

Approval of Minutes-

- Commissioner Sanborn made a motion to approve the May 16th and 23rd, 2017 minutes. Commissioner Davis seconded the motion. Vote to approve passed 3-0.

Unorganized Territory Update-

- Barbara Veilleux reported that the county's salt bid is out. The bids are due to be opened on June 13th.
- In last week's Commissioner's Meeting, the Commissioners voted to approve ATV use on the UT's portion of the Mattamiscontis Road. Barbara noted that Mattamiscontis residents and local area Game Warden Mike Boyer requested making the road accessible to ATV's from May 15th to November 1st. Barbara explained the ATV date restriction would enforce that there would be no ATV's use of the road during the hunting and snow seasons. Commissioner Davis suggested banning use during the snow season but explained many hunters use ATV's to access their hunting areas. Barbara stated that the Town of Howland has yet to hold their public hearing for their portion of the road and the UT/County put no date limits when ATV access was granted in Greenfield. She believes that the Town of Chester did not place a date ban when they recently approved the use of their portion of the Mattamiscontis road. Commissioner Baldacci suggested waiting to see what Howland permits and then make a decision.
- Deputy Director George Buswell stated that he will begin summer maintenance projects at the end of this week.

For the Minutes-

- Commissioner Baldacci stated that the Commissioners had received a notice of layout and taking from the Maine DOT to widen a part of Hogan Road in Bangor. Commissioner Baldacci asked Administrator Bill Collins to further review the disclosure.

Sheriff's Department Update-

- Sheriff Troy Morton said today's jail population is 163 in house with 36 boarded out to other county jails (none of which at Cumberland). There are 68 inmates in Pre-Trial Services comprising of 16 in deferred disposition, 4 in-home release, 41 in pre-trial, and 2 medical furloughs. Troy noted that the jail saves a significant amount of money when they are able to grant medical furloughs to inmates. Sheriff Morton commended the DA's department for the progress made in speeding up the process of convicting and handling inmates awaiting trial. He explained that one reason for a delay in the system is when inmates request a Title 15 evaluation in hopes of postponing sentencings. Troy

Sheriff's Department Update Continued-

has asked the courts to monitor how often these evaluations are requested to hopefully shed light and lessen the misuse of the appeals. Troy explained that he reiterated to the DA's office that the inmates who are high risk should be in the County's jail. However in light of the population explosion the jail, the DA's office needs to keep pressing to get low risk, minor crime offenders out of the facility.

- Sheriff noted that the department recently responded to a Meth Lab explosion in the Town of Milford. He explained cleanup procedures are expensive and very dangerous for law enforcement. Since many Meth Labs use Two-Liter soda bottles in the production process, Troy and the Commissioners commented that bottle redemption centers and citizens that pick up stray bottles should take care not to expose themselves to any chemicals that may be present.
- Troy was disappointed that the Governor did not allocate funding for Maine county jails.
- Troy recently put out an RFP for the jail's mental health services. Troy issued copies of the RFP to three vendors: Acadia, PCHC, and CHCS who have expressed past interest in bidding on this service. Troy spoke with our current vendor Acadia Hospital and informed them that other vendors have expressed interest in providing the service which is why the jail would like to go out to bid. The last time the county went out to bid on this service was in 1995. Troy stated that the jail currently has nine inmates out of the jail receiving mental health services, seven at Dorothea Dix Psychiatric Center and two at the state prison's ICM unit. Troy added that we have worked with Dr. Michelle Gardner who recently accepted a position overseeing Dorothea Dix and the Riverview Psychiatric Center. Troy noted that Dr. Gardner has been great to work with and explained the jail has taken part in meetings with all three parties to improve the service and communication between their facilities.
- Sheriff said his Dept. recently sent two deputies, Sean McCue and Jason Matheson to a weeklong Rifle Training session. Troy added that the deputies finished 1st and 2nd in their class and that the course was paid for with bail forfeiture funds.
- Sheriff noted that the jail has completed and fulfilled all of the National Bureau of Justice's PREA (Prison Rape Elimination Act) standards. The only item the jail is waiting on is the completion of a compliance audit. He stated the audit cost roughly \$3,000 to \$5,000 but is good for three years. PREA is a federal standard that is very intensive and is required to board federal inmates. Jail's that don't implement the standards could be subjected to fines. Troy described one difficulty in complying with the standard is if during the intake interview process an inmate is flagged as a possible concern for added protection, it is very difficult with our current population crisis to properly house that inmate in a separate cell or block. Sheriff explained that the county partners with the Charleston Correction Facility as the mutual reporting agency for victims who need to file complaints of sexual harassment while being held in prison. Commissioner Davis

