

OCTOBER 20, 2005

GOVERNMENT AFFAIRS COMMITTEE
REPORT NO. 11

ALL MEMBERS PRESENT EXCEPT WROBLEWSKI and McCARVILLE.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 20D-7 (2005)
COUNTY ATTORNEY: Deleting Positions & Vacancies
(3-0)
 - b. COMM. 23E-21 (2005)
MARINELLI: Letter to County Executive Re: Constituent Concerns
(3-0)
 - c. COMM. 23D-3 (2005)
COUNTY ATTORNEY: Leased Properties Report
(3-0)
 - d. COMM. 23M-1 (2005)
ERIE COUNTY RECEIVERS & COLLECTORS: Letter to Marinelli Re: Proposed Amendments to the Erie County Tax Act
(3-0)
 - e. COMM. 24M-10 (2005)
ERIE COUNTY FISCAL STABILITY AUTHORITY: Proposed Space Audit & Optimization Resolution
(3-0)
 - f. COMM. 25E-3 (2005)
MARINELLI: Copy of Letter to The Buffalo News Re: Reforms
(3-0)
 - g. COMM. 25D-1 (2005)
BOARD OF ELECTIONS: 2006 Changes in County Budget HAVA Legislation
(3-0)
 - h. COMM. 25D-2 (2005)
COUNTY ATTORNEY: Swarts vs. Erie County Legislature, et al.
(3-0)

2. RESOLVED, the following items are referred the CHARTER REVISION COMMISSION:

- a. INTRO 23-1 (2005)
WEINSTEIN: In Support of a Recall Provision in the New York State Constitution
(3-0)
- b. INTRO 23-4 (2005)
WEINSTEIN: Term Limits for Erie County Legislators
(3-0)
- c. COMM. 25E-14 (2005)
WROBLEWSKI: Copy of Letter to Chairman of EC Charter Revision Commission Re: Consideration for County Manager Form of Government
(3-0)

3. COMM. 19E-58 (2005)
COUNTY EXECUTIVE

WHEREAS, Section 18 of the Public Officers Law of the State of New York permits the governing body of a public entity, including the Erie County Legislature, upon adoption by resolution, to indemnify and save harmless the directors, officers and employees of the public entity from settlements or the entry of judgments upon claims arising while the director, officer or employee was acting within the scope of his public employment or duty, and otherwise according to the procedures set forth therein; and

WHEREAS, by resolution dated October 4, 1984 (Comm. 14D-55), the Erie County Legislature did enact, adopt and extend the provisions of Section 18 of the Public Officers Law to the officers and employees of the County of Erie; and

WHEREAS, the Public Officers Law also permits a public entity to provide for the defense and indemnification of directors, officers and employees of corporations or committees which were formed for the benefit of the public entity; and

WHEREAS, the Erie Tobacco Asset Securitization Corporation, Erie Tax Certificate Corporation, Labor Management Healthcare Coalition, Inc., Labor Management Healthcare Trust and Deferred Compensation Board were formed for the benefit of Erie County, and the Erie County Audit Committee was formed pursuant to Section 1813 of the Erie County Charter for the benefit of the County of Erie; and

WHEREAS, the Legislature now desires to extend the provisions of Section 18 of the Public Officers Law to certain directors, officers and employees of the six entities referenced above.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby enact, adopt and extend the provisions of Section 18 of the Public Officers Law to all of the directors, officers and employees of the Erie Tobacco Asset Securitization Corporation, Erie Tax Certificate Corporation and Erie County Audit Committee; and be it further

RESOLVED, that the Erie County Legislature does hereby enact, adopt and extend the provisions of Section 18 of the Public Officers Law to only those directors or members (collectively "directors") of the Labor Management Healthcare Coalition, Inc., Labor Management Healthcare Trust and Deferred Compensation Board who are appointed directly by the Erie County Executive and/or the Erie County Legislature; and be it further

RESOLVED, that the County of Erie shall indemnify and save harmless the directors, officers and employees referenced above in the amount of any judgment obtained against such directors, officers or employees in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the director, officer or employee was acting within the scope of his corporate employment or duties; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement according to the procedures established pursuant to the County's Program of Self Insurance Risk Management and resolutions thereafter continuing the Program of Self Insurance Risk Management; and be it further

