

October 19, 2004

The regularly scheduled meeting of the Community Corrections Planning Council was called to order this 19th day of October, 2004, in the conference room of the Cleveland County Fairgrounds, 605 E. Robinson, Norman, Oklahoma, by Chairman Dave Stockwell. Roll was called by Dorinda Harvey, County Clerk/Secretary and those present were:

Dave Stockwell, Chairman
Dorinda Harvey, Secretary
F. DeWayne Beggs, Member
Waldo Blanton, Member
Libba Smith, Member

Members William C. Hetherington and Leroy Krohmer were absent at roll call. Vice-Chairman Melissa Houston and Member Tim Kuykendall were absent.

Others present were: Carmen Jackson, Julia Curry, Jennifer Creecy, Debbie Cox, Tracy Ramirez, Wayne Barnes, Rhonda Peterson, Dan Merritt, Renee Ingram, and Steve Nelson.

Chairman Stockwell asked if the Council was in compliance with the Open Meeting Act. Dorinda Harvey answered in the affirmative.

After the reading of the minutes of the regular meeting of September 14, 2004, and there being no additions or corrections, Libba Smith moved that the minutes be approved. Waldo Blanton seconded the motion.

The vote was: Dave Stockwell, yes; Dorinda Harvey, yes; F. DeWayne Beggs, yes; Waldo Blanton, yes; Libba Smith, yes.

Motion carried.

Chairman Stockwell called for discussion, consideration, and/or action on the issuance of reimbursement by the Sheriff to DOC until the Council has determined legally how it is to be done. Chairman Stockwell stated that this issue had been resolved, but he is not sure it is going to be a favorable resolution. Mike McDanel, Assistant District Attorney Civil Division, Judge Hetherington, and Chairman Stockwell sat down, discussed, read all of the laws, and all that can be paid is \$24.00. The Community Sentencing Statute being more narrowly defined controls what can and cannot be done. Regarding the \$6.00 offender pay that is now being done, Judge Hetherington is going to have to issue orders in all of those cases where he added the \$6.00 by however many days they were incarcerated to have that amount taken off of the court cost amount that the person is going to have to pay. Concerning the audit where for two years the additional \$6.00 was paid to the Sheriff (\$1,125.00 for FY03) Chairman Stockwell and Michael Dowell has discussed this and however the Sheriff wants to pay back the amount. Whether he wants to pay it back out of the Sheriff's money or just submit invoices and not have the new invoices paid to the Sheriff and the amount being reduced down until the money is taken care of. Chairman Stockwell asked the Sheriff if Mr. McDanel has gotten with him and the Sheriff stated this was his first hearing of it.

Sheriff Beggs wanted to know why the Council did not get an Attorney General's Opinion that has been asked for, for the last two years.

Chairman Stockwell could not answer why the Council didn't, other than when the Judge and himself at the last meeting decided to get Mr. McDanel involved in it and Mr. McDanel did the research necessary.

(Judge William C. Hetherington entered the meeting at this time.)

Chairman Stockwell updated Judge Hetherington on what had been discussed so far and that the Judge might want to add information.

Judge Hetherington stated that Tom Brackett had spoken to him last week. The Judge does not like it and does not agree with it, he does agree with Mr. McDanel's opinion. There is a statute that says the Sheriff can set the cost of incarceration rate and there is a procedure for that, but the Community Correction Statute has an exclusivity clause in it.

Sheriff Beggs wanted to voice his displeasure in hearing this because when Community Sentencing was first being talked about this was an issue that was brought up, because the amount of money that was being offered at that time would not sufficiently pay for the incarceration of offenders. He is very disappointed in the fact that he is being called upon to house someone for less money than what it cost to do that. He is very unhappy and he doesn't think you can do business like that in the real world.

More discussion took place as to why there had not been an Attorney General's Opinion asked for and who could ask for one.

(Leroy Krohmer entered the meeting at this time.)