Sheriff's Department Update continued-

asked if the jail still has a board of visitors. Sheriff answered that the jail still has a board of visitors but they don't meet on a regular basis.

- The Sheriff asked if Treasurer Dan Tremble has had any success in finding an ATM machine to install either in or nearby our jail's facility. Sheriff explained over the weekend the facility took in two arrests who were unable to access cash to make bail. Dan responded that the search had been stalled when members of the county's health center/council expressed safety concerns on having an ATM machine installed in the Health Center foyer. Dan added that there is a nearby ATM machine on Franklin Street. The Sheriff explained that there would be great benefits for inmates and employees if the county housed an ATM machine on campus. Dan commented that due to the low number of ATM user "traffic" he is unsure if an ATM vendor would install a machine and at what cost. Dan explained if the ATM was housed outside of the jail or in an area that is prone to more traffic, a vendor would be more likely to provide a machine for the county's use. Dan said he would get some more information from ATM vendors and report back to the Commissioners and Sheriff.
- The Sheriff announced the hiring and position changes for the following Sheriff's Department's employees. Bill Birch – Chief Deputy, Jim Ellis – Patrol Lieutenant, William Sheehan – Patrol Sergeant, Ray Goodspeed - Training Sergeant, and Charity Davis – Clerical Staff. Troy stated that the department still needs to replace Michael Harvilic's position as Work Crew Manager as he will be retiring in the near future. Troy explained that if the department doesn't find an applicant that has a diverse carpentry/construction background, the types of projects that the Work Crew Manager oversees may need to change. Troy said either the Work Crew Manager will have to emphasize more on projects not heavily carpentry/construction orientated, or organizations that request jail inmates to do construction services provide a foreman to oversee those projects, or our department will have to look for an outside hire that has an extensive carpentry/construction background. The Commissioners and Troy each felt for liability concerns to redirect the position back to its' original role, the Work Crew Manager's job duties should focus on different types of service projects not construction related. Troy stated that the jail could still provide inmates for labor if organizations wished to hire their own foreman to oversee carpentry/building projects.
- Troy communicated that the department hired former Bangor Policeman Timothy Wheelden to a part-time patrol position. The Sheriff thanked the Bangor Police Department for their assistance in this transition. Troy also mentioned that the department is hiring for two open patrol positions and that three new hires for the jail are currently attending the Correction Officer's Training Academy.
- Administrator Bill Collins presented the state jail funding figures were unanimously approved in the recent criminal justice committee's legislative meeting in Augusta. Bill

Sheriff's Department Update Continued-

explained the funding amount approved (\$16.1 million) is derived from input of all of County jails for 2017-2018 fiscal year budgets collected by MCCA Interim Executive Director Charlie Pray. Bill noted this funding figure *includes* the projected \$3.8 million budget shortfalls that Maine counties expect to experience due to the population crises and operational cost increases. Penobscot County's portion of the projected \$3.8 million jail budget shortfall is \$953,961. It must now go to the Appropriations Committee for consideration. Bill also noted that Governor LePage removed all jail funding in his respective state budget. Our worst case scenario would be if no jail funding were approved it would result in a \$2.6 million budget shortfall for our county's 2017-2018 jail budget.

- Troy notified the Commissioners that he would like to discuss with them that the high probability is our jail budget will most likely begin the fiscal year budgeted at a deficit. If the state does not provide the total funding amount to cover the budgeted shortfalls (\$16.1 million), he does not see where our jail could safely cut any money off the budget to continue to house a safe facility for inmates and staff. Commissioner Baldacci commented that if the State fails to fund Jails then drastic steps would have to be taken to make the budget balance. Commissioner Davis stated the county would either have to lay workers off (which is not an option for the safety of the facility) or refuse to house inmates when the jail is at its rated capacity. Troy concluded that hopefully that funding will be resolved through legislation but would like to begin the process of planning if the funding falls through. Commissioner Baldacci and Bill each commend the Criminal Justice Committee for approving the 2017-2018 funding amount.

