD AT 3:00 P.M. VIA ZOOM**

At a regular meeting of the County Commissioners of the County of York, begun and holden at the York County Government Building in Alfred, within and for the County of York, being held on Wednesday, November 17, 2021 A. D. at 4:30 P. M.

#### **COMMISSIONERS PRESENT:**

Richard R. Dutremble  
Richard Clark  
Robert Andrews  
Allen Sicard  
Donna Ring

County Manager Gregory Zinser and Deputy County Manager Linda Corliss were present at the meeting.

#### **YOU ARE INVITED TO RISE AND SALUTE THE FLAG OF THE UNITED STATES**

**11-17-2021**

#### **ITEM**

- 1 PUBLIC COMMENT(S) ON ANY ITEM(S)**  
None
- 2 TO APPROVE THE MINUTES OF THE FOLLOWING MEETINGS:**
  - a. Regular meeting of November 3, 2021  
Commissioner Clark motioned to approve the minutes. Commissioner Sicard seconded the motion. Vote 5-0.
- 3 TO APPROVE TREASURER'S WARRANTS**
  - a. Warrants to be approved on November 3, 2021 in the amount of \$627,521.31  
Commissioner Clark motioned to approve the warrants. Commissioner Sicard seconded the motion. Vote 5-0.
  - b. Warrants to be approved on November 10, 2021 in the amount of \$775,872.31  
Commissioner Clark motioned to approve the minutes. Commissioner Sicard seconded the motion. Vote 5-0.
- 4 TO HEAR ANY REPORTS FROM THE COUNTY**

## **COMMISSIONERS**

None

### **5 TO HEAR ANY REPORTS FROM THE COUNTY MANAGER**

None

### **6 NEW BUSINESS**

a. Discussion of OSHA vaccine mandate/testing requirement-County Manager Zinser stated that this is one of the most common topics being discussed in the area. The County Manager continued that before he talked about the mandate or testing requirements being advanced by OSHA. We are all aware it is in a stay. County Manager Zinser informed all that statistically here in the county in terms of vaccinations with an employee count of 264 (The County Manager explained that this number includes, full-time, part-time, and reserve employees.) we have verbally been advised that we have an 81% vaccination rate. Technically, he continued, we can only confirm that 55% are vaccinated. County Manager Zinser publicly thanked H.R. Director Linda Corliss as she is bearing the brunt of the COVID matter. This matter consumes a lot of our time, explained County Manager Zinser. The numbers (of positive COVID cases) are rising as well as hospitalizations. With or without a mandate at this point, continued County Manager Zinser, and with the holidays coming, if history is an indicator, it is not looking pretty.

The County Manager stated that because of the stay, he is not asking the Board to implement a policy tonight but asking what direction they wish to be going in. The Circuit Court of Appeals is currently reviewing the OSHA ruling and most likely it will be going to the Supreme Court with a decision perhaps in a few months. We do have draft policies for testing and for mandatory vaccinations. What we've produced is largely from the OSHA mandate. While the OSHA mandate is under stay, we have an obligation to protect our workers, stated the County Manager. He continued that he thinks the statistics given earlier are important to see if a vaccine mandate would be appropriate or not for the county. We are requesting of the Commissioners that you authorize myself and Linda to move forward to develop a policy for a vaccine mandate on our own or as OSHA requirements. Either way, stated the County Manager, we need a direction to go in as the clock is ticking.

Commissioner Sicard commented that the County Manager is alluding to it is going to be going to court. Any recommendation the Board makes is putting the cart before the horse. I feel we should stay with current policies and testing and once the law is firm and ruled on, then, we will have a clear picture on how to proceed. Commissioner Ring stated that she agreed with Commissioner Sicard. She added that her position is that she will not mandate unless this county is willing to pay the employees. If we are going to mandate any employees, she stated, she would hope that the county would use our ARPA funds or some kind of funding.

Commissioner Clark stated that he does not think what the Supreme Court does is particularly important. He continued that we have an obligation to protect our employees and run the County. Right now, we are not doing a good job at either. OSHA rules are important but this county can still act without that authority. If it is approved by the Courts, continued, Commissioner Clark than obviously we have to do it. COVID has been going on for almost two years now and Dr. Shah stated that we (Maine) has set another record for hospitalizations and cases. We had an outbreak at the jail that affected a significant amount of people and recently, we

had a department shut down and was not able to deliver services to the county because of an outbreak. Commissioner Clark stated that he thinks we should step up and do what's right. He added that kicking the can down the road doesn't do good for anyone.

