

Child & Youth Services Committee Meeting Douglas County, Nebraska

Monday, May 18, 2015

The meeting convened at 12:33 p.m. in Room 903 of the Omaha-Douglas Civic Center, 1819 Farnam Street, Omaha, NE 68183. A copy of the Open Meetings Act is located on the wall near the entrance of the room. A notice of the meeting was published in the May 11, 2015 issue of The Daily Record. County Commissioners present at the beginning of the meeting were Chris Rodgers, Mary Ann Borgeson, Mike Boyle, and Marc Kraft. Others present at the beginning of the meeting included Patrick Bloomingdale, Diane Carlson, Joe Lorenz, Catherine Hall, Marcos San Martin, Pam Murphy, and Karen Cole of Administration; Public Defender Tom Riley; Dan Esch of the Clerk/Comptroller's office; and Thomas Incontro, private attorney. Commissioner Rodgers conducted the meeting.

1. Guardian Ad Litem (GAL) discussion.

County Commissioner Jim Cavanaugh entered the meeting during this item, as well as Jerry Leahy of Public Property. Speaking during this item were Commissioner Borgeson, Mr. Lorenz, Commissioner Boyle, Mr. Bloomingdale, Mr. San Martin, Commissioner Kraft, Commissioner Rodgers, Mr. Incontro, Public Defender Riley, Commissioner Cavanaugh, and Ms. Carlson. Highlights from the discussion included the following:

- Commissioner Borgeson said the County Board feels there are three options for providing GAL services:
 - Court-appointed GALs.
 - Contracting for GAL services.
 - Create an in-house GAL department.
- Commissioner Borgeson said what she was trying to get out of this meeting was a sense of what options the County Board prefers, then have a conversation with the Juvenile Court Judges to walk them through the scenarios the County Board has come up with.
- Court-appointed GALs were discussed.
 - On court appointments, Public Defender Riley said there's no one to oversee if the attorneys know what they are doing.
 - Public Defender Riley said court-appointed GALs should be the third option on the County Board's list.
 - By only having court-appointed GALs, Commissioner Borgeson said there will be an increase in costs for the County.
 - Mr. Lorenz said Juvenile Court's FY2016 budget request is \$2.4 million more than Juvenile Court's FY2015 modified budget.
 - Mr. Bloomingdale said Ray Curtis of Juvenile Court projects a \$2.4 million increase because Juvenile Court is going to have to sign out the cases at \$65/hour.
 - Commissioner Borgeson said even though the current GAL contracts don't end until June 30, 2015, the County is already seeing an increase in costs because the Judges have started to appoint outside of the contracts.

- Commissioner Borgeson said Juvenile Court will be asking for a FY2015 supplemental budget.
 - The process of making court appointments was discussed.
 - Public Defender Riley said the Court should not have control over who gets assigned to a case.
 - Public Defender Riley talked about the following:
 - National entities would say that appointments should be separate from the Court.
 - Judges doing court appointments can't be eliminated in its entirety due to situations where, for example, three people are charged for a murder, but the process is ideal when the judges are kept away from saying who gets to do what.
 - Public Defender Riley said in some states the public defender does the appointments, and in some states there are committees on indigent defense who do appointments.
 - For court appointments, Public Defender Riley said the discretion has been taken away from the Judges in County Court and District Court.
 - Public Defender Riley spoke about the court appointment process in County Court and District Court.
 - ❖ An attorney applies to a committee, which Public Defender Riley is on, and indicates if he/she wants to do misdemeanors, felonies, and/or homicides.
 - ❖ The committee decides what type of cases the attorney gets to do.
 - ❖ The attorney then gets put on a list in a computer system.
 - ❖ When the Public Defender's office has a conflict, the computer system selects the name of an attorney from one of its lists, and then that attorney is assigned to the case.
 - If it's a homicide case, the computer system would only choose from a list of attorneys who were approved by the committee to do homicides.
 - The Judges don't have control over changing that.
 - ❖ Chief Justice Heavican made County Court and District Court do it this way.
- Contracting for GAL services was discussed.
 - Commissioner Borgeson said Commissioner Duda is open to any of the options, but he would like to look at doing multiple contracts.
 - Mr. Bloomingdale spoke about the difficulty of administering numerous contracts.
 - Mr. Bloomingdale said the Juvenile Court Judges sent a letter that said they were never supportive of contracting for GAL services.
 - Commissioner Rodgers said he thinks contracting is not an option because the Judges are on record opposing it.
- Creating an in-house GAL department was discussed.
 - Mr. Bloomingdale said an in-house GAL department would be his preferred method.
 - Public Defender Riley said he thinks an in-house department is doable.
 - Mr. Bloomingdale said with an in-house department, the County would have the ability to control and audit because the GALs would be employees of the County.

