

**REGULAR MEETING OF  
PUBLIC SAFETY COMMITTEE  
Ontario County Safety Training Facility  
May 21, 2012, 2:00 P.M.**

<b>Committee Members</b>	<b>Others Present</b>
Samuel Casella, Chairman	John Garvey, Philip Povero, Tom Harvey, Mary Krause,
Mary Luckern	Andrea Schoeneman, Michael Reinhardt, Dru Malavase,
John Champlin	Halle Stevens, Mary Gates, Jeff Harloff, Sharon Donovan,
Norm Teed - <b>Necessarily Absent</b>	Michael Harper (L.R. Kimball)
Robert A. Green, Jr.	
Donald Ninestine	

The Public Safety Committee met in the Ontario County Safety Training Facility on Monday, May 21, 2012 at 2 p.m. for a regularly scheduled meeting. The meeting was chaired by Supervisor Casella.

Chairman Casella advised that Supervisor Green would leave the meeting around 2:40 p.m.

**Approval of Minutes:**

Supervisor Champlin moved approval of the Minutes of the regular meeting of the Public Safety Committee held on April 30, 2012. Supervisor Green seconded the motion, carried unanimously.

Supervisor Ninestine moved to close the regular meeting to go into Executive Session at 2:04 p.m. to discuss the history of personnel. Supervisor Champlin seconded the motion, carried unanimously.

Supervisor Ninestine moved to close the Executive Session and to return to the Regular meeting at 2:26 p.m. Supervisor Champlin seconded the motion, carried unanimously. Supervisor Ninestine reported that no action would be taken at this meeting as a result of the executive session.

**Assigned Counsel Program**

Mr. Garvey advised that he had spent a good deal of time reviewing the Assigned Counsel Program and had met with Alexandra Burkett and Carrie Blakely regarding it. Changes have been made to the program. Mr. Garvey recommended that the committee give some time to see how the changes work before any further action is taken. The committee was in agreement.

**Emergency Management:**

Mr. Harloff requested authorization for Acceptance of Hazardous Materials Emergency Preparedness (HMEP) Grant in the amount of \$3,163.00.

**Supervisor Green moved approval as requested by Mr. Harloff, Supervisor Champlin seconded the motion, carried unanimously.**

Addendum Item: Dell Invoice for purchase of a computer monitor Capital Project 7-2006:

**Mr. Ninestine moved approval of payment of Dell Invoice in the amount of \$119.00 Supervisor Luckern seconded the motion, carried unanimously.**

Mr. Harloff advised that Robin Holmes, Fiscal Monitoring Unit of the Department of Homeland Security, was conducting an audit of several Homeland Security Grants. There was a meeting with departments earlier

in the day who are supplying information for the review. Ms. Homes will be here for about a week, and then submit a draft report, which they will have the opportunity to comment on. After that a final version will be addressed to the County Administrator.

**Planning Department Radio Communications Project 7-2006:**

Mr. Harvey requested payment of the remaining bills listed on the agenda:

Forestry Conservation Communications Association in the amount of \$720.00.  
Forestry Conservation Communications Association in the amount of \$960.00  
RJ Schickler Inc. in the amount of \$58,082.10  
RJ Schickler Inc. in the amount of \$2,280.00  
Communications International in the amount of \$117,764.52  
L. R. Kimball in the amount of \$29,299.97  
Invoice Harris Corporation in the amount of \$2,648,859.41

**Supervisor Green moved approval as requested by Mr. Harvey. Supervisor Champlin seconded the motion, carried unanimously.**

Mr. Harvey requested authorization for Contract Amendment with Harris for Relocation of existing Legacy Equipment and Narrowbanded Highway Base Station, Emergency Radio Communications Project.

**Supervisor Green moved approval as requested by Mr. Harvey. Supervisor Champlin seconded the motion, carried unanimously.**

Mr. Harvey requested Budget Transfer to fund UHF Radio License Application Fees, Emergency Radio Communications Project – Capital Project 7-2006. Mr. Harvey explained that this is just to move money to the licensing line item to be able to pay for the frequency coordination fee for UHF license. Mr. Harvey said that there were two invoices attached included. A total of \$2,500 was being transferred.

**Supervisor Champlin moved approval as requested by Mr. Harvey. Supervisor Green seconded the motion, carried unanimously.**

Mr. Harvey advised that the title on Item #8 was incorrect, and should be approval of a license amendment.

Mr. Harvey then requested authorization for Capital Project No 7.-2006 -Approval of License Amendment with Crown Communication LLC for a Tower Site located at 3750 County Road 6, Geneva, NY.