Facilities Update-

- Building Mechanic Terry Sullivan presented four quotes to fix the water leak in Maintenance basement office. Terry described that the problem arose from an outside asphalt apron deteriorating and allowing a water from a drainage spout to seep in the foundation. Terry noted that all of the bidders surveyed the effected parts of the building and that their bids include fixing any damage done to the surrounding lawn that may arise from the repair. Commissioner Baldacci asked if the bid included detailed and uniform specs for the repair. Terry answered that Cap had met with each vendor and communicated what needed to be done (the removal of the existing pavement, laying a six foot wide asphalt skirting comprised of 2.5 inch hot-top, overlaying a condensing conduit, and repairing any damages done while performing the work). Commissioner Davis asked UT Deputy Director George Buswell to review the four bids. George commented that the lowest bidder, Eaton Paving, had done great work for the UT in the past. Commissioner Davis motioned to award the bid to Eaton Paving, which included

Facilities Update continued-

the alternate price of overlaying the condenser's conduit, for a total of \$3,050. Commissioner Sanborn seconded the motion. Vote to approve passed 3-0.

Administrative Update-

- Bill worked with Charlie Pray and Kennebec County Administrator Bob Devlin in arriving at State funding for Maine county jails this past week.
- Bill, Sheriff Morton, and Administrator Rick Clukey finalized the jail's RFP for their mental health service needs.
- Bill negotiated with Emera Maine to drop the requirement for the county to make a security deposit for adding the 127 Hammond Street property to the county's campus.
- Bill worked with Katie Foster of Rudman and Winchell in completing the zone change application for the 127 Hammond Street property. The application and corresponding fee have been submitted to the City of Bangor.
- PRCC Director Chad LaBree and EMA Director Michelle Tanguay are both on vacation this week. Michael Azevedo and Denise Molinaro will be covering in their absences.
- Three county employees have notified Bill that they have not received bills for the respective portion of their Health Insurance deductible. Bill contacted the county's insurance broker Dick Hansen and Cigna Representative Mark Gagne in hopes to resolve the issue soon so that other employees won't have similar issues.
- Jim Ring and Joel Butler, whom the county contacted to help plan the 127 Hammond Street remodel, notified Bill that they are close to presenting their findings to the Commissioners.

VOYA Presentation and Fixed Account Discussion-

- VOYA's Regional Vice President Greg Miller and the county's VOYA Financial Advisor Karon Noyes presented recent changes to the county's fixed interest 457 deferred compensation account. Bill summarized why VOYA had been invited to be present today. He began by explaining to the Commissioners that one of the VOYA's Deferred Compensation accounts will be lowering its guaranteed fixed rate of return from 4 % to 1%. Bill noted employees were pitched that the fixed interest rate of 4 % was perpetual and many employees left their membership in Maine State Retirement to put their funds in this account. Thus there are many employees who are upset with the planned change.
- Greg began by explaining that the interest rate change is a result of the poor interest rates the market has been experiencing over the past few years. He explained that due

VOYA Presentation and Fixed Account Discussion Continued-

to federal mandates VOYA is required to have 425% of funds available to pay out all funding liability for their accounts. Thus based on the prolonged trend of very low interest rates VOYA felt the need to lower their minimum fixed interest rates to remain financially soluble. VOYA will be allowing contributions to the 4% fixed account up until September 15th, 2017. All funds currently in the account or that are deposited up until September 15th will continue to earn 4% for the time they are left in the account. However, if employees take funds out of the account those funds will not be allowed back in at the 4% rate. Any returning or new funds that are deposited into a fixed interest rate account will earn a minimum 1 %. Greg explained that the new account's rate (currently at 1.5 %) is reflective of the federal/market interest rates. The lowest that the rate would ever be is 1 % though. Commissioner Davis asked where VOYA reserves the funds that back their accounts. Greg responded that the funds are invested, and while it is not his specific job duty, he knows that by state mandate the reserved funds must be held in very conservative accounts. Greg stated that Penobscot County has \$7 million dollars' worth of funds invested through VOYA, \$ 4 million of those funds are in the fixed account earning 4 %. Due to poor market interest rates, Greg stated that many investing companies lowered their rates in fixed accounts years ago. VOYA has tried to hold off on making the rate change as long as they can, but feel they must take action now in order to be solvent in the future or until interest rates rebound.

