

**RULES, ENACTMENTS AND INTERGOVERNMENTAL RELATIONS COMMITTEE
MINUTES**

**WEDNESDAY, AUGUST 21, 2019
3:30 P.M.**

PRESENT: Thomas J. Faggione, Chairman
Michael Amo, Katie Bonelli, Barry J. Cheney, Kevin W. Hines, James M. Kulisek,
Michael D. Paduch, John S. Vero

ALSO

PRESENT: L. Stephen Brescia, Chairman
Antoinette Reed, Legislative Counsel
Harold J. Porr, III, Deputy County Executive
Langdon Chapman, County Attorney
David Church, AICP, Commissioner of Planning
Louise Vandemark, Commissioner, Board of Elections
David C. Green, Commissioner, Board of Elections
Bianca Staltare, Deputy Commissioner, Board of Elections
Donna McCarey, Deputy Commissioner, Human Resources
Alison Tyack, Director of Personnel Management, Human Resources
Deanna Crawford, Budget Analyst
Matt Ross, Council Member, Local 279-Northeast Regional Council of Carpenters

Mr. Faggione opened the meeting at 3:32 p.m. and requested everyone stand for the Pledge of Allegiance to the Flag. All members were present.

Mr. Vero moved request to abolish the vacant Associate Account Clerk II, Grade 10 position (#05207) and create a Fiscal Manager position, Grade 15, seconded by Ms. Bonelli.

Mr. Chapman explained that a desk audit was completed after the recent Associate Account Clerk left for a position in the Town of New Windsor. It was determined that the position would require more responsibility and different skill set to manage the upcoming \$23 million five-year grant through the Indigent Legal Services Office and the department's exciting budget.

Mr. Kulisek asked if the position would be accounted for in the 2020 budget. Mr. Chapman replied yes.

Motion carried. All in favor.

Ms. Bonelli moved request to approve and appropriate \$661,745.00 to purchase hardware/software and related components from Tenex Software Solutions, Inc. for early voting and the General Election in 2019 and thereafter all County administered elections (bonding), seconded by Mr. Vero.

Mr. Green explained that the funds are needed to facilitate the laws of New York State with Early Voting beginning with the 2019 General Election.

Ms. Vandemark explained that since the legislative request was submitted, they decided to go with Verizon for their iPads and conductivity in order to keep their electronic pollbooks updated on election day with most of New York State now going with the Verizon plan as it will be covered under the Office of General Services (OGS).

Ms. Vandemark presented the committee with a breakdown of the cost difference (see original minutes). The Tenex Software Solutions, Inc. portion would now be \$600,020.00 and Verizon \$68,246.75 for a total of \$668,266.75, an increase of \$6,621.75 from their original request of \$661,745.00.

Ms. Bonelli moved to amend the original motion from \$661,745.00 to \$668,266.75, seconded by Mr. Vero.

Mr. Cheney asked for clarification that they were not voting on the amendment. Legislative Counsel Reed replied that they are only amending the original motion and they will vote on it as amended after making their decision.

Ms. Vandemark emphasized that they only received these amounts around 1:00 p.m. today.

Mr. Cheney asked if they only received one quote. Mr. Green replied yes, because they went with Tenex as opposed to Knowink which would have been very difficult for election inspectors on election day with the Tenex quote less than what they originally submitted.

Mr. Green added that while testing MIFI they had some difficulty making a connection and why several counties in New York State have leaned toward Verizon cellular service.

Mr. Cheney asked if there were any other providers that could achieve the same purpose as Tenex. Ms. Vandemark replied no, as it would not be the same equipment, but the New York State Board of Elections has certified three electronic pollbooks.

Mr. Cheney asked how Tenex was chosen. Ms. Vandemark replied that it was based on several factors; price, value and ease of use for election inspectors.

Mr. Green added that Knowink would have required double the number of iPads based on how they do their configuration.

Mr. Cheney asked what other counties would be using. Ms. Vandemark replied that some are using Knowink and some are using Tenex, it was a matter of personal preference.

Mr. Hines asked if cell testing would be conducted in the various polling places. Ms. Vandemark replied that Verizon would conduct the testing.

Mr. Hines emphasized that it should be done soon as they may have to switch polling places due to dead spots.

Ms. Vandemark replied that at a recent meeting Verizon stipulated that all issues would be addressed as they sent them a list of all their polling sites.

Mr. Green added that if a location has a weak signal, they could use a device to enhance the signal at a low cost.

Mr. Hines stated that he would prefer that someone from the Board of Elections test it as opposed to the contractor.

Ms. Vandemark replied that Verizon will do the initial testing; however, they would also conduct testing.