**Supervisor Green moved approval as requested by Mr. Harvey. Supervisor Luckern seconded the motion, carried unanimously.**

Mr. Harvey then went to Item #5 on the agenda and turned it over to Andrea Schoeneman of the County Attorney's Office.

Ms. Schoeneman explained that the result of the lawsuit filed by the Town of Italy was that Judge Falvey ordered the Ontario County Board of Supervisors to perform the Balancing of Interests Analysis to determine if the proposed construction at the Shay Road tower site was exempt from zoning. While the judge recognized that the County had performed the balancing analysis on the radio system as a whole, he ordered the Board of Supervisors to perform the test just for the Shay Road site individually. In reviewing the matter with John Park, he advised staff to prepare two different resolutions, one that would determine that the site was not exempt from zoning (labeled Alternative One) and one that found the project should be exempt from local zoning (labeled Alternative Two). Mr. Park suggested the committee file both versions of the resolution so that the Board would have to decide which one to pass. Ms. Schoeneman advised the committee that the individual supervisors needed to review the Final Exemption from Zoning Analysis report

prepared by LR Kimball as it thoroughly reviewed each of the nine points in the balancing of interests analysis. Each supervisor should weight the nine points and come to their own conclusion. No one point is pre-emptively more important than another, and each supervisor might have a different opinion on which one is more important. For example, one supervisor might feel the public safety need for the site outweighs any other impact, while another might believe that the impact on the visual quality of the Town of Italy is the most important factor and outweighs the others.

After much discussion, the Committee decided that the Board of Supervisors would be looking for the Public Safety Committee to make a recommendation and the Committee felt it was their duty to provide a single resolution as the committee's recommendation. The committee discussed each one of the nine points in the balancing of interests analysis and directed staff to add their findings into the resolution that would find the proposed Shay Road tower site to be exempt from local zoning. While copies of the modified resolution were being made for the committee, Mr. Harper of LR Kimball gave a short presentation.

Mr. Harper reviewed the alternative sites considered in 2011 before the Shay Road site was chosen, and then the sites suggested by the Town of Italy. Only a site in the Hatch Hill area of the Town of Naples provides better coverage in both the Town of Naples and the portion of the Town of Italy served by the Naples Fire and Ambulance services. While the cost of developing a site on Hatch Hill would be considerably more than the Shay Road site, unfortunately every private owner of land flat enough to site a tower on has refused to either sell or rent property to Ontario County for that use. Other property in the Hatch Hill area that would work is owned by the New York State Department of Environmental Conservation and they had indicated they have a 3 to 5 year approval process. Mr. Harper then reviewed 8 additional sites that were reviewed this spring in greater detail. Some of them provide suitable coverage in the Town and Village of Naples, but none provided as good coverage in the portion of the Town of Italy served by Naples Fire and Ambulance services. All of these options by themselves carry an additional cost of at least \$450,000 to implement, not including site acquisition or rental costs.

Mr. Harper then reviewed the analysis of the SBA Tower and site on Parish Hill Road in the Town of Italy. The County paid SBA to perform a structural analysis which SBA's engineer claimed passed even though some structural members were loaded at more than 100% of design capacity. Kimball then commissioned an independent structural engineering company that identified additional issues with the tower concerning stability for the microwave dish, as well as deficiencies in the existing foundation. This engineer advised against using the existing tower. Mr. Harper also explained the difficulty of trying to structurally reinforce an existing foundation on an existing loaded tower. He stated he did not recommend the County assume that type of liability. Mr. Harper explained that the coverage Ontario County would have from the SBA tower would not be as good as what would be realized from the proposed Shay Road tower, mostly because the only space available to Ontario County on the SBA tower is much lower on the tower and the ground elevation there is about 90 feet lower than the Shay Road site. Mr. Harper also pointed out that the Town of Italy apparently had their own structural analysis performed, and that it agreed with the one that Kimball had done and not with the one prepared by SBA.

