

**Herkimer County Legislature
Committee on Human Resources and Ways & Means
Committee Meeting
Friday, June 19, 2020
Via Teleconference
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Persons Attending:

Frederick J. Shaw, Jr. (Chairman, Human Resources/W&M committee member)
Raymond Smith (committee member, both)
Peter F. Manno (Human Resources committee member)
Gregory Malta, Sr. (Human Resources committee member)
Mark Gaworecki (Human Resources committee member)
Robert J. Schrader (Human Resources committee member)
Patrick E. Russell (Chairman, Ways & Means)
Kurt J. Ackerman (Ways & Means committee member)
Raymond Johnson (Ways & Means committee member)
John P Stephens (Ways & Means committee member)
Vincent J. Bono (Chairman of the Legislature)
James W. Wallace, Jr., County Administrator
Brandy Serow, Sec. to County Administrator
Lorraine Lewandrowski, County Attorney
Sheri Ferdula, Budget Officer
Steve Billings, Personnel Officer
Timothy Seymour, Commissioner of Social Services
Kristen Snyder-Branner, Director of Community Services
Kathy Fox, Director of Office for the Aging

(Non Committee Members Signed In)

Legislator Bob D. Hollum
Legislator William E. Keeler, Sr.
Legislator John L. Brezinski
Legislator Ray Donley
Legislator Peter J. Campione
Legislator William Weakley

Absent:

N/A

Mr. Shaw and Mr. Russell called the meeting to order at 9:58 a.m.

Items discussed:

HUMAN RESOURCES AND WAYS & MEANS:

1. Amend System of Care Resolution No. 262 dated 10/02/19 and No. 368 dated 12/11/19 and approve agreement with ICAN.
2. Approve contract with Beacon Center for the provision of CASAC Services in DSS
3. Authorize to set a Public Hearing for a Local Law for mileage reimbursement for volunteers
4. Other

Committee Vote Record:

HUMAN RESOURCES AND WAYS & MEANS:

Mr. Shaw stated “Item one is amend System of Care Resolution No. 262, dated October 2, 2019 and No. 368 dated December 11, 2019 and approve agreement with ICAN. Can I have a motion?”

Item #1 – On motion of Mr. Schrader, seconded by Mr. Malta for Human Resources and on motion of Mr. Bono, seconded by Mr. Ackerman for Ways & Means, Item #1 was voted on, approved and moved for Resolution.

Mr. Shaw stated “Item two is approve contract with Beacon Center for the provision of CASAC Services in DSS.”

Tim Seymour stated “We previously contracted with our Mental Health Department. Mike LaPorte was the employee who was conducting these assessments for us. Mike is retiring July 1st so Kristen has no other credential case managers up there that can do this so I reached out to Beacon Center, Jackie West, and she gave me a proposal that ended up being about \$4,000 less than what we were paying so I am bringing it to you guys for approval. This is mandated for us.”

Item #2 – On motion of Mr. Bono, seconded by Mr. Gaworecki for Human Resources and on motion of Mr. Bono, seconded by Mr. Smith for Ways & Means, Item #2 was voted on, approved and moved for Resolution.

Mr. Shaw stated “Number three, approve mileage for volunteers using Wellness in Nutrition funds in Office for the Aging.”

Lorraine Lewandrowski stated “Kathy has a number of volunteers, I’m not sure how many, who have helped to fill in over COVID to deliver Meals on Wheels to people. I tried to do some research on it and it’s not as easy as it would seem. There are a number of counties around the state that have adopted Resolutions authorizing volunteers to get paid mileage however when we did legal research we found that authorizing volunteers to be paid mileage is something that had to be done by a local law. For example, we found one local law for Chautauqua County where they adopted an actual local law approving mileage at an IRS rate for certain categories of volunteers. That was the first issue that surfaced. The second issue that surfaced was how auditors handle what volunteers are paid in terms of mileage. Our Auditor Tricia Lucas at D’Arcangelo sent me a memo she had done for other municipalities. The most volunteers can be paid, if we authorize them to be paid, is \$0.14 per mile. If they get more than the \$0.14 per mile and get the IRS rate, that difference becomes taxable income to them. The County would have to issue appropriate tax documents. We also researched the possibility of giving the volunteers some sort of small stipend or something like that. The Auditor again told me that, there is a thing in the IRS called Volunteer Rule. If they are going to be called a volunteer they can only be paid 20% of what a normal rate of pay would be for someone in that position. Otherwise it looks like they are assuming an employee status. The other issue that came up was, we do have students that help out on occasion as interns. However, we do have a template agreement that we have developed over the years so that if you are an intern, here helping out in the County or gaining work experience, you sign the agreement that you are not an employee. You are responsible for yourself if you get sick on the job. The entity that sends you is responsible for you Worker’s Comp. There were a number of complicating factors that I was actually surprised of all the factors that came up on what seemed to be a very simple issue but the IRS has some very detailed rules on that and were provided to me by the CPA at D’Arcangelo. I think I would just ask the committees to consider all of these issues first but I didn’t know if Kathy had a presentation of how many people she has and what their goal is for the Office for the Aging.”

