



Date Adopted

Committee

April 15, 2020

Administrative

**RESOLUTION OF THE SALEM COUNTY BOARD OF CHOSEN FREEHOLDERS
DECLARING ITS APPROVAL OF THE ARBITRATION PANEL DETERMINATION IN
THE MATTER OF THE STATE OF NEW JERSEY JUDICIARY,
CUMBERLAND/GLOUCESTER/SALEM VICINAGE vs THE SALEM COUNTY BOARD OF
CHOSEN FREEHOLDERS, SUPERIOR COURT OF NEW JERSEY, LAW DIVISION,
DOCKET NO.: BUR-L-1707-17, DETERMINING THAT THE SALEM COUNTY
COURTHOUSE FACILITIES ARE INADEQUATE**

WHEREAS, the Salem County Courthouse, in its current state, was constructed in 1967 by the Salem County Board of Chosen Freeholders and has undergone several renovations over the years, including, but not limited to reconfiguration of offices, a roof project, new elevator, etc.); and

WHEREAS, the current Courthouse facility is comprised of three main floors: a basement, first floor and second floor. The building has an overall square footage of approximately 41,760 square feet; with the State of New Jersey Judiciary occupying approximately 27,000 square feet of space within the building; and

WHEREAS, currently the basement level of the Courthouse includes a Jury Assembly Room, Jury Management Office, Judiciary Records storage areas, the Arbitration and MESP Conference Areas and an attorney-client conference room. The first floor is comprised of the Civil Division, IT Office/Server Room, Family Division and Courtrooms 4 and 5 (with adjoining chambers). The second floor is comprised of the Criminal Case Management Office, Courtrooms 1, 2 and 3 (with adjoining chambers), two jury deliberation rooms, a multi-purpose room/waiting area and two attorney/client conference rooms; and

WHEREAS, there are a total of five Courtrooms in the Salem County Courthouse, including two large courtrooms with seating capacities up to 102 people, both of which contain adjacent Jury Deliberation rooms. There are four Judge's Chambers and there are three attorney client conference rooms; and

WHEREAS, in addition to the above-referenced space maintained by the Judiciary, the County of Salem occupies the following offices within the Salem County Courthouse: Buildings and Grounds, the County Mailroom, County Phone Operator, Records Storage, Prosecutor Evidence Storage, Victim-Witness Meeting Room and the Sheriff's Department Control Room; and

WHEREAS, both the Judiciary and the County of Salem also utilize the Fenwick Building, a county-owned property located directly across the street from the Courthouse, which is comprised of four floors with an overall square footage of approximately 24, 000 square feet; 6,222 of which is utilized by the State of New Jersey Judiciary; and

WHEREAS, presently there are three (3) Judges assigned to the Salem County Courthouse on a full time basis with approximately 93 Judiciary staff members housed in the Courthouse and Fenwick Building combined. The combined trial courts in Salem County generally accept under 10,000 filings each year and it is estimated that there are approximately 170,000 visitors per year to the two buildings combined; and

WHEREAS, the entire facility is compliance with all applicable Federal and State Statutory Americans with Disabilities Act Guidelines; and

WHEREAS, N.J.S.A. 2B:6-1(d) assigns responsibility for providing security at the Superior Court to the Salem County Sheriff; and

WHEREAS, A Model Court Security Plan has been developed at the director of the Chief Justice of the Superior Court, which provides standards for the development of security procedures for court proceedings at all levels, including County Courthouse Facilities; and

WHEREAS, the Salem County Sheriff's Department is in full compliance with all of the mandatory standards and procedures for Courthouse Security as required by the Model Court Security Plan; and

WHEREAS, pursuant to the State of New Jersey Constitution and the State Judicial Unification Act, N.J.S.A. 2B:10-1 through 9, effective January 1, 1995, the State of New Jersey is responsible for "certain" judicial costs previously born by the counties, including the salaries, health benefits and pension payments of all judicial employees, juror fees and library material costs and centrally-budgeted items such as printing, supplies and mail services. See N.J. Const. Art.VI, §VIII, ¶ 1(a)(1), (2) and (3), and N.J.S.A. 2B:10-3c and N.J.S.A. 2B:10-4a; and

WHEREAS, pursuant to N.J. Const. Art VI, §VIII, ¶ 1(b)(1), (3), the County remains responsible for "judicial facility costs," with regard to the operation and maintenance of facilities used by the courts or judicial employees; and

