

Minutes

Public Safety Committee

November 14, 2018, 4:15 pm, Room 331

Gerace Office Building, Mayville, NY

Members Present: Niebel, Vanstrom, Bankoski, Whitford, Pavlock

Others: Tampio, Ames, Wendel, Swanson, Cresanti, Gerace, Dennison, O'Connell, Schuyler, Chagnon, Narraway

Chairman Niebel called the meeting to order at 4:20 p.m.

Approval of Minutes (10/05/18 & 10/17/18)

MOVED by Legislator Bankoski, SECONDED by Legislator Whitford

*Unanimously Carried*

Privilege of the Floor

*No one chose to speak at this time.*

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Proposed Resolution- Amend 2018 Budget Appropriations and Revenues Associated  
With Juvenile Services Team (JST)

Chairman Niebel: So, this is our MOU that didn't work with the State? Does somebody want to address that?

Mr. Narraway: We- the Department of Health and Human Services and the Probation Department had attempted to put together a memorandum of understanding in order to get some reimbursement for some probation positions through New York State. Our cooperative agreement failed to be accepted by the State and because of that we will not be able to get any reimbursement for those positions. Essentially what this resolution does is puts my budget back to the Legislature agreed upon budget levels from last year.

Chairman Niebel: Yeah. You guys brought this up during the budget hearings. You said that there was a possibility that this would go through or possibly wouldn't go through, so it didn't happen. OK folks, any questions of the folks here?

Legislator Pavlock: Is this something you think you'll be applying for next year too, or trying? Is it a yearly thing or you only have one shot?

Mr. Narraway: I think we've got a couple other possibilities that might be a little better for next year. We're looking at them now and we have some meetings coming up. This exact situation, no, probably not.

Legislator Whitford: You mean you may be able to tweak it so it would be accepted by the State?

Mr. Narraway: Probably a different attack all together.

Chairman Niebel: But it's pretty well shot for this year?

Mr. Narraway: Yes.

Chairman Niebel: OK.

Legislator Bankoski: How much of a change is that by not having that?

Legislator Vanstrom: It hit \$303,000.

Mr. Narraway: Essentially it puts it back to where the budget was when it was approved last year. These changes were made as an amendment to the budget and this puts it back to the original budget that was passed.

Mrs. Dennison: The net effect is a reduction of revenue, so an increase in local share of \$182,398. That was the revenue that was included in the 2018 budget. I know there's- that is not indicated on this resolution. The original revenue was amended out of his budget, and then when we redrafted it at that time we thought the revenue would \$201,600. So, when the original revenue was taken out of Tom's budget and moved over to Health and Human Services, the projected revenue was increased to \$201,600. Now we have to take out all the effects of that amendment. So, putting the personnel back where they started in probation, but removing the original revenue so that- as they said, the net effect of the amendment and now this re-amendment if you will is unfortunately going to increase the local share of \$182,398.

Legislator Vanstrom: Thank you.

Chairman Niebel: Any further questions? Those in favor of the proposed resolution? Opposed?

*Unanimously Carried*

Chairman Niebel: We are going to skip proposed resolution number two. We are going to wait for Steve Abdella and we will take the Sheriff's Department next.

Proposed Resolution- Amend 2018 Budget for Office of the Sheriff

Sheriff Gerace: This is just a minor adjustment. We anticipate the contractuals in 911 and the employee benefits in Pistol Permit will be above what was budgeted. We have excess funds in the point one account for 3110, so we're asking to move that money to cover the overages.

Chairman Niebel: For a total of \$12,357 and its budget neutral?

Sheriff Gerace: Correct.

Ms. Cresanti: Yes.

Chairman Niebel: Any questions for the Sheriff's Department? Those in favor? Opposed?

*Unanimously Carried*

Proposed Resolution- Authorize Agreement with Cattaraugus County for Inmate Housing

Sheriff Gerace: Mr. Chair, we have an agreement with Cattaraugus County in play already. They charge us \$50.00 a day if we have to house an inmate there and they are asking for the same in return. They have been very good to us and rarely do we hold their inmates, but when they need to do that we want to reciprocate at the same rate.

Chairman Niebel: This is kind of a change, Joe. Most of the time we're working out agreements with other counties and this time they're working out an agreement with us to house their inmates in our jail.

Sheriff Gerace: That's correct.

Chairman Niebel: Thanks guys. All those in favor? Opposed?