Commissioner Andrews spoke and stated that he does not believe the vaccines are the silver bullet. He added that we have seen an increase even with people who are vaccinated. It is more about liberties and we do not have the right to mandate people taking an injection into their bodies if they have a religious objection or otherwise. Commissioner Andrews continued that we cannot bow to the fear and the pressure of OSHA. He stated that he will not vote for a mandate.

County Manager Zinser addressed the Board and stated that he wanted to be clear and if they do not go for the mandate testing will be required. The draft policy was developed that the employee will be responsible for testing but in Maine, the employer will have to pay. He continued that testing presents problems such as what happens on nights and weekends? The guidelines are strict and specific. This will really severely impact our ability to staff. County Manager Zinser continued that he will be requesting from the Board, someone to monitor folks who are choosing that option. The initial cost (for testing of unvaccinated employees) is around \$100,000. He stated that he questions the efficacy of using taxpayer funds for that. County Manager Zinser continued that we don't have the capacity to monitor and implement the payroll and portal reporting. There is an automatic \$14,000 fine. Nationally, we have seen the mandates being upheld. It's a pretty sure bet that is the direction it's going in. County Manager Zinser said that he is not looking for a decision tonight but some direction as we will need to be ready once the decision is handed down as we will only have 30 days.

Commissioner Ring asked in regards to the OSHA rules are they actually in effect or is everything in the courts? County Manager Zinser replied, in the courts.

Commissioner Ring clarified so we would be obligated by the State mandate, it wouldn't be the Board that's doing it. The County Manager replied it would be the Board as you will be directed by OSHA to do so. We are just trying to get ahead of this and have that discussion.

Commissioner Ring replied that she has said her piece and that she will not support any mandate. She added that she does believe we have a responsibility to our employees but that we also have to protect the constitutional rights of our employees.

Commissioner Sicard asked County Attorney, Tim O'Brien if he feels the Commissioners should get out in front of the courts or wait for the court's decision?

Attorney O'Brien stated that there is nothing that is ever certain about litigation. The Stay was issued by the 5<sup>th</sup> Circuit Court of Appeals and is now in the 6<sup>th</sup> Circuit Court of Appeals. The Board can proceed on its own by acting on some of the information on the OSHA policy or sit and wait and take the middle of the road approach and begin to outline a procedure to give staff direction. The Federal District Court in Maine did uphold the vaccination of healthcare workers, reminded Attorney O'Brien.

County Manager Zinser informed the Board that this is also a subject of impact bargaining. Commissioner Ring asked if the employees have been given the draft policies. County Manager Zinser stated that they have not.

Commissioner Ring asked if ARPA money can be used for testing (of employees).

County Manager Zinser replied that he thinks so but he does not know if it will be for an OSHA requirement. Commissioner Ring replied that she would like the County Manager to get that answer.

Commissioner Dutremble asked for public comments regarding this matter.

Brian Maddox of Fox Street in Biddeford ME, President of the Local 109 NCEU addressed the Board and stated that no matter what they do, it will cost money and won't please everyone. If you make it mandatory, 10 people will walk, stated Mr. Maddox. This will leave us with about 20 corrections officers. Who will apply if vaccines are mandated, he asked. We are having a difficult time as it is, commented Mr. Maddox.

Colton Sweeney of Acton ME, also a corrections officer at the York County Jail addressed the board and stated that 9,810 people have died from the vaccine. He stated that he obtained this number from the CDC's website. Mr. Sweeney asked who is held liable if he gets the vaccine and has an adverse reaction? The County Manager replied that it becomes a worker's compensation issue. Mr. Sweeney continued that Governor Mills removed all EMS and dental employees from having to be vaccinated. If a mandate is made a policy, Mr. Sweeney requested that testing is also made available.

