

COMMISSION MEETING MINUTES

December 8, 2009 1:00 PM

Video Conference sites:

Chicago: James R. Thompson Center 100 W. Randolph, Rm. 9-036
Springfield: Capitol City Training Center 130 W. Mason St., Room 104
Carbondale: So. IL Univ. Morse Library, ISS Conference Room

MEMBERS PRESENT

Anthony Rothert, Chairperson
Andrea M. Schleifer, Vice Chairperson
Inez Torres Davis
Dr. Seymour Bryson

MEMBERS ABSENT

Representative Angelo "Skip" Saviano
Senator Ira Silverstein
Senator Don Harmon
Kathleen Ryg
Kenley Wade

EXECUTIVE STAFF PRESENT

Chicago

Dr. Mary L. Milano	Executive Director
John H. Wank	General Counsel / Deputy Director for Programs
Veronique Baker	Director, Legal Advocacy Service
Helen Godlewski Brownfield	Director, Office of State Guardian
Bobbie Fox	Associate Director Human Services
Constance Umbles-Sailers	Confidential Assistant to the Director
Florence P. Martin	Private Secretary to the Director

Springfield

Carol R. Tipsord	Director of Fiscal Operations
Teresa Parks	Director, Human Rights Authority

Chairman Rothert called meeting to order at 1:25pm. A quorum was not present.

DIRECTOR'S COMMENTS

Dr. Mary L. Milano

The Commission has accomplished a lot in the last 12 months, in service delivery, economy, efficiency, legislative advocacy, the appellate courts and a number of different levels, including serving on some of the Governor's new Commissions. However, we also find ourselves facing our part of the State's budget shortfall and our role within the negotiations on how the State will handle it. The Governor's Office of Management and Budget is meeting with every agency with regards to the FY 11 budget; the agency's meeting is scheduled for Thursday, December 12. Many budget proposals have been presented to us, including an opening bid that would cause us to lay off in excess of 52 people. Rather than responding directly to their request CFO Carol Tipsord, after discussion with Dr. Milano and with input from other Executive staff, determined that we would submit the budget that we needed with notes regarding what any of the alternatives might be. OMB has come back with a couple of proposals that they'd like to see with regards to our management plan. These proposals also call for deep cuts that would cause us to lay off about 32 or more people, which leaves us unable to fulfill our statutory mandates, leave the most vulnerable of our clients without protection, and leave us without sufficient staff to manage in any kind of responsible fiduciary way--human and economic--that would still be at our disposal. Also, in terms of individuals who would be laid off and the corresponding areas that would not be covered, the result would have a disproportionate impact on minority populations at our sites across the state.

We intend to present alternative ways of thinking about our budget that haven't been addressed in the past and have prepared some comparisons of efficient ways we address problems by comparing our statistics to other similarly situated agencies handling similar matters. An example is what the public appellate defenders spend per case versus what we spend on a case when taking a case from trial to the Supreme Court: the Commission's expenditures average about \$181 per case (which includes personnel cost, copying, etc.) the public defender spends close to \$7K per case. There has been much efficiency established by the agency with regards to copying; many individuals work and write at home using their own computers and printers, etc. John Wank stated that LAS and HRA efficiency is equally remarkable. We believe we get results that are as good or better in terms of the laws that are made for our clients. We don't know if there is any other agency that shows such effective use of resources. Dr. Milano continued stating we're going to emphasize that the degree of efficiency in which we conduct operations is much like that of a Not-for-Profit organization rather than a State agency. We think there are sources of Federal funds that have not been explored and believe that we have an excellent argument that Medicaid match money (\$800K per year which goes to general revenue) we bring in should somehow be applicable to our budget. They should be made aware that those monies would be absent if we decrease our client visit per year to one (1) visit versus four (4) due to cut backs. Also, there is money at criminal justice that we feel should be explored, particularly in light of the increased responsibilities we will have as a result of the Governor's Nursing Home Safety Task Force. The Task Force will probably make recommendations to remove severely mentally ill and ex-offenders from nursing homes and other large institutional settings; then placing them in community settings. This will substantially increase our work and also believe there are connections to broader funds that the State is getting in the areas of criminal justice and violence prevention. We also believe there may be some funds available through DHS. The agency was in the process of negotiating with them before the administrative change. DHS

actually budgeted approximately \$150-200K dollars to support another HRA worker for us who would be involved in the examination and investigation of CILA settings.

