

## ECCCAB Minutes – Meeting 5, May 1<sup>st</sup>, 2012

1:15 reading of minutes and the approval of minutes.

Rev. Pierce presiding

Reappointees: Pierce and Kubik

New appointee: Joe Cercone.

Michael Lex – made a motion that the election of officers should wait until next meeting when the members are all in place are confirmed not recommended.

Motion Carried.

Chair remarks:

- Anne Constantino resigned. How do we make it known to the organization that there is an opening for these gaps to be filled due to resignation?
- Mike Cummings' replacement - from Leg. John Mills.
- Reach out to those organizations that sponsored the appointments

Michael Lex:

Offered a motion to amend the bylaws to state a quorum should be six members instead of eight.

Motion by Lex, 2<sup>nd</sup> by Covert.

Motion Carried.

Nan Haynes:

Reports on ombudsman position. Says she will be at the public safety meeting to discuss cost of litigation over last ten years, as part of rationale for saying we can afford this.

Nan will advise the public safety committee regarding funding the ombudsman position using telephone funds.

Research was conducted regarding how other counties utilized telephone funds. Eight counties were found to put telephone funds into the counties general funds. Two counties use funds as they would commissary funds. This gives the sheriff full discretion as to how these funds are used.

There is approximately \$550,000 in the telephone fund.

Michael Lex:

Says in his experience, in general funds - even if they are earmarked - it is not good to ask for a lump sum. Be specific.

Asks the question: Will sheriff agree to use x dollars for ombudsman? He stated there is a liability in that, and it would be easier to ask for specific money amount, with the necessary appropriations stated.

Lex further stated that the board should allocate the number of dollars needed to fund ombudsman position through money from the telephone fund with the expressed purpose of using the money for ombudsman

### **Ombudsman Position:**

Salary discussed was 50,000

### **Nan Haynes:**

Mentioned the ombudsman ideally will be person such as a retired judge or attorney, who has the respect and trust of sheriff's department and community.

Nan stated someone in that position would be doing it more out of a duty to the community, than as a means of support.

The ombudsman would need a full time clerk or secretary to research, speak with individuals, prepare subpoenas etc...

### **Discussion:**

50k plus half for benefits equals 75k

35k for clerk and half for benefits equals 52.5k

Office space and supplies

Is there space in any other the seven county government buildings?

Nan says if ombudsman can investigate, we cannot impose that on the sheriff.

Sheriff cannot force anyone to talk unless he has a subpoena.

Who can give this person subpoena power?

Do we want them to have it?

How else do you investigate?

### **Karima Amin:**

Says that we are dealing with a sheriff and his liaisons (Willie Stewart and Don Allen) that are not friendly with the community. Sheriff says there should never be an ombudsman because there is no need for one.

Karima states Sheriff says they (inmates) can turn to are teachers, counselors, public defenders, or county legislators for recourse. No need for an additional position.

### **Discussion**

We have to go with subpoena powers, procedures and operations in place so the ombudsman can actually help persons understand and exercise their rights.

Nan says legislature can subpoena: Why can't someone be given powers by the legislature?

### **Lavonne Ansari**

States it's also about subpoenaing records, not necessarily persons.

There should be a provision in there, stating that the person is being investigated.

Is this a union person? Recommendation for the position and one for subpoena powers, two separate recommendations.

### **Barry Covert:**

States if you want \$200,000 a year, the Board should be able to say this position of a person that can actually do something.

Subpoena power justifies position.

Why pay someone that cannot get anything done?

### **Michael Kubik:**

Asks if we are granting someone subpoena powers, do we need to provide them with legal assistance.

If they are in the unions, will said union represent them? Are there sanctions? There are complications.

### **Lavonne Ansari:**

States that in her workings with the City of Buffalo they never got to the subpoena part, because it was resolved before that step had to happen. Details were to be hammered out with specific departments before the subpoena power was used.

### **Nan Haynes:**

States entities may more likely comply if they know that there is a potential for a subpoena.

### **Discussion:**

It would give the creditability motion to have a second recommendation to include ombudsman have subpoena powers

Covert made a motion to give subpoena powers to the ombudsman. 2<sup>nd</sup> by Amin.

Motions carried with Kubik opposing the motion.

Barry covert:

Stated he will write a second resolution re subpoena powers.

### **Discussion:**

- Will the position be non union, non civil service or management confidential?
- Do we want this position created by county law or by a resolution?
- The board doesn't not want the position to be created via resolution, because it holds more weight as a local law.

No one is saying ombudsman needs 24 hour access to the facility. If you are conducting investigation under his watch, are you infringing on the Sheriffs' power?

Barry Covert says make it clear.

The Board is not saying ombudsman enter jail on his own at his own will. He will have a separate office with subpoena powers where people could come to the ombudsman.

What is the result of the ombudsman investigation?

Ombudsman reports on findings and may insist on corrective actions. Ombudsman would report said findings to the board then to legislature.

He also states the board needs to make it clear the position is not intended to encroach on powers of the Sheriff.

Selection process - Board would interview candidates and make recommendations to the legislature.

Could ombudsman be an employee of legislature says Lex?

Graber says yes, theoretically

Lex says positions should be employees of the Legislature as to keep it independent.

Re ombudsman: board should make appointments as opposed to legislature picking from the candidates.

Do 18 suicides under Sheriffs watch means his power needs to be encroached upon?

Should this be a local law sponsored by at least one member of the Legislature?

Nan asks if the subpoena power is a separate resolution.

**Johnny Cabrera:**

Send the email again regarding the questions of cleanliness to Koch. Have the staff person responsible for cleanliness be on the agenda to explain the cleaning questions.

Motion to adjourn Barry Covert and 2<sup>nd</sup> by Rev. Pierce

2:15 Adjournment