Susan Wiswell of Kittery, ME spoke via ZOOM. She stated that she is a retired nurse and that a number of healthcare facilities have closed down because of the vaccine mandate. Healthcare has been chronically understaffed and COVID has exasperated this. If it's happening in healthcare, it's going to happen wherever they have a mandate, stated Ms. Wiswell.

Dean Staffieri, President of the Maine Service Employees Association, addressed the Board and stated that MSEA has consistently supported people getting the vaccine. We have encouraged our employees to get vaccinated, continued Mr. Staffieri. We are not opposed to a mandate. What we would hope for is that we are able to have some communication (impact bargaining). Some can't (get the vaccine) for religious and medical reasons. Some simply just won't want to get it. There may be situations where people have to make a difficult decision.

Rod Hooper of Lyman, ME, County Fire Administrator, addressed the Board and stated that he wanted to make a correction to one statement made earlier in that EMT and paramedics do need to be vaccinated and that this mandate was put into a Public Safety rule. Emergency medical technicians are also required to be vaccinated. Chief Hooper stated that the impact that it has had on this workforce is not catastrophic. Personally, I think it is the right thing to do.

Janet Drew spoke via ZOOM and stated that she is also a retired nurse.

Medicare requires vaccines every year for employees. We were all expected to do what was right for the greater population. Statistics show that people that are requiring the most care are people that are not vaccinated, stated Ms. Drew and those people are effecting people with other issues. Healthcare workers are leaving because they are exhausted. None of us are safe until we all get vaccinated. If not getting vaccinated is more important than working, then that is their choice. This is not a new expectation of people in this country. It is not a conspiracy to make us do something we don't want to do, stated Janet Drew.

Travis Jones of Wells, ME addressed the Board via ZOOM and stated that he is the President of the local FOP association-. Mr. Jones stated that the Sheriff's Office is also very understaffed. We are looking at a mandate that will include people leaving the YCSO, he stated. This will be another stumbling point commented Mr. Jones.

Carol Lovejoy, Register of Probate of Kennebunk, ME addressed the Board and clarified that the comment made earlier that the probate office was shut down is not true as all of the Probate department employees were working remotely.

County Manager Zinser spoke of the earlier comment that reported side effects. He commented that every week he listens in on the EMA phone calls. He also has spoken to Dr. Schmitz and other people in reference to the side effects.

Inflammation of the heart is also a side effect of COVID, commented the County Manager. As far as statistics in people leaving when given a mandate, we haven't seen the exodus that was threatened. We want to open the dialog with the Unions, stated County Manager Zinser.

Commissioner Chairperson Richard Dutremble asked what the consensus of the Board was to advise the procedure to go to for the County Manager.

Commissioner Clark motioned that we ask the County Manager and the H.R. Director to work on policy to require mandate for vaccinations for all employees. The motion did not receive a second. Motion failed.

Commissioner Ring motioned we wait with direction for testing and direct the County Manager to redo a policy that would be anticipated through the Supreme Court. NO SECOND TO COMMISSIONER RING'S MOTION.

County Manager Zinser advised that the Commissioners need to be very cautious of the testing as it is fraught with issues. He continued that the County still will need to impact bargain. County Manager Zinser also asked if this is an appropriate use of taxpayer money? Right now it is the requirement of the employee. But, the State of Maine as of now requires employers to pay for testing, stated County Manager Zinser. We don't have the capacity to test our unvaccinated folks on a weekly basis.

Commissioner Ring state that there are so many ifs at this time. Pfizer has a pill coming out. That might be another option. I don't see any reason why we have to make a motion at this point. Let's see what happens with the courts, stated Commissioner Ring.

Commissioner Ring motioned to continue with what we are doing and direct the Manager to do a little more research on testing costs and staffing and come back to us in a month or so. Commissioner Andrews seconded the motion.

DISCUSSION- Commissioner Clark stated that Commissioner Ring's motion has everyone going forward in all directions. It is not useful and not helpful, continued Commissioner Clark. We are in a public health emergency. We as a Board have an obligation to protect our employees. I will not be voting for this motion to do nothing. Commissioner Clark continued that it is very disappointing that this Board doesn't have a spine to do something.