Mr. Harper next explained the cost analysis for building a new tower on the SBA property. In this scenario, a new tower would be built on the SBA site, users on the existing tower moved to the new tower, and then the existing tower would be taken down. The cost analysis is based on the assumption that SBA would require Ontario County to bear the cost of construction, including buying new antennas and radio equipment for the 4 current cellular carriers using that site. In response to a question from Chairman Casella, Mr. Harper explained that he had asked SBA the terms of a prospective deal several times over the last year and a half, including a couple of weeks ago. So far, SBA has not responded. Mr. Harvey added that Ontario County has twice been the owner of a tower site where a cellular carrier came in and wanted to place equipment on the County's towers. In both cases, a structural analysis revealed that the existing tower had to be replaced, and in both cases the cellular telephone carrier paid the entire cost of replacing the tower, dedicated the tower to the county, and then paid rent to the county to use the tower. The amount of rent in each case was not affected by the cost of replacing the tower. Mr. Harper added that the reason that he made

those assumptions in his analysis was because that is generally accepted industry practice. He explained that the only way it would be different was if SBA determined that by investing in a tower that could hold more antennas they could expect to rent space to additional vendors. In the case of the existing SBA Parish Hill tower, there are 4 cellular carriers on that tower now and there isn't a lot of population in that area so he doubted if SBA would think there was a market for renting space to additional companies. Mr. Harper also stated that in regard to the SBA owned tower on Lawrence Hill Road in Canadice and the SBA tower on South Hill Road in South Bristol that the County is renting, he had proposed that SBA share the cost of upgrading the existing towers and SBA had refused as they saw no market for additional rentals there. Mr. Harper finished his presentation by pointing out that building a new tower on the SBA site on Parish Hill Road would cost Ontario County around a million dollars more than building the proposed tower on Shay Road.

The committee then reviewed the revised draft of the resolution on the determination of exemption from zoning for the Shay Road tower site, including the committee's analysis of the nine points. The committee directed staff to clean up a few typographical errors.

**Supervisor Luckern moved to approve Alternative 2: Capital Project 7-2006, Consideration of Zoning Exemption in Regard to Proposed Shay Road Tower Site in the Town of Italy, Yates County. Supervisor Champlin seconded the motion, carried unanimously.**

Supervisor Luckern asked if every board member was going to receive a copy of the LR Kimball report. Mr. Harvey responded that if that was the direction of the committee, he would do so. Chairman Casella polled the committee and then directed Mr. Harvey to distribute the report to all Board members along with the corrected version of the zoning exemption resolution.

Chairman Casella then directed Mr. Harvey to prepare a list of correspondence with the Town of Italy showing what was provided to them and when. He also wanted a list of the communications that the County and Kimball had with SBA concerning the SBA owned tower on Parish Hill Road. He asked that the list be filed with the resolution.

### **Probation Department:**

Ms. Donovan reported that one of the department's budget lines, the one associated with drug and alcohol testing had already exceeded the amount budgeted for 2012. Ms. Donovan had submitted some information about Synthetic Marijuana.

Ms. Donovan had originally sent the committee some information regarding a request to amend Local Law #8, of 1992 derived from Article 12A, Section 257C of the New York State Executive Law. That law enabled Ontario County Probation to collect an administrative fee of up to \$30.00 from each individual who was sentenced to Probation Supervision. The request involved changing the language to comport with the wording in the executive law in order to include those on Interim Probation. Ms. Donovan rescinded the request and did not propose a resolution because DCJS Counsel informed her that Interim Probationers are not subject to the DWI administrative fee.

Ms. Donovan gave an update on Leandra's Law and reported on the number of interlock ignition cases. A number of cases do not have interlock ignition due to various reasons; they are in jail or prison, or have no vehicle.

Ms. Donovan reported on changes coming to the Criminal Justice/Juvenile Justice systems. She reported that the age of criminal responsibility is most likely going to be changed to the age of 18, which will greatly impact the Probation Department, and they will most likely need more staff. Ms. Donovan provided a report showing 216 NYS arrests among 16-17 year olds in 2010.

Ms. Donovan discussed and reported on the Probation Department's Annual Plan, which she will present at the June 11, 2012 Public Safety Committee meeting.

**Office of Sheriff:**

Sheriff Povero reported that the inmate population was 185, with a weekend high of 198. Pod 5 has been closed for maintenance and cleaning. There are 30 females being housed, and 59 are housed in Pods 7 & 8.

**Supervisor Luckern moved to close the regular meeting to go into executive session at 3:37 p.m. to discuss pending litigation. Supervisor Ninestine seconded the motion, carried unanimously.**

**Supervisor Ninestine moved to close the executive session and return to the regular meeting at 4:35 p.m. Supervisor Luckern seconded the motion, carried unanimously.**

**Supervisor Luckern moved to adjourn the meeting at 4:36 p.m. Supervisor Champlin seconded the motion, carried unanimously.**

Respectfully submitted,

Carol Marx  
Sr. Stenographer