

**Ways &
Means Committee
Regular Meeting Minutes**

DATE & TIME: September 15, 2020 – 5:30
LOCATION: Powered by Zoom Meeting by dialing 1-646-558-8656,
Meeting ID 916 8128 3173
PRESIDING OFFICER: Lynn Archer, Chairwoman
LEGISLATIVE STAFF: Natalie Kelder, Amber Feaster, and Jay Mahler
PRESENT: Legislators Kenneth J. Ronk, Jr., Tracey Bartels, John
Gavaris, Heidi Haynes; Mary Beth Maio, and Eve Walter
ABSENT: None
QUORUM PRESENT: Yes
OTHER ATTENDEES: Legislators Albert Bruno, Brian Cahill, Jonathan Heppner,
and Abe Uchitelle; Legislative Counsel Christopher
Ragucci; Minority Counsel Nicholas Pascale; Clerk of the
Legislature, Victoria Fabella; Deputy County Executives
Marc Rider, and John Milgrim; Commissioner of Finance,
Burt Gulnick; Comptroller, March Gallagher; Deputy
Comptroller Christopher Quirk, 1 unidentified caller from
Maybrook, NY

- **Chairwoman Archer called the meeting to order at 5:31 PM**
-

Motion No. 1: To discuss Resolution No. 299 – Authorizing The Use Of The Tax Stabilization Reserve Fund For COVID-19 Related Expenses

Resolution Summary: This Resolution authorizes the Commissioner of Finance to make any and all 2020 budget amendments necessary to transfer and appropriate the necessary funds up to the recommended amount of \$1,476,084.28 into the appropriate budget lines from which COVID-19 related expenditures were made, and requires a list of any and all such transfers be provided at the first Ways & Means Regular Committee meeting following said transfer.

Motion Made By: Legislator Ronk
Motion Seconded By: Legislator Bartels

Discussion: Legislator Bartels acknowledged a memorandum received from the County Attorney and communication received from the Comptroller, requesting more time to analyze the information provided. Further, Legislator Bartels questioned whether other available funding is required to be used prior to the use of the Reserve Fund. Comptroller Gallagher informed the Committee that the Office of the State Comptroller (OSC) did not have

specific guidelines on how to define what monies are legally available for use. Deputy County Executive Marc Rider said both the County Attorney and the Commissioner of Finance are in agreement that monies within the Contingency account are not available because the Legislature is required to approve the transfer of funds for such use, and further arguing that there is not enough money in Contingency to cover in the unanticipated expenditures so the Legislature will be required to approve use of the Tax Stabilization Reserve Fund regardless. Legislator Bartels emphasized that the Legislature, as trustees of the account, is legally required to utilize all available funds prior to being legally allowed to authorize the use of funds in this account, which would include all funds within the Contingent account. Further, Legislator Bartels questioned the value of the requested funds, noting that expenditures are required to be reduced by amounts budgeted. Legislative Counsel Christopher Ragucci noted the personal liability component which requires unequivocal satisfactory responses with respect to exhausting other funding sources, arguing that Contingency would clearly qualify as an alternative source which would prevent accessing the Tax Stabilization Reserve Fund. Legislator Walter asked why contingency was not requested first. Commissioner of Finance Burt Gulnick noted that the value of Contingency is less than the value spent on COVID to date but agreed that it is possible to request the use of both. Legislator Bartels requested an analysis of what other funds remain in the budget which would be accessible with legislative approval.

Motion No. 2: To postpone Resolution No. 299 – Authorizing The Use Of The Tax Stabilization Reserve Fund For COVID-19 Related Expenses

Resolution Summary: This Resolution authorizes the Commissioner of Finance to make any and all 2020 budget amendments necessary to transfer and appropriate the necessary funds up to the recommended amount of \$1,476,084.28 into the appropriate budget lines from which COVID-19 related expenditures were made, and requires a list of any and all such transfers be provided at the first Ways & Means Regular Committee meeting following said transfer.