*Unanimously Carried*

Proposed Resolution- Authorize Agreement with Brocton Central School District for School Resource Officer

Sheriff Gerace: Mr. Chairman, this is similar to the other schools that are currently under contract with the Sheriff's Office. Brocton would like to initiate an SRO effective as soon as possible and it will be under the same contract language as the others. It's the same cost.

Chairman Niebel: We've had a lot of these in the past. This is new for Brocton?

Sheriff Gerace: Well, it's new again. Brocton was an SRO school when we had the federal grant and they withdrew once the grant funding ended and now they're interested in starting the program again.

Legislator Vanstrom: How many kids are in that high school?

Chairman Niebel: A graduating class of probably 30-35.

Legislator Vanstrom: They can probably send every kid to private school for the price that they get subsidized.

Chairman Niebel: Possibly, but we are just interested in protecting them right now with an SRO.

*(Cross-laughter)*

Chairman Niebel: Those in favor? Opposed?

*Unanimously Carried*

Proposed Resolution- Authorize Execution of Lease Agreement with Federal Bureau of Investigation for Tower Space

Sheriff Gerace: Mr. Chairman, the FBI has been on our Ellery tower for a number of years and their lease has expired- or is expiring and this is a renewal of that lease.

Chairman Niebel: Dutch Hollow?

Sheriff Gerace: Yes, we call it the Ellery tower.

Chairman Niebel: OK. This is just an extension?

Sheriff Gerace: Yes, the only thing that has changed is we modified the annual increases that were in at 3%. We froze that over the period of- because we've really reached the maximum that they're going to pay incrementally going up 3% every year and our costs are not, so we've agreed to freeze that for the term of this lease agreement.

Chairman Niebel: OK. Any questions from the Sheriff's Department on this proposed resolution? Those in favor? Opposed?

*Unanimously Carried*

Chairman Niebel: You guys are here for an item under other. We'll do that next.

Legislator Vanstrom: What is it?

Sheriff Gerace: It's a modification of a resolution you already passed, 193-18. It's our lease agreement with Windstream. The term and the cost has changed. It's a shorter term and a lower cost. So, we need to modify the resolution that was already passed in a previous meeting.

Chairman Niebel: So, the amount has actually decreased?

Ms. Cresanti: The amount and the term. It's decreased by two months. We noticed a discrepancy in their contract. The initial couple of paragraphs noted the term verbally starting and ending on dates that did not correlate with the graph that they presented which is what we used in our resolution. So, when we contacted Windstream and they clarified it was the first dates that we see that were spelled out that they wished to use, so we have asked for them to change them that in their contract. They have and we are in turn changing the resolution to match those terms.

Chairman Niebel: OK.

Legislator Whitford: It's reducing the terms, so that's why there's a reduction?

Ms. Cresanti: Correct.

Chairman Niebel: Guys, the last agreement included utilities-

Ms. Cresanti: That remains the same.

Chairman Niebel: It's just a change in the amount. Any questions from the Sheriff or Sheriff's Department? Those in favor? Opposed?

*Unanimously Carried*

Chairman Niebel: Joe, will you be here in December?

Sheriff Gerace: Most likely.

Legislator Vanstrom: Does he look ill?

*(Cross-laughter)*

Chairman Niebel: He doesn't always have resolutions before us. We hope to see you in December.

Ms. Ames: Mr. Niebel, I believe you need to make a motion to have the Clerk of the Legislature put it on the agenda for the full Legislature to renew and amend.

Chairman Niebel: OK. Folks it looks like we need to have a motion to amend this resolution and have the Clerk put it on the agenda. Would somebody like to make that motion?

Legislator Whitford: I'll motion to amend.

Legislator Pavlock: Second.

Clerk Tampio: Mr. Chairman, just a point of clarification; you're not amending it right now. It has to come up on the floor in order to renew and amend. The motion is to basically direct the Clerk to put it on the agenda for the full Legislature.

Chairman Niebel: We are going to change that motion slightly as far as the wording to what Kathy said. Let's go back to proposed resolution number two.

*Motion is Unanimously Carried*

Proposed Resolution- Requesting State Legislature to Permit Up to Four (4) Assistant District Attorneys to Reside in Adjoining Counties

District Attorney Swanson: Good evening. This is something- I think I touched on this with you folks previously. I know I have spoken with Senator-

Chairman Niebel: During the budget hearing, I think.