Kathy Fox stated “We currently have two volunteer Meals on Wheels drivers that are requesting mileage because we have paid mileage in the past and we do pay mileage to our advisory council member who comes from Old Forge. That’s currently what we have. Two people that are requesting pay for mileage. If we are considering a stipend of 20%, these people would be paid at the minimum wage for the amount of hours and typically for route it’s three hours so they would be getting like \$30.00 plus their 57.5% mileage. That’s something to consider too. We had always paid them before, any volunteers that we had, so we just went with the same thing that we had done before and now I am sort of stuck. I have a volunteer that has waited a month to be paid mileage and can’t get paid. I’m just trying to get a solution here. I’m not sure exactly what we can do but even paying at the IRS rate of \$0.14 per mile, that hasn’t been changed since the 1970’s and we can pay above the \$0.14 but we would have to supply them with a 1099 if they make over \$600 for the year. I did have a discussion with Rob Malone before about any volunteers that we had would be covered under our Workers’ Comp. That’s what I was advise before too because we have volunteers at the meal sites too. They just don’t request mileage because they don’t use it.”

Mr. Russell asked “The question I have, are they volunteers or aren’t they volunteers?”

Kathy Fox responded “Yes. They are volunteers. Just to explain to you we reduced the number of Meals on Wheels routes significantly so that the older adults would be exposed to less people and be did have to furlough quite a few of our older drivers. Our routes now are considerably longer than they were before so it’s a significant amount of money. Just to give you an idea, at our mileage rate, the mileage the volunteer turned in, if we paid at our rate it would be like \$218 a month. They are driving a considerable amount of miles and we are not having to pay their wages. I understand your point. I think when you don’t consider paying mileage to volunteers you might exclude some people that might be able to volunteer who just can’t afford to pay for the gas and with the minimum wage issues that we are having with the minimum wage going up, we want to encourage as many volunteers to help us out as possible so that we can sort of put a gap in there with the increases in the minimum wage. This is something going forward I sort of had made a plan of that I was going to try and get more volunteers so that we could that we could reduce the impact of the minimum wage increases over time so I think offering them mileage or some other stipend. At least help cover their gasoline costs and the wear and tear on their vehicles too.”

Mr. Johnson asked “How about a gas card?”

Lorraine Lewandrowski responded “No. From what I have found you cannot give gas cards. They are considered to be a gift.”

Mr. Gaworecki asked “This is for Lorraine. If I understand you right we can go up to the IRS but then we would have to give them”

Lorraine Lewandrowski stated “Well, if we want to pay volunteers we do need to have, if you’re going to do it the right way, you would adopt a Local Law. I know other counties have adopted Resolutions and some of them told me they never have been audited and never had a problem with it. However, according to what we are finding in our research, if you’re going to do it the right way you need to adopt a Local Law stating they are going to get mileage.”

Mr. Gaworecki stated “But as far as the taxes.”

Lorraine Lewandrowski stated “Yes. If they are getting the IRS rate then they get taxed on the difference between \$0.14 and the higher rate. It would entail more paper work by us and then they would be subject to tax.”

Mr. Gaworecki asked "Is that paperwork for us pretty much automated? If we had to give them a 1099 is it that much more work for us?"

Mr. Wallace stated "No. Not with the numbers we are talking about."

Mr. Johnson asked "Question for Jim. 100% reimbursed by the state, are we going to see programs like this go away? I know our state is in financial difficulty."

Mr. Wallace stated "Sheri and I have been going through this on almost a daily basis. We are counting on 80% of any dollar at best. So if we think we are going to get \$20,000 from the state it will be \$16,000."

Mr. Schrader stated "Kathy, with the situation with volunteers being that you are cutting them down because of a lot of the elderly people aren't able to deliver, do you see a situation where we will not be able to accommodate as many people or no if we don't pay?"

Kathy Fox stated "It's hard to tell at this point. We have started reaching out to some of our employee drivers to see if they want to return to work and there is quite a few of them that don't. I'm not quite sure. This has always been a difficulty with us trying to find paid drivers let alone volunteer drivers so the ones we do have, I would definitely like to keep the volunteers. I'm not sure at this point. I mean, it could go either way. The volunteers we are getting right now are actually younger people which I would like to encourage that. It's always good to have the interaction with the younger people and the older adults. Encourage those younger people to volunteer."

Mr. Schrader asked "In your estimate do you think we can get away with the \$0.14 or go with the higher rate?"

Kathy Fox responded "I would like to go with the higher rate. \$.014 a mile is not very much."

Mr. Stephens stated "Just so everyone is aware we also have this same topic coming up next in Public Safety for our Deputy Fire and EMS Coordinators to be reimbursed which was done in the past apparently so I just want everybody to be aware of that. I don't think it's a huge issue because I don't think anybody is going to make over \$600 anyways. They are liable for their own vehicle if they get in an accident or anything on our behalf. Just wanted to make you aware in Public Safety the same issue is coming up."