Motion Made By: Legislator Bartels

Motion Seconded By: Legislator Walter

Discussion: None

Voting In Favor: Legislators Archer, Bartels, Gavaris, Maio, and Walter

Voting Against: Legislators Ronk and Haynes

No. of Votes in Favor: 5

No. of Votes Against: 2

Disposition: Postponed

Motion No. 3: To approve Resolution No. 303 – Authorizing The Construction Of A Rooftop Solar Installation At The UCAT Facility, In And For The County Of Ulster, New York, At A Maximum Estimated Cost Of \$100,000.00, And Authorizing The Issuance Of \$100,000.00 Bonds Of Said County To Pay The Cost Thereof

Resolution Summary: This Resolution authorizes the issuance of \$100,000.00 Bonds for the construction of a rooftop solar installation at the UCAT facility.

Motion Made By: Legislator Bartels

Motion Seconded By: Legislator Gavaris

Discussion: None

Voting In Favor: Legislators Archer, Ronk, Bartels, Gavaris, Haynes, Maio, and Walter

Voting Against: None

No. of Votes in Favor: 7

No. of Votes Against: 0

Disposition: Approved

Motion No. 4: To discuss Resolution No. 317 – Approving The Execution Of A Contract Amendment In Excess Of \$50,000.00 Entered Into By The County – Accucare Nursing & Homecare, Inc. – Emergency Management

Resolution Summary: This Resolution approves the execution of a contract amendment with Accucare Nursing & Homecare, Inc. from August 1, 2020 through March 10, 2021 to increase funding for on-site nursing services related to the COVID-19 pandemic for an additional \$150,000.00, making the contract total \$450,000.00.

Motion Made By: Legislator Ronk

Motion Seconded By: Legislator Walter

Discussion: Legislator Walter confirmed her questions have been answered satisfactorily. Legislator Bartels asked what type of work these nurses are being contracted to complete and whether the work is required to be completed by a registered nurse. Deputy County Executive Marc Rider answered that all case investigation work is required to be completed by a registered nurse and that these individuals are also supplementing work done by other nurses. Legislator Walter provided a brief history of the contract and an explanation of what changes the contract's scope is anticipated to incur. Further, Deputy County Executive Marc Rider stated that the County Executive will be asking for authorization to create

three (3) new Public Health Nurse positions in the upcoming month, which will be grant funded.

Voting In Favor: Legislators Archer, Ronk, Bartels, Gavaris, Haynes, Maio, and Walter
Voting Against: None
No. of Votes in Favor: 7
No. of Votes Against: 0
Disposition: Approved

New Business: None

Old Business: None

Chairwoman Archer asked the members if there was any other business, and hearing none;

Adjournment

Motion Made By: Legislator Bartels
Motion Seconded By: Legislator Walter
No. of Votes in Favor: 7
No. of Votes Against: 0

Time: 5:48 PM

Respectfully submitted: Amber Feaster
Minutes Approved: October 20, 2020

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Comptroller Christopher Quirk, 1 unidentified caller from
Maybrook, NY

Chairwoman Archer: We've got everyone here. I'd like to call the September 15th Ways and Means meeting to order. Amber, could you take roll?

Natalie Kelder: I can.

Chairwoman Archer: Okay.

Natalie Kelder: Archer.

Chairwoman Archer: Here.

Natalie Kelder: Ronk.

Legislator Ronk: Here.

Natalie Kelder: Bartels.

Legislator Bartels: Here.

Natalie Kelder: Gavaris.

Legislator Gavaris: Present.

Natalie Kelder: Haynes.

Legislator Haynes: Here.

Natalie Kelder: Maio.

She's here.

Chairwoman Archer: She's here. She's waving.

Natalie Kelder: Walter.

Legislator Walter: Here.

Chairwoman Archer: Great. Okay, let's get right into the resolutions. I'll take a motion to, for discussion for Resolution 299: Authorizing The Use Of The Tax Stabilization Reserve Fund For COVID-19 Related Expenses.