Mr. Hines asked if the electronic pollbooks would be returned to the Board of Elections each night. Mr. Green replied no, they will be secured at the polling site.

Mr. Hines asked if the votes would be downloaded at night. Mr. Green replied that it would be immediate.

Mr. Hines asked about connectivity issues and could there be an error. Ms. Staltare replied that they will have the capability of seeing if there was an error with a laptop such as a low power battery. In addition, there is also heartbeat signal that will indicate if there is an issue with connectivity.

Mr. Hines asked if Tenex was through a state bid. Ms. Vandemark replied yes, they are signing the state contract today.

Mr. Hines asked for clarification that the prices in the quote were dictated by the state and Tenex and not something that the Board of Elections negotiated. Mr. Green replied yes.

Mr. Hines asked about the life expectancy of the equipment as he could foresee another unfunded mandate in eight or ten years. Ms. Vandemark replied that she was unsure of their life expectancy, but they are Apple iPads and they were advised not to purchase warranties based on their reliability.

Ms. Crawford asked if there would be any state funding for the Apple iPads. Mr. Green replied yes, partially, but not 100%.

Ms. Bonelli asked if they would supply onsite support on election day. Ms. Vandemark replied no.

Mr. Faggione commented that the Tenex quote states that the iPads would cost \$325.00 and if one breaks, the replacement cost could be \$325.00, \$200.00 or \$100.00. Ms. Vandemark replied that Verizon will replace them at a cost of \$209.00.

Mr. Vero asked if Tenex's connectivity was cellular. Mr. Green replied no, MiFi which was submitted with the original legislative request but that has been eliminated. It is now strictly cellular and bluetooth between the iPad and ballot printer with each iPad having a dedicated ballot printer.

Mr. Kulisek noted that in the past they have had difficulty finding election inspectors and will they have enough technologically savvy inspectors to do this work.

Ms. Vandemark replied that if they can use a phone, they can use an electronic pollbook. They will be inviting the legislature to their office once the electronic pollbooks have been received so they can see the actual product and how it will be used. They understand that they will lose inspectors out of fear, but they anticipate being able to reduce the number of inspectors that may be needed.

Mr. Faggione asked for a revised quote from Verizon. Ms. Vandemark presented the committee with a handout entitled: TENEX - State of New York Precinct Central Electronic Poll Book Solution and a quote from Verizon (see original minutes).

Mr. Paduch asked how bonding would work. Mr. Green replied that they would have to bond the entire amount and once everything has been paid, they will submit evidence of payment for reimbursement.

Mr. Paduch asked about the \$126,715.00 of remaining funds being used toward the county share. Ms. Crawford replied that it was the remaining balance from the voting machines as they budgeted \$446,000.00 but only used \$338,000.00.

As amended, motion carried. All in favor.

Mr. Paduch moved request to receive an allocation of \$514,604.00 from the State of New York in the form of allowable expenditure reimbursement from two grants; Capital Project Grant of \$293,891.00 and Localities Grant Program for \$220,713. Request to accept and appropriate both New York State grants, seconded by Mr. Vero.

Mr. Faggione commented that on April 24, 2019, Assemblyman Charles D. Lavine, Chairman of the Committee of Election Law stated on an election webinar that "...none of us believe that state spending is going to cover all of these costs..." and his quote is correct as it is a mandate from the State of New York. The County of Orange will be on the hook for \$668,000.00 with New York State providing \$514,000.00; however, it will cost Orange County taxpayers \$153,662.75 with not one taxpayer in Orange County having the opportunity to vote on it as it is a state mandate not a county mandate.

Mr. Green added that they received a copy of the Capital Project Grant of \$293,891.00; however, they do not have the Localities Grant Program in their possession for \$220,713.00. It is forthcoming but it is going through the various channels for approval and is currently in the Budget Office.

Mr. Faggione stated that Assemblyman Charles D. Lavine also stated during that webinar that "...there will be unanticipated costs..." sadly, at the expense of taxpayers in New York State.

Mr. Cheney asked about the formula for reimbursement and how much do they receive per polling site and how much does it cost to operate a polling site. Ms. Vandemark replied that they will be meeting to discuss early voting next week.

Mr. Cheney asked if they decided to increase the number of polling sites in order to get additional revenue could they. Mr. Green replied no, they are at the total number allotted.

Mr. Faggione commented that on April 10, 2019 a handout was distributed depicting an estimated cost of \$38,000.00 per polling site.

Mr. Paduch recalled the discussion on the \$38,000.00 and with the reimbursement would they be looking at an additional cost of \$16,000.00. Ms. Vandemark replied that they cannot hold to that as that was the information they had at that time.