Legislator Vanstrom: Mr. Zuroski also spoke with us.

District Attorney Swanson: Yeah, basically the crux of this is as you can see in the resolution that Steve's drafted, there are other counties that have done this very same thing. Most recently it was Oswego County, which would have been last year. They typically pass through the State Legislature unanimously. The counties that have done this have found, similar to what I'm finding is when you have an opening in your office you aren't getting many applications. A lot of times those applicants aren't qualified. If you look at the counties that are on this list, you look at Wyoming and Madison, and Oswego and ourselves in particular, we all share the fact that we are adjoining a county with a city like Syracuse, Rochester, or Buffalo. What we're finding- and I spoke with Greg Oakes who is the DA of Oswego County and what we're finding is it's difficult to find attorneys that will move out of the city and into the County where you need them to work.

I'm asking for an allotment of a number of attorneys. What I will tell you is that none of these counties that have it, have placed a restriction on the number they can put. Quite frankly, I don't see us ever having a need to hire more than four from outside of this county given our numbers in our office as they are. It is something that I think at this point with us adding an attorney next year; it's something that in the future I suspect is going to pose a bigger problem finding qualified applicants that are willing to move out of the city and into your county that adjoins that county with the larger metropolitan area. So, I'm asking the Legislature here to send a resolution over to Senator Young and Assemblyman Goodell so that a resolution can be presented to the State and an amendment to the public officer law be passed.

Chairman Niebel: OK. Committee, questions for Mr. Swanson?

Legislator Vanstrom: Does the local Chautauqua County Bar Association support this kind of endeavor?

District Attorney Swanson: I don't know if they do, or not. Quite frankly, I would hope they do.

Legislator Vanstrom: You haven't contacted them to get a feel?

District Attorney Swanson: No, and speaking with the DA's from these counties, that's not an avenue that they went down. In fact, a lot of these counties didn't seek permission from their Legislature- their County Legislature before asking their Senators. I think it's an-

Legislator Vanstrom: That's jumping the puddle. That's incredibly- I don't mean to get my blood boiling, but that's how we roll in Chautauqua County.

*(Cross-talk)*

District Attorney Swanson: That's why I'm here in front of you. The reality is that I think what the Bar wants, just as much as everyone else, is they want qualified attorneys working in the DA's Office. That makes their handling of cases on the defense side easier. I'd be surprised if they were opposed to this if we were to ask, but no, that is not something I've done.

Legislator Whitford: This doesn't by any means say that your main focus (*inaudible*) to hire within the county, that's your initial focus and provided you don't have the proper candidates, it gives you that permission to go outside-

District Attorney Swanson: It gives you the option to hire someone-

*(Cross-talk)*

District Attorney Swanson: And that's an important part of this. It's a part of every other resolution that's been passed for all of these counties. You can't put someone in your chief assistant DA spot because if I were to become unavailable for office it would have to be someone living in the county to take over as the acting district attorney. So, that's something that needs to be specifically put in the resolution. Really, it's to allow the option to find the most qualified candidate. The reality is that if you can find a young attorney that wants to come and work in your office, make the commute from Buffalo- at the end of the day, maybe you convince them that there's a career here and you can get them to move into the county. I don't want to make that- I don't want to exclude a good qualified candidate because at the time they don't have an address here and that's the real concern here. As our Bar Association numbers continue to fall, it's going to become a more and more real concern of finding a qualified applicant every time we have an opening.

Legislator Vanstrom: How many people are in the Chautauqua County Bar Association?

District Attorney Swanson: I want to say in the Jamestown Bar it's around 30-

Legislator Vanstrom: (*Inaudible*) the County?

Chairman Niebel: There are two Bar Associations. There is a Jamestown and a Dunkirk Bar.

District Attorney Swanson: We are the only county in the State that has two Bar Associations. We have a Jamestown Bar Association and a Northern Chautauqua Bar Association. The Northern Bar has around 15-20 and the Jamestown Bar has numbers in the 30-50's. I'd be surprised if it's more than 50.

Chairman Niebel: Actually isn't there pictures of them up in the hallways?

District Attorney Swanson: Yes, there aren't many.

Chairman Niebel: If you want to take the time, you can probably count them.