- Commissioner Baldacci asked what the contract stated in regards to freezing any new assets into the old fixed account. Greg answered that in 1993 there was a signed contract endorsement on page 35 that granted VOYA the right to freeze any "new" funds that are deposited into accounts. He expressed that he hopes the county will sign off on the terms of the account change, but if they choose not to the contract still allows VOYA to restrict any new funds from entering the fixed account. Commissioner Baldacci summarized that the \$ 4 million in funds that the county has in the old fixed account will remain earning 4 %. It is any new funds deposited after September 15th that would not earn the same rate.
- Commissioner Baldacci opened up the discussion for questions. County Detective John Trask, representative of the FOP for patrol supervisors, stated that county employees were told the account would earn 4 % for the *life* of the contract not susceptible to VOYA freezing the account. John noted that employees who take loans out on their fixed account will have to reinvest those funds elsewhere since they will no longer be able to reinvest them at the guaranteed 4 % rate. He explained many patrolmen in his unit were sold into switching into VOYA's program in the early 2000's due to concerns that Maine State Retirement was not going to be financially solvent long term and that VOYA had a guaranteed fixed rate account that earned 4 % interest for the life of the

VOYA Presentation and Fixed Account Discussion Continued-

county's contract. John believes that either a class action suit or inquiry to the SEC should be made to hold VOYA to their original sales pitch of keeping the fixed account open. John recommended to the Commissioners not to sign off on the change until county employees get an opinion from legal counsel, AFSCME, and the FOP. He reiterated that the account was sold to the employees as a promise that the account would be open for the life of the county's contract with VOYA.

- Sheriff Morton echoed the same comment. He adamantly opposes the freezing of the fixed accounts. He, like many employees in his department, made the switch to VOYA during the Maine State Retirement funding concerns and feels it is wrong for VOYA to alter what they sold as a promise. Troy feels if the Commissioners agree to the change, he would recommend that the county consider switching their deferred compensation vendor to another investment firm.
- Greg responded that he feels freezing the county's \$4 million in the 4% fixed account is very fair, given the current conditions of the market place and how long they've they kept the account open in a very poor interest rate atmosphere. Greg would encourage the Commissions to test the marketplace and find that other investment firms only offer fixed accounts in the 1-1.5% interest rate range. Commissioner Baldacci asked what would happen if the county kept the \$4 million assets in the current fixed rate account and looked to invest the funds elsewhere. Greg answered that it is unknown until those steps are taken, but he would garner that VOYA and other investment firms would not provide the same or best pricing where they would not have access to the county's entire (\$7 million) asset pool.
- Commissioner Davis stated that he was employed when VOYA pitched the fixed rate accounts. He stated it is wrong that even if the clause to freeze the account is in the contract, it was never mentioned by the VOYA sales representative at the time or in recent years by Karon. Karon replied that she would have never guessed that this would happen but also never promised that the account would hold those terms forever. Karon noted that she was not the county's advisor at the time when many employees made the switch into the account. Commissioner Davis felt the county should go out to RFP for the services and/or negotiate with VOYA to possibly allow loaned funds to be able be re-invested into the 4% account.
- Commissioner Baldacci explained from a legal standpoint, courts have made it very clear that terms of contract agreements must be included in the written contract terms. False or inaccurate sales pitch promises (sales puffing) are usually not held as reasons for a contract breach. Commissioner Baldacci asked if there was any such language in the contract that stated the 4 % account would remain open until the life of the contract. Greg replied the contract stated that any funds in the account *before* the amendment to the rate will be allowed to earn the old (4%) rate. The contract *does*

VOYA Presentation and Fixed Account Discussion Continued-

state VOYA is allowed to limit or freeze any new contributions to any accounts at any time. Commissioner Davis asked if the contract specified if employees could reinvest loaned funds from the account back into same 4 % fund after the freeze. Greg replied he would look into the request but is quite confident that the freeze prohibits any funds from being placed into or back into the account after the fund is shut-off.