Mr. Green asked if they would be accepting both grants or the \$293,891.00 grant solely.

Legislative Counsel Reed asked if they had received the formal letter stating they would be receiving these funds. Mr. Green replied no, just a list from the New York State Board of Elections indicating what was submitted and how it would be allocated.

Legislative Counsel Reed stated that until they receive that letter they cannot accept and appropriate the funds as there is nothing to accept.

Legislative Counsel Reed clarified that at this time they would only be accepting the \$293,891.00.

Ms. Crawford added that the budget comments stipulated that they could not expense the funds from the localities grant until the award was issued.

Legislative Counsel Reed asked if they anticipated receiving the letter before the Legislative Session on September 5, 2019. Ms. Vandemark replied that they were unsure.

Mr. Paduch moved to amend the original request and to only accept the Capital Project Grant of \$293,891.00, seconded by Mr. Vero.

Mr. Amo asked Legislative Counsel Reed what the intent would be if they received the letter before the Legislative Session on September 5, 2019. Legislative Counsel Reed replied that if they get the award letter prior to the Ways and Means committee meeting it could be adjusted then. If not, they would replace this resolution with a consent resolution that would include the additional appropriation.

As amended, motion carried. All in favor.

Mr. Paduch moved request approval of the Planning Department's Transit Title VI Program which is required to be maintained due to Federal Transit Administration regulations, seconded by Mr. Faggione.

Mr. Church presented a brief overview of the program. He stated that the documents presented are unchanged substantively from 2016 with the exception of the bus rosters, meeting date references, staffing changes, contract bus operators and a few maps.

Mr. Cheney referred to page 14, under COACH USA VEHICLES which lists Long Island and Kerhonkson as routes serviced and what ridership do they have on those routes. Mr. Church replied that he does not have ridership information with him but would get it to the committee. However, this is the roster of buses that Orange County owns and is operated by Coach USA.

Mr. Cheney asked when they evaluate the services they provide and the ridership to support it. Mr. Church replied that it is complicated with short line as they are contracted with New York State to operate those routes. Orange County is the recipient and paid for the capital improvements such as buses. Therefore, they have not contracted with Orange County to operate those routes but with New York State.

Mr. Cheney asked if assessments are conducted to determine the cost per passenger mile and if it is an effective use of a vehicle that size and possibly change the vehicle and/or routes. Mr. Church replied yes, where they contract the service and they do make adjustments. They are currently contracted with an outside contractor and researching the in-county routing that Orange County operates.

Mr. Cheney asked that when that report is completed that he come back to the committee with those results. Mr. Church replied that he would, but he could get recent passenger usage for the committee.

Mr. Cheney stated that passenger usage was included in the document; however, it does not include the cost.

Mr. Amo asked if the update should read Town of Palm Tree as opposed to village of Kiryas Joel. Mr. Church replied that their contracting has not caught up to that change and this document is key to the federal fiscal year.

Motion carried. All in favor.

Mr. Hines moved request to accept and appropriate additional funding from the New York State Department of Transportation (NYSDOT) for the Statewide Mass Transportation Operating Assistance (STOA) Program, \$2,974,618.00, seconded by Ms. Bonelli.

Mr. Church explained that they were informed that the usage formula for distribution was adjusted and that it would be retroactive to April 1, 2019. The new rates are .68 cents per revenue passenger, \$1.15 per revenue mile and \$3.40 per mile for certain inner-city operators. All of their operators are based on the passenger and revenue mile and they owe the operators \$347,080.91 based on the new formula retroactive and they will use the new formula going forward.

Motion carried. All in favor.

Mr. Kulisek moved request approval for a grant application to the NYS Environmental Facilities Corporation seeking financial assistance for construction costs as part of the Dwaarkill/Pine Bush water supply groundwater supply interconnection program. Project is a partnership between Orange County, the Orange County Water Authority, and Town of Crawford (Pine Bush Water District) (As per David Church & amended at Rules 8/21/19: Request of Orange County Legislature seeking Resolution in support of Town of Crawford grant application to NYS Environmental Facilities Corp. for Dwaar Kill/Pine Bush Water Supply), seconded by Mr. Cheney.