Legislator Ronk: Moved by Ronk.

Legislator Bartels: Second, Bartels.

Chairwoman Archer: Okay. Any comments, conversation?

Tracey.

Legislator Bartels: So, we got a memo from the County Attorney, pretty late, I guess it was a couple hours ago. And I also saw an email, back and forth, between the Comptroller, who is joining us right now as well, who was trying to get the information from the Office of the State Comptroller.

I personally say, I need more time. I also remain committed to wanting to see the budget before moving on this. But I also, particularly to the, the County Attorney's memo, I'm, I remain unconvinced that we can't use, and not only can we not use, but we're that we're not legally obliged to use the contingency first, given that we're... the premise under which the Executive's asking to utilize this fund. So, I'm going to be making a motion. I'm not doing it now, so that we can talk about. But I'm going to be making a motion to postpone it until the next meeting.

Chairwoman Archer: Okay, any other comments?

March?

Comptroller Gallagher: Yeah, I just wanted to qualify sort of why we had asked and what we were thinking. You know, we had issued a quarterly report in Q3, of Q3 of 2019, where we analyzed the tax function to be used, which in this case would have required either having a five-year repayment plan or exhausting other potential avenues.

And we reached out to the County Attorney before Labor Day on this point, as well as the Office of State Comptroller. I want to just fill you guys in, and in my email, which is that the Office of State Comptroller did not have specific guidance to us about how to define what was available, legally available, for use. They did not take an opinion and they said, if there was more time, they might reach out to the County Attorney's office. They also are not going to overrule the County Attorney, and they do not get in between

the County Attorney and the client, which is the county. So, you know, that was as much as they could give me at this time.

But I think the good news, for all of us involved, is that we are not overlooking some prior guidance from the Office of State Comptroller that has been issued about how to use these funds. And in fact, there are not many examples that we have been able to find. So, you know, that was a concern for our team is that, you know, we want to make sure that there isn't some stark ruling from OSC, about how this should be used. And indeed, there is not one to be found at this time.

Chairwoman Archer: Legislator Bartels.

Legislator Bartels: I have to say, though, that I'm frankly, confused. And, and I do think we need a memo from the Department of Finance, our Department of Finance. Because the suggestion that, that the use of, for example, a contingency account, isn't a clear. This is the first I've ever heard, we're having our County Attorney say that we cannot use, that we're not authorized to use the contingency fund? I just it's very confusing me. +

What are the limitations on use of a contingency fund? Are we legally allowed to use the contingency fund? That's the question. Can we legally use the contingency fund? And if yes, we can legally use the contingency fund, then the guidance provided by our very own comptroller, in that quarterly report, is that we must unless we go the other route, which would require the five-year payback so. I'm very frustrated and I'm, I will only vote for a postponement tonight.

Chairwoman Archer: Deputy Rider

Deputy Executive Rider: So, I think what the opinion of the County Attorney is saying, it's the same opinion as the Commissioner of Finances. Currently, we are not, Commissioner of Finance, is not authorized to use contingency because the legislature has not appropriated or authorized the use of that fund. So, if you all authorize the use of contingency which requires a resolution, then we could do that.

What I will say is, the \$1.7 million that was as of July 31, there's only \$400,000 in contingency. So, we will need to come to you to get contingency. We will also end up spending the \$1.7M in the Tax Stabilization Fund. That's \$2.1 million.

I mean as of July 31, it was \$1.7M. We've, we've added extra COVID-related expenses since then. So, yes, if you authorized us to use contingency, we could use contingency. As a matter of law, we are currently not authorized to use the contingency fund.

Chairwoman Archer: But Legislator Bartels and then Legislative Counsel.

Legislator Bartels: Again, this is very frustrating speeds. But what I'm hearing from you right now, Marc, says, I mean as the trustees of the fund, if there is agreement, that if we could legally use the, an account, we must, before accessing this account, the Legislature can legally authorize the use of this account, and potentially other funds. So, that would mean, that we the Legislature, as trustees of the fund, would be required to expend all the funds that we were legally allowed to do, utilize, before utilizing this fund.