Director Milano also pointed out that we would be able to operate on our maintenance budget except that we are now required to absorb \$2 million in pension obligations in our budget. CFO Carol Tipsord explained that in years prior to FY 10 we covered pension obligations in the agency's budget. However, in the current fiscal year we were not appropriated the retirement money; it was appropriated to the comptroller's office to pay retirement for all agencies; next year it will fall back to us, *without* an increase in budget; in past years we were appropriated money to do this. In addition, there is a large amount of stimulus money coming to the State that is being divided among agencies; and we are not on the list of recipients. There are agencies which will receive federal funds as well and are on the list to receive stimulus dollars that will not have any budget cuts.

We plan to be aggressive in our discussions; pointing out that every dollar that is lost equals a dollar in services, as well as high potential for litigation against the State for neglect of responsibilities. There is no less that we can do and still maintain a moral base; we operate on a skeletal budget, any less would potentially stop services.

With regards to the legislative session, we will be following up on abuse in emergency rooms as well as addressing gaps in reporting and investigation requirements for wards and others between the ages of 18 and 21 still in DCFS residential facilities and programs. We've discovered that there is no obligation to report abuse of those individuals, and if recorded, there is no obligation on DCFS's part to investigate.

We will also address the Commission's quorum issues; getting the statute changed to provide that a quorum is based on a majority of those serving versus those positions that exist, but are not filled.

Also on the legislative agenda, LAS Director Veronique Baker pointed out that in January legislation will go into effect that will revamp commitment petitions redress public defenders on how cases should be defended. Civil commitment statute is unconstitutional.

LEGAL PROGRAMS REPORT John Wank

The Agency is audited on two (2) year cycles. As a result of the most recent audit, there were two (2) audit findings: one of which states that Commission is deficient because by not having a full compliment of Commissioners: statute requires 11 filled positions; however we have been below 11 for almost 8 years. Commissioner Bryson asked why is there difficulty filling the positions. Director Milano responded that we have brought forth, to the Governor's Office of Boards and Commissions, the Commissioner's names for re-appointment and have nominated 2 individuals to fill the vacant positions. However, Guardianship and Advocacy is still waiting for the Governor's approval on reappointments and approval of those nominated to fill the vacant positions. As a result of the audit findings, we've found that this is not a unique situation: other units of government are experiencing the same problem. John Wank states that there is a three

prong problem: in addition to appointments, the law says our quorum is six (6), no exceptions. The Commission would like to amend the law to state 'a majority of Commissioners appointed and serving'. Lastly, there is an issue related to the amendment to the Open Meetings Act which requires a quorum to be met by the *physical* presence of the members of the body: each meeting we need 6 people present in one of 3 locations. In the past, we were able to have people on teleconference, but now people on teleconference can be part of the meetings but only after the quorum has been met. We will be working with the Governor's Office of Boards and Commissions, as well as with Commission Legislators to address these issues in January.

There will be a National Guardianship Association jointly sponsored colloquium in April 2010, themed Worst Case Scenarios for Guardianship. Chairman Rotherth will be speaking about the Steven Fry case that he litigated on behalf of the Office of State Guardian and which has become a famous case in the Guardianship community. The case illustrates why it is important for states to pass the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGAPPA). It will become law in Illinois January 1, 2010.

FISCAL REPORT Carol Tipsord

The semi-annual Audit for two years ending June 30, 2009 is complete and we have received a written copy. Our second audit finding (the first already presented by John Wank re: full compliment of Commissioners) has to do with inadequate controls over employee's attendance records. We've addressed this informing the auditors that we have a new timekeeping system in place and we are now modifying it to make sure that timekeeping for the agency matches Central Management Systems timekeeping and attendance system. Commendations were given to previous internal auditor, now GAC Fiduciary Manager, Jeff Derrick for being an asset to the Commission.

CFO Tipsord reiterated that the Commission will be meeting with the staff of the Governor's Office of Management and Budget in hopes to change their minds on the proposed budget. If not, we will give them the mandates we then will be are unable to address; hoping that they will better understand our needs and restore some of the monies they've targeted to rescend.

ACTION ITEMS

- **Approval of minutes**

Because a quorum was not present, minutes from June, September and December 2009 meetings will be approved at the next meeting. The September 22nd minutes will be corrected to reflect that Commissioner Kathleen Ryg was absent.

- **Human Rights Authority**

All new appointments were presented. Motion was made by Commissioner Schleifer to hold HRA appointments until after January 1, 2010, at which time Director Milano will have legal authority to make the appointments recommended by the Commission. Motion was seconded by Commissioner Bryson. Motion carried.