Mr. Church explained that the request is seeking the legislatures support as a partner with the Town of Crawford to apply for a construction grant from the New York State Environmental Facilities Corporation for up to 60% of the construction costs. Through a series of meetings, it was decided that the Town of Crawford would be the lead applicant to the New York State Environmental Facilities Corporation. It will be submitted with a bonding resolution for the potential full cost of the construction of the facility and they are looking for a letter of support from the legislature for the grant application. They are seeking up to 60% of the construction costs with the Town of Crawford borrowing the necessary funds against water district users. The current proposal has the county partnership not involving funds but revenue as the town will construct and operate and the draft agreement stipulates some form of land lease for the property and easement from the Orange County Water Authority to the Town of Crawford (Pine Bush Water District) with a payment to the county on a price per thousand gallons of water once it is operating. The estimated costs are still being debated but they do have full design completed due to a grant received from the Department of State to the Orange County Water Authority and draft permits for the project and they will be filled once the next steps in construction are decided.

Mr. Cheney asked if the legislature would have to act on how much the water would be sold for. Legislative Counsel Reed replied that she would have to get back to them on that question.

Mr. Cheney asked if the projects leading up to this including the installation of the wells and design was that entirely funded by previous grants obtained by the water authority. Mr. Church replied that the majority of funding was through two New York State Department of State Shared Services grants in the 60% to 80% range and matched with funds from the Water Authority's approved budget. The first grant covered a feasibility study and how they could proceed with the project and the second grant covered 70% of the cost for the full design.

Mr. Cheney asked about a past issue in which Bond Counsel stated that they could not do it and is that the position they still take, and have they provided information that could possibly change their mind on that stand. Mr. Porr replied that they stand in the same position.

Mr. Church explained that they ran out of time in reapplying for the grant as one of the partners had to commit to full financing with the Town of Crawford being the only eligible partner to make the financial commitment for the construction costs.

Mr. Kulisek asked if they could recoup any of the funds spent for the testing of wells. Mr. Church replied that the county owns the wells, water, land and they own the right of way

between that water and the Pine Bush Water District via the County Water Authority Investment. As the project proceeds decision will have to be made collectively on how that will work. The concept is that the county will net money from this endeavor on a recurring basis through a land lease and water sale.

Motion carried. All in favor.

Mr. Paduch moved resolution requesting the New York State Commissioner of Health to adjust the Medicaid Transportation reimbursement fee schedule for Orange County, seconded by Ms. Bonelli.

Mr. Amo addressed the issue of medical transportation as it was brought to his attention that Orange County was receiving approximately 250% less than the surrounding counties. Their New York State Assembly members recently submitted a letter to the New York State Commissioner of Health asking for an explanation, which is forthcoming. In the past, counties were responsible for medicaid medical transportation, but New York State came in and took it over with the county no longer involved. Based on the information he received from Assemblyman Karl Brabenec, the response from the New York State Health Department was that Orange County never asked for an increase. In his opinion, they should send up the resolution and ask them to look at the disparity as it is crippling some of the transportation services in the county.

Mr. Cheney asked for the basis that the state uses to determine what a county receives. Mr. Amo replied that they did not know and that was some of the information requested in the letter to the New York State Commissioner of Health.

Ms. Bonelli added that Commissioner Darcie Miller was unaware that there was a disparity, this is a severe issue as it is significantly lower and why. They need to know the methodology as opposed to just being told that it was because they did not ask, it is absurd.

Legislative Counsel Reed explained that Ms. Miller was at the Human Services committee meeting yesterday and she stated that she was informed that Commissioner Zucker received the letter and responded and Ms. Miller is trying to obtain a copy of his response. If and/or when she receives it, she will disclose it to the legislature.

Motion carried. All in favor.

Mr. Paduch moved Local Law entitled, "Orange County Apprenticeship Training Requirements," seconded by Mr. Kulisek.

Legislative Counsel Reed explained that the federal government enacted the Fitzgerald Act in 1937 which provides for standards in apprenticeship training programs on a federal level. Even though New York State had apprenticeship training programs in place in 1978 they were approved and authorized under the federal act. Apprenticeship training programs go back eighty-two years and in 2003, Orange County looked at apprenticeship programs for the first time, but it did not get a lot of steam. In November 2018, County Executive Neuhaus submitted a legislative request for a local law; however, he was on military duty but has since returned. It was then presented as a resolution for an amendment to the county's procurement policy. They received a great deal of input

from the unions, county attorney's office and legislators and they have made changes that were negotiated through Chairman Brescia and members of the Legislature which is the revised local law before them dated August 20, 2019.

Legislative Counsel Reed presented the committee with handout of the proposed changes to the "Orange County Apprenticeship Training Requirements" (see original minutes).

Mr. Faggione introduced Matt Ross, Council Member, Local 279-Northeast Regional Council of Carpenters.

Mr. Hines notes that after this was previously presented, he was contacted by a constituent who owns an excavating company that consists of three owners and two employees and would they be subject to this law or would they be boxed out of this type of work.