District Attorney Swanson: And if you look at the photographs a lot of those folks are older, which is another reason why we're having trouble recruiting even people that live here. The example I would give you is there's a law firm in Jamestown with the Uber (?) brothers. They are all under the age of thirty; they are making far more money than I would ever be able to pay them to come work for me. So, I'm always battling with that. We have a public service job and the money available to hire someone isn't as great and as the Bar Association in this county continues to age out, the market for younger attorneys is going to be better and better and their potential for earnings is far greater than they are in my office.

Legislator Bankoski: Do you think there should be some language in that proposal that local residents have first preference?

District Attorney Swanson: No. The reason is- that's the whole reason I'm asking for the permission to get people from outside the county. The reason that I'm not hiring someone inside the county is because they aren't as qualified or they don't have the experience. I'll be honest with you though, if there's somebody here that I- all things considered, if I have two equal applicants I'm going to hire the person that lives in the county. That's a priority. I grew up here, I live here, I think my ADA should live here too, but the prospect of running out of qualified applicants is very real.

Legislator Vanstrom: When you're looking for an ADA do the jobs get posted or are they in the newspaper? Where are they put so that some potentially young member of the Bar would be able to get interviewed?

District Attorney Swanson: The last positions I've had available, I've published notice of the job in the Erie County Bar Association and the both Bar Associations here.

Legislator Vanstrom: But not in the newspaper?

District Attorney Swanson: No, typically not. Usually attorneys will find the position if they're listed in the local Bar Association. It's the best and most cost effective way to search for an attorney.

Mrs. Schuyler: *Inaudible due to distance away from the microphone.*

Legislator Vanstrom: You're able to hire outside the county, but have you ever done that?

Mrs. Schuyler: We haven't been allowed to- the Social Services attorney has to be within the county and until last week all of the attorneys had to be, which is true with public official law.

*(Cross-talk)*

Mrs. Schuyler: But now-

*(Cross-talk)*

Mrs. Schuyler: But we advertise on Indeed and the papers and anywhere and everywhere I can.

Chairman Niebel: Christine, all your attorneys up until now have been from Chautauqua County? Did you just say you hired someone from outside of Chautauqua County?

Mrs. Schuyler: No, the qualifications on the assistant social services attorney positions- the second and first assistant and the *(inaudible)* have been, traditionally, that they have to reside within the County. *(Inaudible)* when we just started to recruit we got some applications from attorneys outside of the county and they were rejected by human resources and sent back because they didn't live within the county-

Chairman Niebel: OK.

Legislator Vanstrom: But they could move here.

Mrs. Schuyler: So, the social services attorney worked with Steve Abdella to research the law, which actually says that only the Social Services attorney *(inaudible)* who may need to step in during my absence has to reside within the county. That's in social services and a-

Chairman Niebel: But up until this point, all your hires have been attorneys within Chautauqua County?

Mrs. Schuyler: To the best of my knowledge.

District Attorney Swanson: Many of these counties that are on this list have also gotten the exemption for their public defender's office as well because of the same issue. I'm not sure if it's something that our public defender would be interested in doing or not. I'm not sure what his situation is. I know he's about to add a lot of staff because of the grant that he just got. I don't know if he's going to run into this problem or not. That being said, it might be something worth reaching out to him to see if he'd like to put a resolution in front of the Legislature in December

to add onto this legislation to present it to the state. I don't know what his issues are. Maybe he's not having the problems I am. It is a little different prosecuting cases and defending them, especially for people coming right out of law school. The responsibilities of bringing all the proof forward, prosecuting the case- they all fall on us. (*Inaudible*) of it's easier to knock a house down than to build one up, is what's thrown around typically in our arena. As the prosecutor, we have the obligation of building our case and the defense is on the other side doing something different than us. What I'm seeing is the number of attorneys in this county continues to fall as they age out and retire and we just don't have a lot of people moving in. I'm looking down the road five-six years. This will be a very real issue and I'd be more comfortable knowing that I had, at least in my pocket, the ability to hire someone from outside the county when the need arises.

Chairman Niebel: OK. Folks, anybody else have questions?

Legislator Pavlock: I do, I guess. Have there ever been any requirements for someone to move into the county after they've worked for the office for a year? Is there any way something like that could be stipulated? So, you would entice someone to come down and work-

(*Cross-talk*)

District Attorney Swanson: Well, it would certainly be ideal but then again, I might just have someone work for me for a year and then leave and then I'm in the same boat I was in the year before. That's the concern I would have with that. Obviously I'm going to encourage them to live here. I moved back here with a professional degree. This is a really good place to raise a family and that's why I chose to live here. When given the opportunity to move from the Erie County District Attorney's Office to the Chautauqua County District Attorney's Office, I did it. So, I'll certainly be encouraging whoever I do hire- if I get the exemption and am tasked with hiring someone from outside, I'll be encouraging them to move here. I think it's important to know the county. With that being said the needs of the office I think need to be addressed first in having good, competent, qualified, experienced attorneys.

