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DDWC

UPDATE - DUTCHESS COUNTY
JAIL

CREATED BY THE DUTCHESS DEMOCRATIC WOMEN'S CAUCUS

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INTRODUCTION

The initial Dutchess Democratic Women’s Caucus report, released in September 2013,¹ focused on the Criminal Justice Needs Assessment (CJNA) produced by the Dutchess County Criminal Justice Council and presented to the Dutchess County Legislature in the fall of 2012. The CJNA report was broad and included recommendations spanning the NY State Court System, the offices of the District Attorney and Public Defender, and the operations of the Probation Department and the County jail itself. Our report, on the other hand, reviewed the across-the-board recommendations, but centered on the issues presented by proposals to construct a new jail. Indeed, during 2013, the Dutchess County Executive focused primarily on pursuing options to increase the size of the facility. This effort culminated in a land purchase that the Legislature authorized hurriedly on December 16.

We are issuing a report at this time because we believe it is critical for the public to understand that the actions being proposed by the administration are, in fact, committing Dutchess County to the construction of a new jail without completing the necessary research for such an undertaking or establishing a comprehensive strategic plan.

Our members are aware of the complexity of the issues surrounding both the capacity of the jail and the operations of the criminal justice system in Dutchess County. We hope that the results of this second study will help the citizens of Dutchess understand how adoption of the proposals currently under consideration will affect them as taxpayers.

We endorse the County’s approach – the concept of utilizing the existing jail site for expansion.

However, we continue to be concerned that the Executive has yet to execute the additional research recommended in the Ricci Greene Associates report and authorized in a resolution¹ passed by the Legislature. Through actions that appear to be undemocratic – if not extralegal – he and the Sheriff have committed taxpayers to an enormous financial obligation without following normal legislative procedures.

We hope that this second report will give a clearer perspective on the County Executive’s proposals and help the public and legislators to formulate responsible positions on the many aspects of the criminal justice system that need to be addressed in Dutchess County.

¹ http://ddwc.org/wp-content/uploads/2013/09/Summary_Report_Dutchess_County_Jail.pdf

CURRENT STATUS

The County has not developed a coherent plan for proceeding in an orderly, transparent fashion toward an informed, well-thought-out set of proposals addressing our criminal justice issues. Nor does the administration's approach provide significant opportunity for citizen input.

On May 28, 2013 Ricci-Greene associates provided their report to the Executive and Legislature assessing the Criminal Justice Needs Assessment. The next step took place on June 10, 2013, when the Dutchess County Legislature passed Resolution 2013182. This legislation authorized the issuance of \$1.2M in bonds to pay for the planning and design of a new jail. It was intended to address the many additional questions raised in the Ricci-Greene study as to what types of services and number of beds are required, not to authorize construction. However, this intent has not yet been fulfilled by the Executive. In fact, his representative told the Legislature on April 3, 2014, that the administration had not yet moved forward on the June resolution. He said the Executive would do so only if legislators approved a new resolution – one that requested an additional \$6.8M in bond approval to place temporary housing units, referred to as Pods, on the current jail site.

Thus, without performing the necessary due diligence as authorized by the legislature in 2013, the County Executive rushed through an agreement in December to purchase two sites adjoining the jail property. Total purchase price of these adjacent sites, the former location of a manufacturing facility, was \$1.425M. (In a memo to Rob Rolison, the Chair of the Legislature, the County Executive had asked the Legislature to accommodate this purchase by waiving the usual requirement to hold two committee meetings at which the measure could be discussed in advance of a vote.)

Avoidance of these discussions, and the public examination they might have generated, made it possible for the Legislature to promptly adopt resolutions on December 16 that authorized the purchase. The County Executive's request to bypass the normal process of the Legislature without allowing legislators to review the issue adequately and ensure due diligence on the acquisition -- or time for the public to comment -- demonstrates his willingness to press forward on construction of a new jail without the transparency and public input to which he frequently proclaims he is committed. Specifically, questions about the environmental state of the property remain, and must be addressed. The viability of putting a housing facility such as a jail on the former industrial site, and the ultimate cost of an environmental cleanup, are currently unknown. Nevertheless, the sale was completed this spring.

On May 12th, the Legislature will vote on Resolution 2014103 which requests bonding authorization for \$6.78M to provide for leasing and installation of temporary inmate housing units and site preparation.