Judge Hetherington does not like this he agrees with the Sheriff completely. That was the concern that the Council had from the very beginning of this was putting the burden of this on the Sheriff (there were other concerns) filling up his jail with below cost people, which the Council is not doing as the numbers are great but the point is very well taken that the Community Correction System has no business putting people in jail for less than what it cost to house them.

Chairman Stockwell wanted to know if this Council wanted to take the position that it is not going to incarcerate anyone since the Sheriff is losing money.

Waldo Blanton stated that he doesn't think that can be done, it is a taxpayer issue. It is unfortunate for the Sheriff's budget and Mr. Blanton thinks the Council ought to raise cane and move forward and try to get things changed.

Sheriff Beggs stated that the cost of incarceration has gone up it has not gone down. He is only getting paid half of what it cost and there is something wrong with being able to use the ad valorem taxes for corrections. There is something wrong with that funding. The Sheriff is funded by ad valorem taxes.

Carmen Jackson stated that the Community Sentencing Offenders are considered to be county offenders and the \$24.00 that was stated off with was the amount that was established through the Sheriff's Association on an average that the Association said was across the State. The problem was that it was low for some and high for others. Talk continues that this needs to be changed through the Sheriff's Association to lobby to have the amount changed. More discussion took place on amount it cost to incarcerate an offender and how everything has gone up.

Judge Hetherington is a little concerned that Mr. McDanel didn't get with the Sheriff as he was asked to do. Judge Hetherington stated that procedure for increasing jail offense plus incarceration is through the local county sheriff. There is a procedure set up in the statute

how the sheriff puts together the record to present to the District Court in that county to increase their own cost in that county. It is not done through the Sheriff's Association. Waldo Blanton stated that you can't raise Community Sentencing if the \$24.00 is in the statute.

Chairman Stockwell stated that it could be raised for all other offenders and it would get a lot more money for the Sheriff. Chairman Stockwell asked if it was a lengthy process.

Judge Hetherington stated it was more preparation on part of the Sheriff in having to get his records and case in order to petition the District Court for a hearing to increase the cost of incarceration and then to have a hearing. And as Mr. McDanel had pointed out the statute doesn't even require a hearing through the District Court, its just traditionally been done that way because of the fact of what the Sheriff has said, because we are speaking of ad valorem tax and tax payers dollars. It needs to be a public hearing and open for discussion of the cost of incarceration. If the facts are that the jail has been losing money for a long enough period of time and that the District Court thinks that the cost ought to be approved to go up to a certain rate (a public discourse) to be able to get a rate set that is currently fair.

Chairman Stockwell stated that he would encourage the Sheriff to do whatever he needed to, to go ahead and raise the cost of incarceration on the general felony and misdemeanor population.

Sheriff Beggs stated that what he is trying to do is realize partly what has happened is that there is an overall rate which Ms. Jackson has talked about which was agreed upon. But that doesn't work in the business world either you don't take the average and pay everybody the same. Each business runs a different way and there are different costs. The Sheriff is just trying to bring to the Council attention that there are some serious issues and it really starts with being paid enough money to run the jail and do what needs to be done.

No one wanted to leave the opinion that they are unhappy with Mr. McDanel.

Sheriff Beggs stated that he was not disappointed in Mr. McDanel, what he is disappointed in is not being able to get an AG's opinion. (The Council had in past meetings discussed the DA's office or Senator Cal Hopson getting an AG's opinion.)

Leroy Krohmer asked the Sheriff if he had asked for one and the Sheriff stated that he had and it had been turned down at the DA's office.

Waldo Blanton stated that he had Senator Cal Hopson telephone number and that he could call him.

Chairman Stockwell stated that he is not sure 'turned down' was the right words to use, the DA told the Council that if the DA's office makes the request to the Attorney General, then the Attorney General is going to turn around and say no you (the DA) are the attorney for the county you figure it out.

Judge Hetherington would recommend that the Council let Mr. McDanel, Sheriff Beggs, and Tom Brackett visit and if the Sheriff still feels like the Council ought to ask for an AG's opinion then as a Planning Council consider that in the form of a motion, a formal motion, discuss it and as a Planning Council make the formal request if the Council choose to do that. Make it directly to Senator Hopson to ask and why in letter form, the history and all of that. Unless the DA's office agrees that they will do it.