RESOLVED, that except as otherwise provided by law, the duty to indemnify and save harmless prescribed by Section 18 of the Public Officers Law shall not arise for injury or damage resulting from intentional wrongdoing or recklessness on the part of the director, officer or employee; and be it further

RESOLVED, that this resolution shall not authorize the County of Erie to indemnify or save harmless a director, officer or employee of one of the above-referenced entities with respect to punitive or exemplary damages, fines or penalties, or money recovered from a director, officer or employee pursuant to Section 51 of the General Municipal Law; provided, however, that the County of Erie shall indemnify and save harmless these directors, officers and employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that a director, officer or employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States; and be it further

RESOLVED, that the directors, officers or employees of the above-referenced entities, if any, shall not be deemed to be employees of the County of Erie and shall not be entitled to any benefits provided to County of Erie employees, except as provided herein; and be it further

RESOLVED, that upon entry of a final judgment against a director, officer or employee of the above-referenced entities, or upon the settlement of the claim, such director, officer or employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within 30 days of the date of entry or settlement, upon the County Executive of the County of Erie; and if not inconsistent with the provisions of Section 18 of the Public Officers Law, as enacted, adopted and extended by this resolution, the amount of such judgment or settlement shall be paid by the County of Erie; and be it further

RESOLVED, that the conditions, procedures and prerequisites of Section 18 of the Public Officers Law, and all limitations contained therein, are expressly included within this resolution, subject to further amendment of the Public Officers Law and other laws of the State of New York; and be it further

RESOLVED, that the County Attorney shall take the necessary and appropriate steps to implement this resolution and provide for the implementation of Section 18 of the Public Officers Law for the directors, officers and employees of the above-referenced entities; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive, County Comptroller, County Attorney, Director of Budget, Management & Finance, and the Chairpersons of the Boards of the Erie Tobacco Asset Securitization Corporation, Erie Tax Certificate Corporation, Labor Management Healthcare Coalition, Inc., Labor Management Healthcare Trust, Erie County Audit Committee and Deferred Compensation Board.
(3-0)

4. INTRO 14-2 (2005)
MARINELLI

AS AMENDED

WHEREAS, the County of Erie is experiencing an unprecedented fiscal crisis, with estimates of a 2005 budget deficit of either \$60 million, \$113.5 million, or more, and

WHEREAS, given the County's fiscal situation, it is imperative to develop new strategies to help close that deficit reduce costs and/or provide revenue to the County government, and

WHEREAS, one possible way to help reduce costs and develop revenue entails the possible sale of County-owned properties, and

WHEREAS, the County Executive and Comptroller, separately, have each mentioned this possibility as a means to develop revenue and/or replenish the fund balance or cover 2005 operational costs, and

WHEREAS, possible properties that could be sold to private entities to receive revenue to help close the 2005 deficit and/or rebuild the fund balance could include:

- Public Safety Campus
- Ticor Building
- Family Court Building
- 45 Oak Street
- Youth Detention Facility
- Erie County Home property
- Highway Division barns/properties
- County Parks/Forests

and

WHEREAS, those properties would also be placed back onto the tax rolls with property taxes paid to the County and local governments, and with the County possibly continuing to rent space at each property or reduce or eliminate its presence in each property in total, and

WHEREAS, both the Buffalo/Niagara Partnership's Stabilization Report and the Erie County Four Year Plan recommend conducting a space utilization audit and review and recommend that the county terminate leases with private operators and move county offices and services back into appropriate county-owned properties to save money, and

WHEREAS, the county owns about 280 buildings or properties with a total volume of approximately 6.7 million square feet, and

WHEREAS, the county employs approximately 3,400 full-time, part-time and seasonal employees who work in 1.6 million square feet of owned/leased office space.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby express its interest in the possibility of selling the above-mentioned properties to private entities to receive needed revenue and bring the properties back onto the tax rolls, and be it further

RESOLVED, that this Honorable Body requests that the County Executive and his administration produce a detailed plan to potentially sell the above-mentioned properties to private interests for revenue in 2005 and to expeditiously provide that report and plan to the Legislature for review and potential approval as soon as possible, and be it further

RESOLVED, that the Erie County Legislature hereby supports the optimization of space utilization and a reduction of county-leased office space to more optimal and efficient levels, and calls on the County Executive to take affirmative action to reduce county use of leased spaces and to allow leases to lapse and to bring county offices, employees and services back into county-owned properties where appropriate