- Commissioner Cavanaugh said the County Board would be able to control the quality of representation by imposing their own standards.
 - Mr. Bloomingdale said he would recommend that the County initially focus on replacing the cases handled by the contractors.
 - Mr. Bloomingdale provided and reviewed a draft budget for a Douglas County GAL department (see Attachment #1).
 - The draft proposed budget for an in-house department came to a total of \$710,100.
 - Mr. Bloomingdale said \$90,000 is the salary he would propose for the in-house department director.
 - ❖ Mr. Bloomingdale spoke about how the top attorney over a two-year period was assigned 50 GAL cases, and 58 other cases, for a total of \$177,661.
 - This draft also included a senior GAL, seven staff GALs, and a secretary.
 - ❖ Commissioner Cavanaugh said the economy has gotten tougher and that he believes there is talent in the legal community who could fill these roles.
 - Mr. Bloomingdale said based on research he did, 90 cases per attorney is the recommended cap.
 - Public Defender Riley said he came across that same information in his research.
 - When the Public Defender's office was taking GAL cases, Public Defender Riley said at its peak the Public Defender's office had about 80-90 GAL cases per attorney.
 - Mr. Incontro spoke about how he doesn't think 90 cases per attorney is workable anymore because of the increased amount of meetings and contact the statutes and guidelines are now requiring of GALs.
 - Mr. Incontro said under the current atmosphere, he thinks the cap should be between 45 and 60 cases per attorney.
 - Public Defender Riley said he thinks the in-house department director should take on a workload so then the director would be able to say what the cap number should be.
 - Mr. Bloomingdale said that is built into this.
 - Commissioner Rodgers spoke about how he thinks costs will go up every year for the in-house department, and how there could be another union.
 - Commissioner Rodgers said if the pay is higher in private practice, the in-house department may become a training ground for people.
 - Public Defender Riley said that's always a risk.
 - Public Defender Riley said turnover runs in cycles in the Public Defender's office.
 - Mr. Bloomingdale spoke about how the in-house GALs may not be used all of the time since a Juvenile Court Judge could choose not to use them.
- Public Defender Riley said the Public Defender's office stopped taking GAL cases in 1999.
 - Public Defender Riley said the Public Defender's office currently represents the parents in a lot of the abuse and neglect cases.
 - Public Defender Riley said the Public Defender's office switched to taking the parents because the Public Defender's office had to conflict out of criminal cases that they were statutorily required to do.

- Pursuing the bifurcation of GAL duties was discussed.
- Commissioner Kraft provided copies of two handouts regarding GAL, both of which he received from an anonymous source (see Attachments #2 and #3).
- Having a conversation with the Juvenile Court Judges was discussed.
 - Commissioner Borgeson said even though some of the Judges are set on only doing court appointments, she thinks it would be good to have a conversation about the in-house department with the Judges.
 - Public Defender Riley said there needs to be some buy-in from the Judges.
 - Commissioner Rodgers talked about expressing to the Judges how the \$2.4 million increase is not realistic.
 - Commissioner Rodgers also talked about having a conversation with the Judges about the bifurcation of GAL duties and changes to the court appointment process.
 - Mr. Bloomingdale said he'll talk to Mr. Curtis about having a conversation with the Judges.
 - It was suggested that Commissioner Borgeson and Commissioner Rodgers accompany Mr. Bloomingdale when that conversation happens.

2. Other business

There was no other business.

The meeting adjourned at 1:44 p.m.