Legislator Whitford: Just for my information- is there a high turnover rate?

District Attorney Swanson: Yeah.

Legislator Whitford: Do they- is like the retention is very low?

District Attorney Swanson: It is low, yes. I think I started in our office here in Chautauqua County in 2012. There were ten attorneys in the office at the time and there are two left that were here when I started six years ago. So, we've seen eight people come and go and I think it's more than that because just in my time I've seen another three that were hired by me- or hired just before and then left. Sadly for Chris, I think I'm going to poach one of her attorneys that was poached from me.

Chairman Niebel: This may be news to Christine?

Mrs. Schuyler: We're alright.

District Attorney Swanson: With the position I've been graciously granted through the Legislature, I think I'm going to add an experienced attorney-

Chairman Niebel: The drug prosecutor?

District Attorney Swanson: She won't be the drug prosecutor, but she'll be able to handle felony cases which then allows me to spread the felony case load more thin. Paul, I'm sorry. I completely lost your question.

Legislator Whitford: It's OK. It's the retention and the turnover- is there an underlying reason?

District Attorney Swanson: Pay and workload.

Legislator Whitford: It isn't that they get experience and it's like a revolving training center?

District Attorney Swanson: Well that's some of it too. Sadly, yes we are. We can't meet the private pay and we lose people to do that. We do have some very committed attorneys that want to make this a career and those are the people that I really appreciate having on my staff, but there are others that realize that at some point- they have great litigation experience and with the market as it is right now in Chautauqua County they can make a lot more money if they leave. It's tough to compete with private pay. That's not unique to hear. That's a common thing across the state.

Legislator Pavlock: How would it affect your mileage compensation?

District Attorney Swanson: It doesn't. We don't compensate mileage to and from the office, only from the office to the courts they are assigned to. It wouldn't affect that at all.

Chairman Niebel: Any other questions for Mr. Swanson? Patrick, I've got a couple. You've mentioned that recruitment is a problem. You mentioned that you advertise in the Erie County Bar Association, the Dunkirk Bar Association, and the Jamestown Bar Association. Have you tried other alternatives besides those?

District Attorney Swanson: No. What I've learned with speaking with other DA's across the state is that's the most effective way to communicate with attorneys. They're constantly looking at those publications for what jobs are available in the area.

Chairman Niebel: I don't doubt that, but we do have some other alternatives within the county. For one thing- Human Resources- you've had four hires since 2015?

District Attorney Swanson: It might be more than that, Terry.

Chairman Niebel: At least four?

District Attorney Swanson: At least, yeah.

Chairman Niebel: None of those have gone through HR? In other words, you didn't have any of the postings done with Human Resources?

District Attorney Swanson: That's correct.

Chairman Niebel: The only reason I bring this up is because Human Resources does do a few things to get positions out and make positions known to the public. For example, the postings go to every county office building throughout the county- actually, they go to every municipal building in the county. Your office would have to draw up the requirements, the educational requirements, the responsibilities, the job-

District Attorney Swanson: Right. The same things we do for the postings.

Chairman Niebel: You'd have to do some of the same things for your ADA and your first assistant district attorneys. I'm just thinking that if you did that, Human Resources would advertise in the Observer, they'd advertise in the Post-Journal, on the internet, the intranet that goes throughout the county- of course you guys would pay for this, but I think they also use job sites such as Indeed, Monster- I don't know about zip recruiter, but they do things like that. That's another avenue that you could pursue as far as your recruitment.

District Attorney Swanson: I agree, but at the end of the day it's going to pull from the same pool of applicants because we're limited because we have the requirements of having a law degree and a New York State law license.

Chairman Niebel: I understand, but what it would do Patrick, is it would put it out to a lot wider area than just going through the Bar Associations. Not that I don't think this is probably the primary route that you should go, but there is another alternative. Also, on your website- it's a very nice website, but there's nothing on your website about people to apply for jobs with the District Attorney's Office. I would think there would be. If they go to Patrick Swanson, or they go to the Chautauqua County District Attorney and they are a young attorney that's in their second or third year of law school at UB, I would think there would be some sort of instruction or some sort of way that they could apply for a job with the District Attorneys.