WITHOUT RESEARCH OR PLANNING – A NEW JAIL BY 2019

Even before the land was purchased, the County Executive and the Sheriff had already signed a Memorandum of Agreement (MOA) with the New York State Commission of Corrections (SCOC). As of March 4, 2014, this MOA committed Dutchess County to construction of an expanded jail that would open on January 1, 2019. The following schedule for the project was listed as follows:

- 5/12/2014 – Request for modular housing submitted to and approved by Dutchess County Legislature
- 6/1/2014 – Project site selection submitted for SCOC approval
- 7/1/2014 – County hires property developer
- 10/1/2014 – County hires jail consultant and architect
- 4/1/2015 – Completion of “Project Definition” study and report, with copy provided to SCOC
- 11/1/2015 – Design development plans submitted to SCOC for staff review and comment
- 3/1/2016 – “Bid-ready” architectural plans for the construction of permanent correctional space submitted for SCOC approval
- 6/1/2016 – Project groundbreaking
- 1/1/2019 – Project completion

Thus far, each step the County Executive has taken has been secretive and rushed, and has allowed for little inquiry or scrutiny. Unfortunately, the Legislature is not doing its job in investigating and questioning each part of this process. Clearly, deadlines for the various parts of the schedule leading us to a new 500-inmate jail are approaching rapidly. For example, the first step on a path toward construction of a temporary housing facility will be taken by the Dutchess County Legislature on May 12, 2014.

Legislators will be expected to cast their ballots on that day despite the County Executive’s failure to provide evidence supporting the viability of this schedule. The dates listed assume that the Legislature will agree at every point to any request by the administration for bond approvals and appropriations for development costs. We object to this “rubber stamp” approach to governance.

County Executive Molinaro restated his commitment to a new jail in his March 4, 2014, State of the County speech. However, his comments only referred to the agreement on the Pods, not the full schedule of events laid out in the MOA. On that day, he said:

“I am pleased to announce we have **reached agreement with the State Commission on Corrections to proceed with installation of these PODs upon county legislative approval.**

...Once environmental assessments are completed, we will begin the Project Definition phase. Our commitment to the City of Poughkeepsie and county taxpayers is to define and develop: ...

- A campus **sensitive to the community and its neighbors** – a neighborhood design to include private investment, private job creation and increased property assessment, while encouraging additional development in adjacent properties; and

A mixed-use site, where **public and private space** is created, conforming with the Greater Walkway and local land use and zoning expectations. “

While providing a mixed-use site that encourages economic development would be a truly-enlightened approach, we challenge the County Executive to tell us when and where such a vision has been successfully implemented. More specifically, why is it a viable vision for the City of Poughkeepsie? We also question the economic feasibility of implementing such a proposal when the County is currently struggling with a budget deficit that was recently exacerbated by the repeal of the energy tax.

The administration continues to push forward the plans as outlined in the MOA. On April 3rd, the County Executive’s representative presented to the Legislature a plan for the lease of temporary units to house 200 inmates. The presentation raises additional questions:

- The proposed location of the Pods next to the current jail structure would limit the options available for later jail expansion on the same property.
- The \$6.8M request is for short-term funding (a Bond Anticipation Note) at 1.5% interest. However, when these notes are rolled into the anticipated bond for the full jail construction, the interest rate may well be significantly higher.
- The Pods would not be ready for use until January 1, 2015, when related personnel costs, including overtime, are projected to be \$4.03M, rising to \$4.4M in 2018. There is no provision for additional personnel, despite recommendations in the original CJNA study that noted more staff would be required for expanded capacity. We believe the Legislature should request a justification for this policy; it might be more reasonable to employ new staff, at beginning rates of pay, when the Pods become operational. In that case, current personnel would not be needed to work at overtime rates.
- The administration projects that Dutchess County will save \$1.07M in housing-out fees in 2015, and progressively-less, \$.9M, in 2018. According to the County Executive, \$150,000 of these savings would be available in each of those years for programs that would address medical, substance abuse, and mental health problems -- a minuscule amount in proportion to the needs of hundreds of inmates. It is most likely not enough to pay for even two qualified professionals. (Fully 80 percent of Dutchess County’s detainee and inmate population suffer from mental health and/or substance abuse problems. The Ricci-Greene report specifically cited the importance of assessing the conditions of the jail population, identifying specific needs and specifying program requirements. The proposed amount of \$150,000 is an insult to the inmates, their families, and all of those who are calling for increased support to reduce recidivism.
- For that matter, the County Executive has given no assurance that the programming funds (however small) will be available in future budgets. A full assessment of the repeal of the energy tax and whether the state mandate relief will fully cover the loss of revenue was not presented to the Legislature when the County Executive rushed through the repeal of the Energy Tax. There are some indications that it will not fully cover the repeal as letters were sent to non-profit organizations warning them that grants may be suspended or significantly reduced due to the energy tax repeal. In addition, the proposed Pods will not be in use until 2015 and there is no guarantee that the 2015 budget will provide the funds for such programs.
- It is apparent that County government will face increasingly-difficult choices for the 2015 budget as well as budgets for subsequent years. It also seems clear to us that the most cost-effective way to reduce the expense of housing out inmates and operating the jail day-to-day

would be to reduce the length of time inmates must be fed and housed by County taxpayers, and to fund programs providing appropriate re-entry programs for all inmates, including substance abuse users and the mentally ill. With the right skills and support, we can make it possible for them to return to the community where they can contribute to their own rehabilitation.