- Jail Administrator Rick Clukey asked if an employee withdrew funds from the current 4 % fixed account, would the new amendment bar that employee from re-investing those funds in other fixed accounts. Greg and Commissioner Baldacci explained that county employees still may invest or re-invest any funds in other accounts including the new fixed account that is currently at a 1.5% rate of return (1% minimum).
- County Detective Bob Jordan stated the change greatly effects his retirement plans as he is close to retirement and does not wish to invest his funds into the stock market or other riskier investment vehicles. Treasurer Dan Tremble and Greg noted that any employees, especially those that are near retirement, are able to keep their funds in the 4 % account. The change only bars *new* contributions from entering the old fixed rate account. Bob stated that he understands but is still upset that any future funds will either have to be invested in riskier platforms to earn 4 %, or be forced to earn a much lower guaranteed rate of return. Sheriff Morton echoed that employees nearing retirement had planned on putting new funds earning 4 % for the next 5-10 years till retirement, and now that is no longer an option.
- Greg concluded that since the county's date to sign off on the account change has expired, he will notify VOYA's home office that the Commissioners are weighing all options and that VOYA will resend new literature out to be signed. Greg asked if the Commissioners would keep him in the loop if they decide to go out to RFP for their service or if they choose take any other actions. Bill explained he was notified that the account freeze was going to take place regardless of whether the Commissioners signed off on the change or not. Thus the county had no intentions of signing the document until Greg and Karon were able to come today and present. Greg and Karon thanked the Commissioners for allowing them to come here today.

Executive Session- Commissioner Davis motioned to go into Executive Session to discuss a contract matter at 10:29 am under 1 MRSA §405 (6) (E). Commissioner Sanborn seconded the motion. Vote to approve passed 3 – 0. The Commissioners, Administrator Bill Collins, Treasurer Dan Tremble, Sheriff Troy Morton, Jail Administrator Rick Clukey, Detective John Trask, Detective Bob Jordan, Administrative Assistant Tyler Thompson, and Citizen Dick Hansen were in attendance. Executive Session ended at 10:42 am with no votes taken.

Executive Session- Commissioner Davis motioned to go into Executive Session to discuss a contract matter at 10:44 am under 1 MRSA §405 (6) (E). Commissioner Sanborn seconded the motion. Vote to approve passed 3 – 0. The Commissioners, Administrator Bill Collins, Treasurer Dan Tremble, UT Director Barbara Veilleux, UT Deputy Director George Buswell, and Administrative Assistant Tyler Thompson were in attendance. Executive Session ended at 10:50 am with no votes taken.

Unorganized Territory Update Continued-

- The Commissioners approved going out to bid for the Solid Waste Collection service in Argyle & Greenfield. The current vendor is under a change of ownership. The Commissioners will not reassign the contract to the new owner, but will continue with the current vendor's service, paying the monthly service fee until the RFP process is completed.

Administrative Update continued-

- Bill stated that DA Office Manager Kristine Higgins asked the Commissioners to approve if former county employee Marcella Ouellette could work part time for the office until an open position is filled. The Commissioners approved the request.
- Payroll Warrant to be approved for: \$ 208,247.53
- Accounts Payable Warrant to be approved for : \$ 354,877.48
- Unorganized Territory Warrant to be approved for: \$ 61,456.18
- Payroll change notice signed for: Hired Part-Time: Timothy Wheelden. Hired Full-Time: Ryan Auffant. Resignations: George Girodet, Mycheal Goodine, Michael Harvilic, and Margaret Melanson.
- Compensation notice signed for: None

Public Comment- None

Meeting Adjourned- The meeting was adjourned at 10:51 am with no further business on the agenda.

Certified By:

_____/s/
Peter K. Baldacci, Chairman

_____/s/
Laura J. Sanborn, Commissioner

_____/s/
Thomas J. Davis, Jr., Commissioner

_____/s/
Penobscot County Administrator
William Collins