I haven't an additional issue, and that is, which is touched upon in Clint's memo. But again, I'm not going to get satisfactory answers tonight, and that is the formulation whereby you come up with the, the number that you're asking for.

And the Comptroller's report, in the third quarter touched on it as well, we're required to subtract the amount that was budgeted. And arguably, you could say that in any individual line, particularly a line of overtime, that we budgeted for a certain amount of overtime.

So, I have yet to see the formulation whereby you arrived at these numbers. These are by my best estimate, these are just the numbers that you have assigned as COVID expenses.

So, until I see the formulation of how you got at the number, after removing what was budgeted, as overtime, I don't feel comfortable with the numbers before us either. I'll feel much more comfortable in accessing this Tax Stabilization Fund once I see what the budget looks like, in the spirit of the use of tax stabilization, which is to avoid a tax increase, which was alluded to in the article by the Freeman with the Executive today.

Chairwoman Archer: Legislative Council then Legislator Walter.

Christopher Ragucci, Esq.: Thank you, Madam Chairwoman. And I appreciate the County Attorney getting us a memo today on this issue. But my, my concern, as I've said now, a few times, obviously, is the personal liability component, which I think requires unequivocal, you know, satisfactory responses to the question with respect to exhausting the other avenues that we have available to us in the way that the Deputy just described it. To wit, legislative approval of, you know, expenditure from the contingency fund. That, in my opinion, clearly is an alternative revenue source, that would clearly, in my view, prevent us from accessing at this point the Tax Stabilization Fund, legally.

Chairwoman Archer: Legislator Walter, then Bartels.

Legislator Walter: I almost feel like this is a, I don't know if this is a dumb question, but I get that you're saying we can't count the contingency fund because we're not allowed to legally use it unless you give us permission. So, why wouldn't you have started with asking us permission to use the contingency fund? Wouldn't that be the logical then first step?

Chairwoman Archer: You know, I just noticed that Commissioner of Finance Burt Gulnick is here. Maybe Burt, can you respond to that question?

Burt Gulnick: Sure. I mean, I think Deputy Exec Rider said it too. There is \$400,000 in contingency. As of July 31st, we've spent \$1.7 million on COVID-related expenses. There's not a not enough in Contingency to fund, to use for COVID expenses. I guess, you know, legally, if they, if we come to you to use the contingency account first. Basically, we could provide both resolutions next month, if that's the case.

Chairwoman Archer: Legislator Bartels.

Chairwoman Bartels: Well, the follow-on question, again, not for tonight, is if what you've been holding out for, or the argument is that you can't legally, that the Executive's Office can't legally use a fund without legislative approval. It would then follow that we would need an analysis of all the funds that we could legally use, with legislative approval, not just contingency.

So, I mean, we're having an argument, an argument of semantics on some level. Because you can't utilize any funds other than what are directed for without legislative approval. But this requires that we utilize all funds, that the legislature utilizes all funds, that are legally allowable. Exhaust those funds prior to using the Tax Stabilization Fund. So, in the interim, if this is postponed, I would like an analysis of what other funds remain in the budget that could be legally accessed with legislative approval.

Chairwoman Archer: And I would concur. At this point, all we have is one option. And if there are other options, we should be exploring all of them before we tap this fund. We're going into 2021, unknown, at this juncture. We will, hopefully, in the next couple of weeks to know, but it's still from every economic indicator, there's predictions that it's going to be even tougher than this year. So, to tap into a fund that is meant to offset taxes now, when we have not really gotten a full understanding of what other options we have available to us, I think is premature.

Legislator Bartels.

Legislator Bartels: So, if, if there's no other comments, I'd like to make a motion to postpone to our next meeting.

Chairwoman Archer: Anybody else want to make a comment before we take the motion to postpone? Okay, we have a motion to postpone. Do we have a second?

Legislator Walter: Second.

Legislator Gavaris: Second

Chairwoman Archer: All in favor of postponement?