Commissioner Dutremble stated that he agrees with Commissioner Clark 100%.  
Vote 3-2 (Commissioner Clark and Commissioner Dutremble opposed.)

b. Introduce H.R. Director Linda Corliss to seek hiring approval of James Oliver in the position of Patrol Deputy in the Sheriff's Office with a hire date of November 29, 2021-

Commissioner Sicard motioned to approve the hiring of James Oliver in the position of Patrol Deputy in the Sheriff's Office with a hire date of November 29, 2021. Commissioner Andrews seconded the motion.

Commissioner Ring asked H.R. Director Corliss what the starting rate for Mr. Oliver will be? H.R. Director Corliss replied, \$26.85 an hour and that it is based on transferring and years of service. Vote 5-0.

- c. Introduce H.R. Director Linda Corliss to seek hiring approval of the following with hire dates of November 22, 2021:
- i. Luke Bibber (Reserve) EMA in the position of Fire Instructor 1-  
Commissioner Sicard approved the hiring of Luke Bibber. Commissioner Andrews seconded the motion. Vote 5-0.
  - ii. Matthew Leach (Reserve) EMA in the position of Fire Instructor 1-  
Commissioner Sicard motioned to approve the hiring of Matthew Leach. Commissioner Andrews seconded the motion. Vote 5-0.
  - iii. Justin Cooper (Reserve) EMA in the position of Fire Instructor II-  
Commissioner Sicard motioned to approve the hiring of Justin Cooper. Commissioner Andrews seconded the motion. Vote 5-0.
  - iv. Derick Ouellette (Reserve) EMA in the position of Fire Instructor II-  
Commissioner Sicard motioned to approve the hiring of Derick Ouellette. Commissioner Andrews seconded the motion. Vote 5-0.
- d. Seek approval of promotion of Gregory Sevigny to Sergeant in the Sheriff's Office with an effective date of November 22, 2021.  
County Manager Zinser explained that the Sheriff has another promotion. There were three sergeant's vacancies. The Commissioners approved the first one. This (request for approval) is round two.  
Commissioner Sicard moved to promote Gregory Sevigny to Sergeant with an effective date of November 22, 2021. Commissioner Andrews seconded the motion.  
Discussion- Commissioner Ring asked if the same process was followed as the motion (for a sergeant promotion) from a month ago? County Manager Zinser replied, yes.  
Commissioner Ring responded that she won't be voting for this not because of the individual, but because of the process followed.  
Vote 4-1 (Commissioner Ring opposed)
- e. Clinical Director Appointment – County Manager Zinser explained to the Commissioner that they did advertise the position in all of our normal channels as well as sending it out to people we have interacted with in the past. He continued that Sanford Housing Authority was the only one to submit a proposal to us. Their proposal is \$110 per hour for a clinical director. These are two of the individuals that helped us design Layman Way. My recommendation is to enter into a contract with SHA for clinical services.  
Commissioner Clark stated that he is willing to support this appointment but, he wants a contract that establishes the parameters of what we are going to do with this.  
County Manager Zinser said he will do so if the Commissioners approve it.  
Commissioner Clark motioned to approve the Clinical Director appointment as recommended by the County Manager and directed the County Manager to enter into discussions with SHA to provide Clinical Director services and come back to the Commissioners with a contract to review and approve.  
DISCUSSION: Commissioner Ring asked how many hours a week would the Clinical Director work? The County Manager replied between 5 and 20 and this is an ARPA expense.  
Commissioner Andrews seconded the motion. Vote 5-0.

f. Commissioner appointment to United Way of Southern Maine- County Manager Zinser explained that this appointment is for a committee that is part of the United Way; the Emergency Food and Shelter Committee that receives funding through FEMA for food and shelter. They are looking for a Commissioner to take part in that Board for this committee.

Commissioner Andrews stated that he is willing to do it but the time situation is crucial. Commissioner Dutremble agreed to be alternate in the event that Commissioner Andrews is not available.

Commissioner Ring motioned to appoint Commissioner Andrews as the lead for the United Way Food and Shelter Committee with Commissioner Dutremble as the alternate.

Commissioner Andrews seconded the motion. Vote 5-0.