CLOSED SESSION

Motion was made to go into closed session by Commissioner Schleifer, seconded by Commissioner Torres Davis. Motion carried.

When open session resumed, Commissioner Schleifer inquired about the actuality of a freeze: is anyone getting a raise, what can be done, what happened at the meeting with heads of agencies at the Governor's mansion? Director Milano answered that merit compensation raises were given on a calendar year basis, by anniversary dates of service. All merit compensation employees with anniversary dates before July 1 received raises, because at the beginning of the year we looked at what was in the budget, what we could do this year and allocated a pool of money and a range of raises. Average raise was 6.5%, we tried to go as high as possible with everyone and a few people we went higher to equalize the people they supervise. In the middle of the summer, it was indicated that merit compensation salaries--it appeared--would be frozen for the rest of the year: however, at the last meeting at the Governor's office it became clear that did not seem to apply to everyone, raises were being given--but being called by other names--and the formal freeze would not go into effect until January 2010. It was also said that in January of 2010 it would be possible to E-par raises of up to 8% depending on the circumstances of the request. Union contracts have had increases across the board, therefore half of our staff has had raises, half have not. Director Milano stated she has indicated to the Governor's Chief of staff that unless she receives communication to the contrary she intends to put in raises for the balance of the merit compensation staff since the monies were budgeted and it is a miniscule pool, particularly because of the effect of furlough on merit comp employees has been to reduce compensation by substantial amounts. Three merit comp employees have been relieved from furlough as a result of not having enough individuals to manage.

John Wank clarified that Director Milano was trying to restore balance within the merit compensation staff. If you were on the 'wrong' side of the fiscal year, through no fault of your own, you should have gotten an adjustment between January and June 30, 2009. What Dr. Milano would like to do is use current fiscal year dollars that have already been budgeted to catch those employees up; it is the best effort that can be made to even things out with the monies that are available now.

The question was then asked how the monies that have been budgeted address compensation for the Director; was that budgeted as well? The answer was yes. (Tipsord/Milano) Current fiscal year's budget was established a year ago. The monies being spent now are for the fiscal year that began July 1. The year began with a relatively solid budget that should have allowed us to give merit comp employees a decent (5 or 6% range) increase. We were advised at the end of June to freeze salary adjustments for all merit compensation employees. In September we learned of the twelve (12) furlough days that were to be taken within the last 10 months of the fiscal year. Director Milano would like to give those individuals a smaller amount as straight salary instead of the two components of salary plus bonus.

Chairman Rothert let it be known that he has appointed a new committee, chaired by Commissioner Schleifer, on the Director's evaluation and compensation with mandates including developing a structure for a process of developing a formal job description for the Director, objective categories to be evaluated and some methodologies for evaluation. During the closed session it was agreed that John Wank and Director Milano would be asked to develop a formal job description for the Director of the Commission to consider at its next full meeting, as well as Central Management Systems evaluation forms used for merit compensation increases be provided to the new committee.

Director Milano expressed concern about bearing the brunt—due to the lack of a process—of going a year without compensation change while the Commission works on a process, which pushes it into another year where there may not be monies available to change compensation. She admonished that she has provided goals and objectives and John Wank has provided information about the way things have been conducted in other agencies and our agency in the past. To not consider a compensation change in a year where funds exist and defer to a year where funds may not exist because there's no process for doing it—when every other agency seems to be capable of giving increases—places an unfair burden on the Director and her family, particularly in a year where she's taken a substantial reduction in salary that has occurred due to the mandated 12 furlough days. Commissioner Schleifer stated that part of the problem is that a recommendation was made, but the committee felt nothing could be done because there is no quorum. Director Milano said what she remembers from the past is that recommendation was made and implemented at the payroll of the Director and subject to ratification at the next full meeting where there is a quorum. Commissioner Schleifer asked the Director to send out a memo to the Commissioners stating such.

Director Milano asked Florence Martin to schedule the Commission meetings for the coming year.

It was established that a special meeting will be scheduled with a limited agenda including a closed session to discuss the Director's evaluation before the end of the calendar year. Commissioner Rothert also asked that the program directors submit a written report for the Commissioner's on the items they were unable to present due to lack of time.

Motion to adjourn was made by Commissioner Schleifer, seconded by Chairman Rothert.

Meeting adjourned at 3:20.