Mr. Ross replied that he would need to know more about the company as it would depend on their scope of work as they could be excluded.

Mr. Hines directed his question to counsel. Mr. Chapman replied that it would depend on the size of the contract, but he does not see an exclusion for small businesses.

Mr. Hines stated they only have a total of five employees and do not have an apprenticeship program and would actually be boxed out of this type of work. Mr. Chapman replied that if they chose not to join with an apprenticeship program and the contract was in excess of \$350,000.00 and a construction contract, they would not be eligible.

Mr. Ross explained that the idea is not to exclude people from it but to get them to engage in the apprenticeship program and to perpetuate the trades.

Mr. Chapman added that he was unsure as to how many \$350,000.00 contracts could be fulfilled by a three-person firm.

Chairman Brescia added that the original figure was \$250,000.00; however, it was increased to \$350,000.00 based on concerns that were expressed.

Mr. Faggione added that in June 2019, he received a letter from Tri-State Drywall & Acoustical, Inc. (see original minutes from the June 19, 2019 meeting) on their involvement and support of the New York State Apprenticeship Program.

Mr. Cheney asked about the previous exemption for paving and land clearing which has been removed. Mr. Faggione replied that it was moved to Section 2 under CONSTRUCTION CONTRACTS.

Mr. Cheney stated that they are not only talking about a large \$350,000.00 project but the component of sub-contractors that are much smaller within a project. In his opinion, they would be precluding smaller firms that could do the work and may not have the qualified apprenticeship program but have their own programs for training and they are creating some exclusions.

Mr. Ross replied that companies with an apprenticeship program have the ability to lower their costs on a project specifically on competitive rate jobs. If they have a New York State

certified apprenticeship program, they can use apprenticeships on the jobs and their hourly rates are less. A company with an apprenticeship program would be more apt to bid better because they can use an apprenticeship wage ratio as compared to a company that does not have one who would have to pay the full rate on every journeyman.

Mr. Cheney commented that Commissioner Denega has floated this out to several contractors that the county uses for paving and they have stated that they would not be able to bid if the apprenticeship requirements are put into place.

Mr. Ross replied that paving has been exempted and they thoroughly researched the \$350,000.00 to make it fair to all parties.

Mr. Faggione clarified that he sponsored and supports this request after researching it thoroughly. The average cost for college between the years of 2017-2018 in a public in state college was \$20,770.00 and over \$80,000.00 for a four-year degree. Private schools on average were at \$46,950.00 and over \$200,000.00 for a four-year degree. A trade school would cost \$33,000.00 and the concept before them is that if someone is going to bid on a construction contract in Orange County in excess of \$350,000.00 they want those entities to be involved in a program that encourages young people to learn a trade that will allow them to earn a wage that would allow them to live in Orange County.

Mr. Hines asked about the number of apprentices needed on a prevailing wage job. Mr. Ross replied that on a prevailing wage job they must have 3 journeymen and 1 apprentice but that does not mean they cannot have more.

Mr. Hines asked for clarification on who states they must have an apprentice with the journeymen. Mr. Ross replied that New York State Department of Labor guidelines stipulate that it is 3 journeymen to 1 apprentice on a prevailing wage project.

Mr. Hines asked if Project Labor Agreements (PLA) were placed on all county jobs. Mr. Chapman replied no, as there is a legal standard on when they can use Project Labor Agreements (PLA).

Mr. Cheney noted that the county oversees the Orange County Sewer District and Beaver Dam Lake, and would this apply to those projects as well. Legislative Counsel Reed replied that she was unsure if they had already gone out to bid.

Mr. Cheney noted that Beaver Dam Lake is currently underway.

Legislative Counsel Reed replied that it would apply to the Orange County Sewer District project.

Mr. Cheney asked if the County Executive supports this and at the end of public hearing would sign the local law. Mr. Chapman replied that he supports it and would sign it into law. Orange County is behind the eight ball with respect to apprenticeship programs as Dutchess, Rockland and Ulster Counties all have apprenticeship programs.

Mr. Chapman asked for a moment to review the proposed local law.

Mr. Faggione granted a five minute recess at 4:55 p.m.

RECESS

The meeting reconvened at 4:59 p.m.

Motion carried 7-1 with Legislators
Amo, Bonelli, Hines, Kulisek, Paduch,
Vero and Faggione voting in favor and
Legislator Cheney voting against.

Mr. Paduch moved resolution recognizing
September 15, 2019 through October 15,
2019 as National Hispanic Heritage month,
seconded by Mr. Hines.

Motion carried. All in favor.

The meeting adjourned at 5:01 p.m.