## 7 OLD BUSINESS

a. Follow up with Fair Tide and any other ARPA discussions, if needed- County Manager Zinser explained that Emily Flinkstrom from Fair Tide has returned with additional information. Ms. Flinkstrom addressed the Board and stated that she can assure all that plenty of households exist that are struggling. A lot of people are living right on the brink and a lot more people are homeless living in cars and tents. This has become more of an issue since COVID. Fair Tide acts as a tool for prevention and diversion. We help people stay in their homes and their communities. Ms. Flinkstrom informed all that they have a purchase and sales agreement on a property that they feel is ideal for affordable housing units. She continued that they have vetted 12-20 sites over the past 2 years. This site has risen to the top. About a month ago, property came available for Historical Society in York. Our time line and benchmarks were in our handout (attached as record). She continued that they have done a lot of digging in the feasibility of this site. How many units is a question right now. We need to pay for an architect to do a site plan. We are confident that this will work well and Community Housing of Maine will be our partner in building these homes, explained Ms. Flinkstrom. Strong partnerships that we have built throughout the years will also assist us with our hub. Emily Flinkstrom introduced Footprints Director Megan Shapiro Ross who explained that the Food Pantry has been open since 1992. She added that they serve Eliot, Kittery and Kittery Point. They serve 185 households a month and have 3750 households in their data base. Ms. Ross explained that Footprints already works with Fair Tide constantly. Our Board of Directors voted unanimously to bring this resource hub to life.

Ms. Flinkstrom then introduced Allie Goodwin who is the Chair of the Fair Tide Board and also a real estate agent. Ms. Goodwin informed the Board that she has been on Fair Tide's Board for five years. She added that most recently, she was elected as Chair of the Board. She shared that they have two real estate agents on their Board and that their treasurer is an investment banker. Another of the Board members is a council member in the town of Kittery. Another Board member is also an affordable housing member and sits on the planning board in South Berwick.

Ms. Goodwin added that their Strategic Plan was developed by Emily. We have achieved our plan in less than 5 years. Our financing contingency relies on ARPA funds, continued Ms. Goodwin. She explained that one of the contingencies in the contract is a non-refundable deposit in the amount of \$13,500 that is required

for the York deal. That is the urgency in our timeline. Fair Tide would have to pay this out of pocket, she explained.

Commissioner Clark questioned if affordable housing and the resource center can fit on a 1.9 acre parcel? Emily Flinkstrom responded that the town is in the process of zoning changes that will increase density. The goal is to create housing to build those units. She added that another obstacle is the lot is split zoned and that they have been talking to the planning board to overcome that obstacle. Right now, we can build 10 or more units based on current zoning, stated Ms. Flinkstrom. She continued that with the tax credit funding money we hope to get closer to 35 units on that site with the resource hub. We are looking to expand zoning that has already been passed. She added that there is public water and sewer on the lot.

County Manager Zinser asked about the likelihood for the \$1.4 million to renovate the building? Emily Flinkstrom replied that she has no problem in doing that.

County Manager Greg Zinser asked when would they start? How do we structure a contract if the Board chooses to do this? The County Manager explained to the Board that if it doesn't come to fruition, Commissioners, you are on the hook.

Commissioner Andrews asked isn't this allowable under ARP funds? The County Manager responded, initially, yes. We would send all of this information to our attorney but, the creation of affordable housing is generally allowed.

Commissioner Clark asked would the resource hub on its own qualify? County Manager Zinser stated, yes, he thinks so. If the Board wants to do this, the next step would be to obligate it. Then we would have to go through our due diligence.

We would want a sub recipient agreement which is where we are with the teen center at this point. Ms. Goodwin commented that is all Community of Housing of Maine would need. They could then get an architect.

Dave Nalchajian, ARPA Financial Project Manager for York County stated that the only possible issue is the money is being spent upfront. We are giving the money to buy something. They can't do the project without getting the ARPA money.

There's no guarantee what happens to the money if this dissolves. There has to be performance.

Commissioner Clark suggested support for the resource hub and not get the county into affordable housing as it can get done within the time constraints. County Manager Zinser added that maybe we need to broaden it. We can structure something.

Commissioner Clark motioned to allocate but not expend \$750,000 for a resource hub and have the County Manager work with Fair Tide on this.