WHEREAS, N.J.S.A. 2B:6-1(b) specifically requires the county to pay for and provide "suitable facilities" for the Law Division and Family Part of the Chancery Division of the Superior Court; and

WHEREAS, furthermore, in Bd. of Chosen Freeholders v. State, 159 N.J. 565 (1999), the New Jersey Supreme Court held that, the responsibility for the capital costs of constructing, expanding and renovating court facilities remains with the Counties; and

WHEREAS, the Courts solidified its holding in Warren County Bar Ass'n v. Board of Chosen Freeholders of County of Warren, 386 N.J. Super 194, 201 (App.Div.), whereby the Appellate Division held that the "division of financial responsibility" in N.J.S.A. 2B:6-1(b) was intended to benefit the State by requiring local funding for certain court facilities; and

WHEREAS, the issue of the adequacy of the Salem County Courthouse Facilities has been an ongoing debate for quite some time, with discussions spanning back as far as 2001. It is the Judiciary's position that it has functionally outgrown its space and that the existing facilities are unable to accommodate the Court's operational and functional needs; and

WHEREAS, a May 2015, Space Study and Needs Assessment for the Salem County court facilities, determined the need for approximately 131,564 total square footage of space, an amount far in excess of the approximately 42,311 square feet currently being utilized by the Judiciary; and

WHEREAS, on June 1, 2017, the Judiciary made a formal request for Arbitration to the Salem County Board of Chosen Freeholders, pursuant to New Jersey Court Rule 1:33-9. Pursuant to said Rule, “Any dispute between the county governing body and the Assignment Judge concerning the location, size or other physical characteristics of courtrooms, chambers, office space or related facilities, shall, at the request of either party, be resolved by submission of the dispute to arbitration;” and

WHEREAS, In response thereto, on August 11, 2017, the Board of Chosen Freeholders voted unanimously 6 to 0 to place a non-binding referendum on the November ballot asking the taxpayers “Are you in favor of construction of a new Salem County Courthouse at taxpayer expense?; ” and

WHEREAS, in November 2017, the Salem County electorate voted overwhelmingly against the new construction of a courthouse. The vote on the referendum was 15,504 against to 1,579 in favor; and

WHEREAS, the afore-mentioned Arbitration proceedings have been ongoing since 2017 with the County vigorously defending its position that the current facilities are sufficiently adequate to meet the needs of the citizens of the County of Salem; and

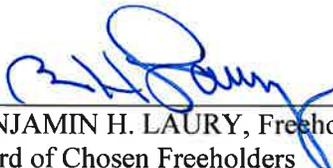
WHEREAS, and despite the operational challenges posed by the older courthouse facilities, justice is still being served in Salem County each and every day; and

WHEREAS, it is undisputed that the facility is safe and secure and the Salem County Sheriff has provided exceptionally effective and consistent security to the citizens of the County of Salem; and

WHEREAS, on or about February 21, 2020, the duly appointed Arbitration Panel rendered its decision finding that the Salem County Courthouse Facilities are inadequate and therefore do not satisfy the County’s obligations under the New Jersey Constitution and N.J.S.A. 2B:6-1(b), *et al*, and as referenced herein; and

WHEREAS, the Salem County Board of Chosen Freeholders hereby desires to now heretofore declare its agreement with the Arbitration Panel’s findings that the Salem County Courthouse Facilities in their current state are inadequate for the proper administration of law in the County of Salem. ^{gls}

NOW THEREFORE, BE IT RESOLVED, that the Board of Chosen Freeholders of the County of Salem hereby states its concurrence with the decision rendered by the Arbitration Panel duly appointed in the Matter of the State of New Jersey Judiciary, Cumberland/Gloucester/Salem Vicinage v. The Salem County Board of Chosen Freeholders, Superior Court of New Jersey, Law Division, Docket No.: Bur-L-1707-17, finding that the current Salem County Courthouse Facilities are inadequate



BENJAMIN H. LAURY, Freeholder Director
Board of Chosen Freeholders

I hereby certify the foregoing to be a true resolution adopted by the Board of Chosen Freeholders of the County of Salem on April 15, 2020.

Stacy Pennington
 STACY L. PENNINGTON
 Clerk of the Board

RECORD OF VOTE

FREEHOLDER	AYE	NAY	ABSTAIN	ABSENT	RESOLUTION MOVED	RESOLUTION SECONDED
G. Ostrum, Jr.		✓				
C. Hassler		✓				✓
L. Ware		✓				
R.S. Griscom		✓			✓	
B. Laury		✓				

✓ Indicates Vote

Department Initials _____