More discussion took place about jail fees.

Chairman Stockwell moved to table discussion, consideration, and/or action on the issuance of reimbursement by the Sheriff to DOC until the Council has determined legally how it is to be done.

Before a second was made the Council discussed using County money to help with the jail fees by the County Budget Board giving the Sheriff more in his Budget.

Chairman Stockwell stated that he thinks the Sheriff's concern that he is paying for prisons out of ad valorem taxes.

Sheriff Beggs stated he does not think that is what the Council voted for. Sheriff Beggs doesn't think the County should be paying.

Libba Smith does not agree as she thinks the Council is making the community safer by having offenders in jail when they need to be.

Sheriff Beggs stated it was dipping into the wrong fund.

Leroy Krohmer stated that to answer everyone's question the Sheriff's office was funded quit a bit more this year, but what Mr. Krohmer thinks the Sheriff is saying is that the Sheriff does not think it is fair to use county funds to support this program.

Sheriff Beggs stated that there is a budget at the state level that is supposed to handle this and there is suppose to be money to run this program on. Money was promised upfront and the State has never come through with any promises it had given and that has left the county hanging having to pay extra money for things that the Sheriff's office shouldn't be paying for. DOC get the best of this by far but we are the ones who are supposed to be responsible for the budgets that we have and we shouldn't be taking money out of the county budget and throwing it over here when you already have it set up at the State level.

Sheriff Beggs stated that he is saying that DOC is being a parasite. DOC doesn't have enough to pay for it so they are relying on the county.

Judge Hetherington stated that the whole thing was originally designed to place more of the financial burden on the counties, that was the whole idea from the beginning and it is working.

Chairman Stockwell asked the Sheriff to include the cost of incarceration whenever a person pleas guilty as part of the plea agreement and the Judges may go ahead and assess it.

Chairman Stockwell stated that on his last several hundred pleas he has not had to pay cost incarceration on his clients.

Judge Hetherington stated that did not happen in his court he assess everyone and Chairman Stockwell stated you would not find that on the first floor. (Of the courthouse.)

Carmen Jackson stated that the numbers were very small and gave the numbers of the last few months of people incarcerated. Ms. Jackson stated that Sheriffs in all of the larger counties that costs are more expensive are complaining. The small counties are not because their costs are not as expensive.

Chairman Stockwell stated that the easiest solution statutorily for this would be for the Sheriff's Association to request that the four big counties gets "x" dollars and the other counties get the \$24.00.

More discussion took place as to the Sheriff wanting an AG's opinion.

The Sheriff asked that the Council continue on with what has been asked for in times past and that is an Attorney General's opinion from this group.

Judge Hetherington stated that we can not ask for one that is the problem.

Leroy Krohmer asked for an item to be put on the agenda asking the District Attorney to ask for an Attorney General's Opinion and vote on it.

It was also discussed to ask Senator Cal Hopson for one.

Dorinda Harvey asked that if on the agenda item does the Council want it for the District Attorney to asked for the Attorney General's Opinion or have the item read District Attorney and/or Senator Cal Hopson.

Judge Hetherington stated it needed to be District Attorney and/or Senator Cal Hopson. Waldo Blanton seconded the motion to table discussion, consideration, and/or action on the issuance of reimbursement by the Sheriff to DOC until the Council has determined legally how it is to be done.

Chairman Stockwell stated that Julia Curry had gone back to see which of the community sentenced individuals had paid the \$30.00 and which ones had been assessed the \$6.00, because Judge Hetherington had indicated he would have to do an order retracting the \$6.00. Judge Hetherington stated he would have to find the order and asked Ms. Curry if she had one.

Ms. Curry told the Judge she would show him what she had after the meeting.

Chairman Stockwell asked for roll call.

The vote was: Dave Stockwell, yes; Dorinda Harvey, yes; F. DeWayne Beggs, yes; Waldo Blanton, yes; William C. Hetherington, yes; Leroy Krohmer, yes; Libba Smith, yes.