Group: Aye.

Chairwoman Archer: Opposed?

Legislator Ronk: I'm opposed.

Chairwoman Archer: We just have, we have Heidi, Legislator Haynes and Legislator Ronk. Okay, we'll postpone till next month.

Resolution 303: Authorizing The Construction Of A Rooftop Solar Installation At UCAT Facility, In And For The County Of Ulster.

Move?

Legislator Bartels: I'll move it, Bartels.

Chairwoman Archer: Second?

Legislator Ronk: Second by Ronk.

Chairwoman Archer: Thank you. All in favor?

Group: Aye.

Chairwoman Archer: Opposed? So moved.

Resolution 317: Approving The Execution Of A Contract Amendment In Excess Of \$50,000.00, Accucare Nursing & Homecare, Inc.

Legislator Ronk: Moved by Ronk.

Chairwoman Archer: Second?

Legislator Walter: I'll second it.

Chairwoman Archer: Okay, Legislator Walter, all of your concerns and questions have been asked and answered?

Legislator Walter: They have, thank you.

Chairwoman Archer: Okay. Anybody else have anything?

Legislator Bartels.

Chairwoman Bartels: You know, I followed the email chain in terms of the responses, but it's still, I just want a clarification in terms of, are these nurses are these nurses doing, are they actually doing nursing work? Or are they doing contact tracing work. Are they doing work that could be done by a non-registered nurse?

Deputy Executive Rider: Case investigations need to be done by public health nurses. And, and that's what these nurses are doing and, and somewhat monitoring but they are working side by side supplementing our other public health nurses.

Legislator Bartels: Okay

Chairwoman Archer: Legislator Walter.

Legislator Walter: Thank you. So I guess I said I'm feeling comfortable but it was, it was not based on the email conversation. It was based on a phone conversation. So, because not everybody was on the phone except for me and Marc. I'll just reiterate that my understanding is that of the original \$300,000 that was requested a couple of months ago, they nearly depleted it. They requested the \$150K to carry them over a little bit more time. But the other contract we approved last month for the HRI money, which is actual money for these nurses to do the same kind of job, when that's all in the clear, that will not supplant necessarily every Accu nurse, contract nurse, but many of them, or a few of them. And in, in which case they won't need those nurses in the contract. And that the process to start hiring for the HRI has started. So, hopefully, month or so, those hired full time nurses will be in, they'll be fully funded. And, and there'll be less of a need for the contract nursing. And that was all again by phone call.

Legislator Bartels: Thank you.

Chairwoman Archer: Deputy Rider.

Deputy County Executive Rider: Yeah, so, and the only thing I want to add to that, thank you, Legislator Walter, is that the when I say the process is started, we've submitted the budget to HRI which they need to approve. Which includes adding the three public health nurses, we will need to come to you all next month, creating the three additional position lines, for three public health nurses to be grant funded. And, and that will happen in October. And then we will, once that resolution is approved, we will hire the three additional nurses. Now, in the meantime, we will start the process as far as interviewing and we just won't be able to bring them aboard until we, we get that resolution approved.

Chairwoman Archer: And has the, so you have to get the budget approved before you get the funding approved, correct?

Deputy County Executive Rider: Correct. So, the grant, we were given a number that that has been allocated to us, which was the overall the \$1.4M although it's only really \$477,000. \$1 million of which is kind of a placeholder in case the federal government wants to give us more money at some point in the future. The overall allocation was what you approved last month. We have to then send the budget, which includes the three positions, how we're going to spend the money to HRI for approval.

Chairwoman Archer: Right. Okay. On the resolution, all in favor?

Group: Aye.

Chairwoman Archer: Opposed? Okay.

Anybody have anything else they want to add?

Okay, I'll take a motion to adjourn.

Legislator Bartels: So moved.

Chairwoman Archer: Second?

Legislator Walter: Second.

Legislator Gavaris: Second.

Chairwoman Archer: Thank you. Thank you, everyone.