District Attorney Swanson: I regularly- well, semi regularly get applicants from people inquiring about positions. I can't remember the last time I got one, I would have to check with Rachel, but I do get them. I won't post on the website unless we have a position open-

Chairman Niebel: But you could do that?

District Attorney Swanson: Yeah, when we have a position open?

Legislator Vanstrom: Wouldn't you want to collect resumes all the time?

*(Cross-talk)*

Chairman Niebel: So if you do have a position available, you have a pool of applicants?

District Attorney Swanson: Sure, and what you learn in law school and when you're working with your student services office in law school is they're telling you that if you're interested in working in a particular office, send them your resume. We do get resumes sent unsolicited. When we have had positions opened, we do put them on our website. Really, this is more of a safety net than something that I'm going to lean on. I want to have the availability of hiring somebody that is qualified for the position and is willing to drive down here from Buffalo or from Cattaraugus County.

Chairman Niebel: Patrick, do you advertise at UB law school? Some district attorneys do.

District Attorney Swanson: For the last couple positions I haven't. For the position-

Chairman Niebel: You haven't?

District Attorney Swanson: No. For the position we put up in 2016, I believe we did. For the last two I haven't and for the hire we have coming up in January, I made that hire without having to advertise.

*(Cross-talk)*

Chairman Niebel: But you did in 2016? Was that successful? Did you get applicants?

District Attorney Swanson: I got applicants, but nobody- I offered the job to two people- when I've had openings I've offered the job to two different people that didn't live in our county that were unwilling to move here. Fortunately I was able to fill those positions with other people, but when you're turning away your first choice for a position, you hate doing that because they simply live thirty miles further up the road-

Legislator Vanstrom: How old were those people?

District Attorney Swanson: Right out of law school. That's the other problem; they want to live in Buffalo. That's where young, professional law students want to be and it's unfortunate because they were two very good candidates. They would have been entry level attorneys. Finding an experienced attorney that's willing to up and move when they own a house is a whole different thing. So, this is a problem that is being experienced in more places than here. That's why I'm in front of you today.

Chairman Niebel: I guess the concern that I have is that we have one district attorney, we have four first assistant district attorneys and we have nine assistant district attorneys or more commonly known as ADA's, so out of thirteen people, you're requesting that you be allowed up to four outside of Chautauqua County. That's almost a third of your staff. To me, that's concerning.

District Attorney Swanson: Just to ease your concern, Terry, none of these counties have that restriction at all. In fact, the five counties in the New York City area and all these counties listed in the resolution- none of them have any restrictions except that it can't be the chief assistant or the first assistant-

Chairman Niebel: I understand.

District Attorney Swanson: I've tried to tailor that so that-

Chairman Niebel: I understand that, but how many counties are there? About 8?

District Attorney Swanson: Well you have to count-

Chairman Niebel: That's out of 62 counties. So, in other words, most of the counties- the vast majority of the counties have restrictions or want their district attorneys to hire from within their county. I guess my last concern is that we've never done this before. All the district attorneys before you, that I'm aware of, hired people within the county. I'm going back to- I've been around for a long time-

*(Cross-talk)*

Legislator Bankoski: Terry, times are changing, our population is dwindling, there's less people here and he's trying to be proactive knowing that maybe down the road his back is going to be against the wall and he's not going to staff his office properly. It's just giving him an avenue to recruit somebody so that he has help.

Chairman Niebel: Mr. Bankoski I understand that, but I think we haven't exhausted all our avenues of recruitment- the UB law school, Human Resources and even Mr. Swanson's website.

District Attorney Swanson: Well, with all due respect Terry, that still doesn't change the fact that they have to live here. Throwing a wider net out doesn't alleviate the problem of making them move here. That's what I've found. I've had great qualified applicants when I've posted in the Erie County Bar and the Northern Bar Association. I've got applicants from as far away as Virginia, but it still doesn't change the fact that I have to tell them you need to move into this county to work here. That's a no deal for a lot of people and unfortunately I've experienced that twice now. We're running out of attorneys in this county. Just look at Dunkirk and their Dunkirk City race. You have to be a resident in the City of Dunkirk to be a judge there. There are only six lawyers that live in the City limits of Dunkirk. This is a problem that we're seeing county-wide. What Mr. Bankoski said was right. This is going to be a problem for the next district attorney. This is something that allows us to make sure we have good qualified applicants staffing our office on these important cases. I see this coming. This is a real thing. I wouldn't be asking you to do this for any other reason unless I really believed that this exemption was needed to ensure that we competent attorneys working in our public safety and in our office.