Motion carried.

Leroy Krohmer moved, seconded by Dave Stockwell, to approve the review of the month of August bills.

The vote was: Dave Stockwell, yes; Dorinda Harvey, yes; F. DeWayne Beggs, yes; Waldo Blanton, yes; William C. Hetherington, yes; Leroy Krohmer, yes; Libba Smith, yes.

Motion carried.

Since the September bills were not complete Dorinda Harvey moved, seconded by Leroy Krohmer, to table discussion, consideration, and/or action to review the month of September bills.

The vote was: Dave Stockwell, yes; Dorinda Harvey, yes; F. DeWayne Beggs, yes; Waldo Blanton, yes; William C. Hetherington, yes; Leroy Krohmer, yes; Libba Smith, yes.

Motion carried.

Chairman Stockwell called for review status on Bench Warrant Executions and Arrest of Absconders.

Jennifer Creecy stated that one offender had been arrested and the motion to revoke had been set for February.

Dorinda Harvey asked how come the motion was set so far in advance and discussion took place.

Judge Hetherington stated that this would get moved up.

Chairman Stockwell called for presentation on Status Report from Oklahoma Court Services, Inc., and Wayne Barnes.

Julia Curry stated that there are two new cases. She had given Council member's copies of the large quarterly report and the Council may want to talk about it next month as she does not think the Council has had time to read it.

Wayne Barnes stated that it would help supervision greatly if he could just get a court date.

Chairman Stockwell asked what court date Mr. Barnes was speaking of and Carmen Jackson stated that Mr. Barnes wants a standing docket.

Mr. Barnes stated just like drug court.

Judge Hetherington stated that he was not opposed to that, he just has to figure out how to do it. He thinks that is a good idea. He just had to figure out how to make it happen. Keep in mind this has to be in consideration of the mental health end of this. Whatever docket time the Judge would try to create and put in somewhere as he was thinking was for mental health court. If we are able to build in a mental health court into a division of community corrections than that is even better. Then he would build a space for a weekly docket whatever the Council wants him to do. The docket would have to be defined as there are too many people to bring them all in once as month as done in drug court once a week. Structure some sort of a discussion time.

Chairman Stockwell wants this to be an agenda item also next month.

Dorinda Harvey stated it would be discussion, consideration and/or action on a standing court date.

There being no further business to come before the Council, Dorinda Harvey moved that the meeting be adjourned. Leroy Krohmer seconded the motion.

The vote was: Dave Stockwell, yes; Dorinda Harvey, yes; F. DeWayne Beggs yes; Waldo Blanton, yes; William C. Hetherington, yes; Leroy Krohmer, yes; Libba Smith, yes.

Motion carried.

ATTACHMENT

On November 9, 2004, the Community Corrections Planning Council amended the minutes of the previous meeting. Carmen Jackson, stated that in her statement on page one (1) the bottom of the page that she needed to make a correction that the \$792.00 for FY02 was something that never did get invoiced, so the amount that they have is \$1,125.00. Ms. Jackson stated that the \$792.00 was not invoiced so it was not owed. (Kerrie Hudson, Chief Deputy in the County Clerk's Office, who attended the meeting as the secretary, (Dorinda Harvey, County Clerk was absent) changed the original minutes instead of amending them to what the Council voted on. Therefore the minute book is different than the computer. The minute book reads "Concerning the audit where for two years the additional \$6.00 was paid to the Sheriff (\$792.00 for FY02 and \$1,125.00 for FY03) Chairman Stockwell and Michael Dowell has discussed this and however the Sheriff wants to pay back the amount.")

Dorinda Harvey, County Clerk, listened again to the tape of that meeting when she returned from vacation and e-mail Ms. Jackson and called Chairman Stockwell, telling them that in the tape Ms. Jackson did not make the above statement about the \$792.00.

In the past when this happened Ms. Harvey called the State Auditor's Office and asked how this needed to be handled to show that the original minutes were correct. She was told by Bob Klein to put the approval of the original minutes on the next agenda to be approved.

This will be done for the meeting of December 14, 2004.