Commissioner Sicard seconded the motion. Vote 5-0.

b. Seek Commissioner approval on PLC and camera bids- County Manager Zinser explained that the Board expressed some concerns how the system interacts with our door control program. The Board directed me to get an additional quote for a new door system. This quote is in the amount of \$555,510.74 and is fully integrated.

The total cost for the door system and cameras is \$1,194,000.38. The money is in jail reserves, stated the County Manager. He continued that we will be wiping the money (in reserves) out but we don't have a lot of options.

Jail Administrator Major Nathan Thayer informed the Board that the PLC system is failing. He added that they had the jail inspection today and it was an area of concern.

Commissioner Clark asked Major Thayer if this (purchase of camera and PLC) answers his problems. Jail Administrator Thayer, replied, 100%

Commissioner Sicard suggested that since one of the system reads body temperatures it might be allowable to use ARPA funds.

County Manager Zinser replied that money was put aside for the camera system four years ago. But, yes, he continued, the camera system is fundable under ARPA. It doesn't have the body temperature but it does allow us to monitor and track all of the individuals. It absolutely would qualify as an ARPA expense, stated County Manager Zinser. He added that the decision is up to the Board. Commissioner Dutremble suggested using some ARPA funds then we would have extra reserves for future needs.

Commissioner Clark motioned to approve the proposal in the amount of \$1,194.38 with \$446,429.64 (video/camera) a portion coming out of ARPA funds and the remainder out of reserve funds. Seconded by Commissioner Sicard. Vote 5-0.

Commissioner Clark asked when will the project begin? Jail Administrator Thayer replied, very shortly as the company is ready to go. Commissioner Clark asked how long will it take?

Jail Administrator Major Thayer replied that it should not take any longer than five months.

**8 TO CONDUCT AN EXECUTIVE SESSION ON PERSONNEL ISSUES PURSUANT TO 1 M.R.S.A. §405 (6) (A), ACQUISITION OF REAL PROPERTY OR ECONOMIC DEVELOPMENT PURSUANT TO 1 M.R.S.A. § 405 (6) (C), LABOR NEGOTIATIONS PURSUANT TO 1 M.R.S.A. § 405 (6) (D) AND CONSULTATION WITH LEGAL COUNSEL PURSUANT TO 1 M.R.S.A. § 405 (6) (E), REVIEW OF CONFIDENTIAL RECORDS PURSUANT TO 1 M.R.S.A. § 405 (6) (F)**

a. Enter into executive session pursuant to 1 M.R.S.A. §405 (6) (A), personnel issues.

NO EXECUTIVE SESSION OCCURED

**9 PUBLIC COMMENT(S) ON ANY ITEM(S)**

Janet Drew (via ZOOM) spoke and stated that she hopes that more money will go towards community functions and more jail things. She continued that what's been committed is to the same systems we have. Very little money has gone to the community itself, stated Ms. Drew. It doesn't seem like you are reimagining communities. Maybe we need this camera system especially since no one seems to think vaccines are important, commented Ms. Drew. She added that she expected ARPA money to really help communities although she said that she is hopeful about the housing project.

Sheriff King addressed the Board and stated that these new camera systems enhance the safety and security of the facility for officers and residents of the jail. He continued that he was silent when we had the initial conversation about the vaccination. This is a very difficult decision, continued the Sheriff and he stated that he would ask that you folks get some legal advice. *"If there is a mandate, I'm wondering do you have the authority to mandate that to an employee? I understand the financial and business reasons. It is very uncomfortable for me to have to tell someone to put something into their bodies. How can this Board make a public official have to get a vaccine? It's a bridge too far for me. I think it is going to raise some legal questions. I am a constitutional officer and there are*

*constitutional questions here”, stated Sheriff King. “I applaud the Board for taking a step back.”*

Commissioner Clark asked Sheriff King what parts of the constitution are not

1. being followed to which the Sheriff replied he was not prepared to answer. Commissioner Sicard stated that the Board will have more clarity with constitutional backing and then they can implement the policy that will be backed by the Courts.

Brian Maddox thanked the Commissioners for approving the cameras and the PLCS as this is very important for everyone’s safety.

## **10 ADJOURN**

Commissioner Clark motioned to adjourn. Commissioner Sicard seconded the motion. Vote 5-0. Meeting adjourned at 6:23 p.m.