Chairman Niebel: Mr. Swanson, we're talking about some of the best and brightest people in the County, or people that can potentially work in your office. I would like to see us be hiring people from Chautauqua County if we can.

District Attorney Swanson: I'm in the same boat, Terry.

Chairman Niebel: These are our future leaders. These are people that are going to have a vested interest in Chautauqua County. They're going to live here, raise families, pay taxes here and contribute to Chautauqua County. Personally, I just feel that if we're opening up your office to potentially hiring one third of your attorneys from outside of the county, I just have a real concern with that. I would prefer to possibly see this motion tabled until we have time to further study this because if you're allowed to do this , then Christine should be able to do this-

Legislator Vanstrom: But she can, for the most part.

Chairman Niebel: Well, alright, but people in the non-exempt people such as the public defender-

District Attorney Swanson: And many of these counties have done that already.

Chairman Niebel: It could set a precedent that I think would not be a good one.

District Attorney Swanson: I understand your concern there. My concern is for the public safety of this county and hiring good people to work in my office that can make sure that we're prosecuting these serious cases. That's why I'm here today.

Chairman Niebel: Understood. I think we can possibly do that with further recruitment. Committee, what is your desire?

Legislator Vanstrom: I'll make a motion that we table it until we can look at some of this other stuff that you brought up.

District Attorney Swanson: If you are going to make that motion, I'd just be wondering what it is I need to show you.

Legislator Vanstrom: Terry has some questions he still wants answers to.

Chairman Niebel: And it would give us a chance to discuss this over the next month or whatever. Perhaps you could come back in December and we could discuss this a little bit further.

District Attorney Swanson: Sure.

Chairman Niebel: Look, this is something new. No other district attorney has come before the committee to ask to hire a significant amount of their staff from outside the county.

District Attorney Swanson: I can tell you that Wayne County's doing it right now as we speak, as well. They're in the same position as us. For those of you that know geography, Wayne County is adjacent to Monroe County- he's having the same problem there. They're requesting it this year, as well. It's an ever increasing problem of county's our size. It's really unique and if you look at that list, most of the counties are counties unique to us. They're around 100,000-200,000-

Chairman Niebel: Cattaraugus County is not on it and neither is Erie County.

District Attorney Swanson: No because they have smaller offices.

Legislator Vanstrom: Erie County has a million people, Cattaraugus County has 72,000 and Allegheny has 23,000-

District Attorney Swanson: Well, in Cattaraugus County, their office is much smaller so they don't have the need that we do. We have double digit number of attorneys, Cattaraugus has I think four. Filling an office of four with a county full of attorneys is a different thing than- which is why I'm limiting the number that I'm asking for.

Legislator Pavlock: Some tidbits that we were discussing last night- I had a meeting for the school board. In 1998 the Cassadaga- Falconer graduating classes was - or not graduating, but the school had 1,500 students and now they each have about 900. So, in 20 years we have 600 less people in our school systems and those are just two schools in the county. The percentage is dropping.

District Attorney Swanson: Me moving back with a professional degree is the exception, not the norm. Terry, you know that. Where is your daughter working?

Chairman Niebel: Rochester.

District Attorney Swanson: OK, that's a common thing. These smaller counties- students go away, they get a law degree, there's far more lucrative jobs available in the larger-

Legislator Vanstrom: My brother (*inaudible*) so, you don't have to be special to live in Rochester.

District Attorney Swanson: Even if you were more comfortable limiting it to three – what I don't want to do is find myself in a situation where I've got to hire somebody that just can't do the job only because they live here. It puts me in a bad position as the elected DA. It puts out public safety at risk. I just- that's a bad reason to hire someone, just because they're a body that lives here.

Legislator Pavlock: Do all thirteen live here now?

District Attorney Swanson: No, I have one on a condition right now that is about up.

Chairman Niebel: These are the three that don't live here.

District Attorney Swanson: Yes. Dilorenzo, Flaherty, Chris Belling isn't of council; he doesn't carry a caseload so he doesn't technically need to live in the county. Both of those two attorneys have 23 and 16 years of experience respectively. Finding someone in Chautauqua County with that kind of experience that's willing to leave their private practice and come here is not likely, especially for the pay.