On May 12th, the Legislature will vote on whether to authorize the bonding to lease the Pods. The Legislature should not approve the resolution until the questions raised above are addressed and the Legislature receives assurance that the study authorized in the June 2013 resolution will include the answers as specified in the resolution as to what types of services and the number and types of beds required.

SUMMARY

The reluctance of the County Executive to move forward with the study authorized last June means the Legislature and public are on the verge of making important decisions with inadequate information. If the study had been expeditiously executed, the county would now have the necessary and critical information to make informed decisions. In light of the aggressive design and construction schedule set forth in the Memorandum with SCOC, it is difficult to see how the study envisioned in the June 2013 resolution will be executed in time to influence jail construction plans. The County has wasted 9 months and made uninformed decisions at the expense of county taxpayers such as the land purchase and the proposal for the Pods. The proposal for additional services for inmates of \$150,000 with no specifics, and particularly without the additional analysis on the questions asked in the Ricci-Greene study is irresponsible. Finally, the plan to staff the PODs using overtime for current employees requires further scrutiny.

Moving forward on the schedule laid out in the Memorandum will commit the taxpayers of Dutchess County for the next 30 years to an investment in a facility that may not provide the programs and facilities required to address the scope of issues raised in the original Criminal Justice Needs Assessment. While we agree there is a pressing need to improve the facilities in Dutchess County, it is imperative that the County proceed methodically and with transparency, allowing for community and expert input at every step of the process.

THE DDWC'S POSITION ON THE PROPOSED NEW DUTCHESS COUNTY JAIL

DDWC members understand that the county jail is now in poor condition, and taxpayers should not be asked to continue to pay for transporting and housing Dutchess inmates in remote locations. "Housing out" has become routine because the number of inmates exceeds the current jail capacity.

However, we also believe that improvements in the overall efficiency of the criminal justice system in the county can result in solutions that will enable us to provide adequate bed space for prisoners who must be accommodated within Dutchess County. We support the recommendations by the Criminal Justice Council and Ricci Greene that the use of Alternatives to Incarceration (ATI) programs should be enhanced and expanded, helping to reduce the need for more jail beds.

Finally, we believe that crime is a social problem that needs to be addressed at its root in the community and that the criminal justice system must be scrupulously fair and non-discriminatory in its share of responsibility for resolving that problem.

We are not convinced that a new 500-600-bed maximum security facility would be a solution that is either comprehensive or ideal. We do not think the County administration has conducted meaningful research that would enable planners to project the number and types of beds that will be needed in a new jail. The County needs to create effective solutions that will endure over time, perform additional analyses of the current inmate population, and examine more thoroughly how to provide access to programs and support systems. For example, many of the current inmate population would be served more effectively in a substance abuse or mental health center.

Before saddling taxpayers with the largest capital project ever undertaken in this County, leaders should perform more short-term studies of the alternatives, and identify the best methods of addressing the needs of the various inmate populations.

We also agree with the Ricci Greene report that the length of stay for an average inmate can be reduced, thereby reducing the number of beds needed at any given time. This can be done by streamlining the internal structure of the arraignment process, making broader use of assessments by the DA, Public Defender, defense attorneys, probation, and jail personnel in a more formal process; and addressing the backlog in courts and delays in identifying special needs. The County should not ignore these opportunities to reduce the average daily population (ADP); they need to be identified and implemented immediately.

We believe it is vital that Dutchess factor in the projected ADP and costs at the same time it allocates additional funds for crime prevention, substance abuse and mental health programs, and more-powerful Alternatives to Incarceration (ATIs). With these proven tactics in place, the county's incarceration rates -- and the resulting need for more and more jail beds -- will decrease significantly.

Our analysis has not supported the conclusion that elimination of housing-out costs will justify the cost of building a new jail. The annual cost of borrowing to build a new jail will more than surpass Dutchess' current housing-out costs, and no one knows just how much it will cost to operate a new jail. Most importantly, it is unclear that, with a new jail, funds will be available to pay for rehabilitation or ATI

programs. A total cost estimate for a new facility that includes the programs, assessments, and recommendations cited in the Ricci Greene report should be shared with the public.

We believe that any proposed site for the new jail should include an assessment of the potential financial implications for the surrounding community and taxpayers. In fact, we found that the Ricci Greene report provided a strong and comparable option in rebuilding at the current jail site. We recommend that location options be researched more thoroughly, providing realistic estimates of the costs, environmental effects, and impact on the community surrounding each site under consideration.

The Dutchess County Legislature's resolution authorizing a bond related to jail construction, dated June 10, 2013, allocated funds to contract for:

“Project definition and planning phase for the development of functional designs for a comprehensive approach to the criminal justice facility in the County of Dutchess, State of New York, including the issues presented in the RicciGreene Associates ‘Validation Study’ report as to what types of services and number of beds are required in order to address the current or new facility and other needs of the County's criminal justice system.”

The results of this study should be reviewed in depth before any additional funds are committed to jail construction.