Mr. Gaworecki stated "So in summary, if we do pay the mileage we have to enact a Local Law and we have to provide them with tax document."

Lorraine Lewandrowski stated "Yes. I think if the Legislators want to do it they should do it the right way. It's a little bit harder to do jumping through the hoops of the Local Law but I think doing it the right way, and we have explored all of the IRS ramifications thanks to Tricia at D'Arcangelo, so doing it the right way and adopting a Local Law. Also we spoke with the insurance carrier to have an agreement with the volunteers as well so that we know what happens. If someone is injured on the job, they fall delivering a meal to someone or they get into a car accident or whatever, what will their insurance cover and what will our insurance cover and how it would work with Worker's Comp. I believe there was an injury a few years ago with a Deputy Fire Coordinator getting injured on the job and our Comp had to cover that. Bringing this has provoked a lot of research and try and clarify all of the issues."

Mr. Gaworecki stated "This Local Law, if we were to do this, would this cover the County as a whole, or just certain departments?"

Lorraine Lewandrowski stated “We can specify. The one for Chautauqua County was specifically for people who were doing certain categories of work. The mileage reimbursement rate would be at a maximum allowable rate. Managers who are working in certain areas could be reimbursed. They would not be an employee relationship.”

Mr. Gaworecki stated “So we wouldn’t have to redo this every time someone asks to give someone mileage?”

Lorraine Lewandrowski stated “No. You can adopt a blanket local law maybe for Office of the Aging volunteers and then if you want to consider the Deputy Fire Coordinators.”

Mr. Russell asked “The Deputy Coordinator is a paid position, right?”

Mr. Stephens responded no.

Mr. Russell asked “He is volunteering?”

Mr. Stephens stated yes.

Mr. Wallace stated “What do we need to start the process of doing a Local Law?”

Lorraine Lewandrowski stated “If you guys make the recommendation we can prepare for the following Legislative meeting.”

Mr. Wallace asked “Would we need to set the Public Hearing? Should we set the Public Hearing?”

Lorraine Lewandrowski responded “Yes. We would have to have a Public Hearing. I can draft a proposal of the law for you guys to look at prior to and also propose an agreement with the Office of the Aging volunteers.”

Mr. Schrader stated “I motion that we hold this off and do the Local Law then. Is it all right with the committee Fred?”

Mr. Gaworecki seconded the motion.

Mr. Russell asked “When will that be?”

Mr. Wallace responded “August 12th at 6:30 p.m.”

Mr. Russell stated “What are you going to do in the mean time? These people are using their own vehicles.”

Mr. Bono asked “Can you make it go retro?”

Lorraine Lewandrowski responded “I don’t know on Local Laws if you can go retro. I would have to look into it. We have had contracts where we started contracts and we have already had services provided.”

Mr. Wallace asked “Kathy, how many people do you have?”

Kathy Fox responded “Three currently.”

Mr. Wallace asked “What is the total amount of money?”

Kathy Fox responded “Probably about \$600. I haven’t gotten the two other mileage sheets in yet.”

Mr. Russell stated “It doesn’t take much to rack up miles and money.”

Mr. Schrader stated “Is there something we can do?”

Lorraine Lewandrowski stated “I am going to have to research to see if a Local Law can be retro.”

Mr. Schrader stated “I don’t want to get caught saying we are doing stuff illegal.”

Mr. Russell stated “Well you could give them \$.014 a mile until we approve it. You are talking about August and we will have another set of \$600 bills. You are asking a volunteer to travel quite a bit of miles. I understand where Lorraine is coming from because I had Tricia do the same thing for me in regards to a volunteer organization that I belong to so I knew exactly what she was talking about.”

Mr. Schrader asked “Lorraine, would we be able to give them an advance maybe? Is that legal?”

Lorraine Lewandrowski responded “No.”

Mr. Bono stated “Can we give them something and tell them we are going to make it good on the August 12th date?”

Mr. Schrader stated “Give them some kind of hope for the future.”

Mr. Bono stated “We appreciate everything but legally our hands are bound and we have to go by the law. It’s that simple. We are trying every which way we can.”

Lorraine Lewandrowski “I will research to see if it can be made retro for the whole year. Given the COVID situation these people did volunteer when nobody else would to help us take care of the elder people.”

Mr. Stephens asked “Would Sharon Ewanyk be any help?”

Mr. Wallace stated “She is right on top of it because of the IRS stuff. The IRS bugs her all of the time. This is what it was all generated from, John.”

On motion of Mr. Stephens, seconded by Mr. Russell for Ways & Means, Item #3 was voted on, approved and moved for Resolution.

Mr. Shaw asked if there was anything under other. With no response he asked for a motion to adjourn.

At 10:24 a.m., on motion of Mr. Schrader, seconded by Mr. Manno, the Human Resources Committee adjourned.

The Ways & Means Committee continued.