Chairman Niebel: Patrick, it is a significant change in policy for your department.

District Attorney Swanson: It's a significant change for any county that asks to do this. In speaking with these other DA's, they ran into the same questions. I'm not surprised by the questions you have. It's not uncommon to this request, but that being said, I think every district attorney that's gone before their public safety board has said the same thing as I'm saying. My priority is having competent and experienced attorneys in my office, whether they live here or thirty miles away.

Chairman Niebel: OK, but those counties represent roughly 15% of counties in the State. That could be subject to change, but right now that's all it is. We have a motion to table this proposed resolution, do I have a second?

Legislator Pavlock: I'll second it.

Chairman Niebel: Those in favor? Opposed?

*Motion to table is Carried with Legislators Whitford and Bankoski voting No*

Chairman Niebel: We'll discuss this further in December.

District Attorney Swanson: Thank you for your time.

Clerk Tampio: It was passed through in Administrative Services, so it will appear on the agenda for our Legislature meeting.

Chairman Niebel: Alright, thanks for the clarification.

Mrs. Schuyler: I found myself, as far as Health and Human Services, we're getting into a similar position because of a shortage of attorneys. I don't have the residency requirement that the District Attorney does, but I think something important to keep in mind is that there are different types of law and attorneys have their specialty and they have areas they like to do and areas they don't like to do-

Legislator Vanstrom: And areas they shouldn't do-

Mrs. Schuyler: Exactly. I've learned just in the years- I'd never supervised attorneys until I took on Social Services, there really is a niche and I know- we have some of the issues. Child

welfare is very hard. Family law is very difficult and child abuse and neglect is very hard to have to be a litigator and go to court and trial in those cases. Not everyone is cut out for that. Not everyone is cut out for criminal law and not everyone is cut out to be a public defender depending on which side of the table you want to be on. There are a lot of attorneys that are frankly, are not litigators. There are a lot of important cases, whether it is prosecutions, public defenders, or even in family court that you need to have the right attorneys doing the right job. They have to be able to argue a case and they have to be able to do that. It's nice to be able to have a pool where you can try to fit the right person into the right case.

Chairman Niebel: Alright Christine, we're going to have to wrap this up. Let me ask you a question. Your attorneys in HSS- the last attorney that you hired, how did you hire them?

Mrs. Schuyler: The very last one I took from Patrick-

*(Cross-talk)*

Chairman Niebel: But do you have applicants on hand for any potential vacancies?

Mrs. Schuyler: The three that were from out of county that were rejected- because they were supposed to be contacted to see if they would want to reapply and I don't know if they have yet. We've had two other candidates that are both quite seasoned and not family law attorneys-

Chairman Niebel: But how did you-

Mrs. Schuyler: I've got *(inaudible.)*

Chairman Niebel: Who's been there forever?

Mrs. Schuyler: Retired. We've got one attorney now going back to the DA's office. I've got another attorney that's in the process of interviewing for an opportunity with the courts and another on maternity leave-

Chairman Niebel: But do you do postings through the County?

Mrs. Schuyler: We do postings through the County. On our own we do indeed and everywhere we can and we are just recently reaching out to law schools.

Chairman Niebel: UB law school? The Northern Bar Association?

Mrs. Schuyler: We are going everywhere and looking. We are trying but in our county there is just a pool and we get to a situation where we are swapping attorneys between Health and Human Services, the District Attorney's Office, the Public Defender's Office, the County Attorney's Office. So, at some point we don't want to keep playing the shuffle game. We want to have people who want to do this sort of law and stay with us for the long haul so they get really good at it.

Chairman Niebel: Understood, but possibly what we need to do is do more recruitment efforts in order to get these people.

Mrs. Schuyler: I would be fully supportive of any initiative that the Legislature would like to ask our Human Resources department to increase recruitment and retention of every position that we have in the county. That would be much appreciated.

Chairman Niebel: The Departments also have to do their part to work with Human Resources.

*(Cross-talk)*

Chairman Niebel: Anything else?

MOVED by Legislator Vanstrom, SECONDED by Legislator Bankoski to adjourn.

*Unanimously Carried (5:07 p.m.)*

Respectfully submitted and transcribed,  
Olivia L. Ames, Committee Secretary