RESOLVED, that certified copies of this resolution be transmitted to the County Executive, Comptroller, Budget Director, County Attorney, Commissioner of Public Works and Purchase Director. (3-0)

5. INTRO 16-8 (2005)

AS AMENDED

MARINELLI

WHEREAS, in order for the Legislature to investigate and possibly pursue, the following initiatives need approval or require legislation from **other governmental levels (olc), the federal government (f), state government (s), or unions (u)**: 3 (u), 23 (u), 26 (f), 165 (s), 30 (olc), 37 (u), 38 (u), 39 (u), 40 (u), 42 (s), 47 (u), 49 (u), 53 (s), 56 (s), 57 (s), 58 (s), 59 (s), 63 (s), 66 (s), 69 (olc), 73 (s), 74 (olc), 112 (olc), 114 (u), 116 (s), 127 (u), 139 (u), 140 (u), 143 (olc), 160 (s), 161 (s), and 162 (s). In addition, 72 requires the approval of the Board of Erie Community College, 108 needs the approval of the Trustees of the Buffalo and Erie County Public Library, and 144 likely needs state and local government approval and concurrence.

and

WHEREAS, there are initiatives in the revised four-year plan that are listed as **TBD** (to be determined) for revenue or cost savings, necessitating the provision of further details and information to the Legislature from the Giambra administration and PFM during the 2006 county budget hearings: 10, 149, 17, 18, 58, 80, 105, 145, 148, and 149

and

WHEREAS, there are many initiatives that are listed as **CQ**, (cannot quantify), which raises concerns and will require further information from the Giambra administration and PFM, as well as the corresponding department: 34, 39, 40, 55, 57, 61, 62, 63, 73, 74, 75, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 106, 112, 119, 121, 124, 132, 137, 165, 166, and 167.

and

WHEREAS, there are many initiatives that may result in savings to the county in future years but which have **\$0 cost savings for the county in 2006**: 2, 3, 7, 9, 28, 29, 30, 36, 38, 56, 116, 125, 127, 139, 144, 147, 151, 155, 156, 159, 160, and 162.

and

WHEREAS, there are a number of initiatives that will **cost the county money or require restorations**: 8, 11, 21, 35, 44, 64, 65, 77, 81, 83, 84, 126, 136, and 152.

and

WHEREAS, there are several initiatives that have been **rejected by the Legislature majority** in passing a modified plan:

- (Former number 6) – Institute Parking Fee for County Parks: FY 2006 impact \$117,000 of revenue
- (Former number 59) – Increase Revenue by Increasing Inspection and Other Fees: FY 2006 impact \$1.48 million; reduced by \$650,000 of revenue
- (Former number 119) – Charge Local Jurisdictions without Own Police Departments for Patrol Services: FY 2006 impact \$2.971 million of revenue
- (Former number 154) – Refunding by Erie County Fiscal Stability Authority: FY 2006 impact \$1.765 million of savings
- (Former number 157) – Deficit Financing/Restructuring County Bonds: Proceeds: FY 2006 impact \$47 million of savings
- (Former number 158) – Property Tax Restoration of 25% in FY 2006 and 24% in FY 2007: FY 2006 impact \$35.853 million, reduced to \$24.9 million of revenue
- NOTE: modified plan asks to avoid deficit financing and cut property tax with \$63.2 million of revenue from increased sales tax, requiring Home Rule message of NYS and at least a supermajority of votes in the Legislature.
- The ECMCC subsidy will be determined during FY 2006 county budget deliberations, as well as pending lawsuit.
- The Legislature's amended four-year plan also seeks to restore the county's depleted fund balance in accordance with general accounting standards to be determined in FY 2006 county budget deliberations and on-going four-year plan.

and

WHEREAS, initiatives **already adopted or supported by the Legislature** either through Local Law or resolutions are as follows: 1, 4, 5, 8, 12, 13, 14, 15, 20, 51, 69, 91, 92, 93, 94, 95, 96, 97, 98, 100, 102, 103, 118, 128, and 152.

and

WHEREAS, initiatives **already accomplished by the Erie County Tobacco Asset Securitization Corporation**: 151

and

WHEREAS, initiatives that are **fee based**, thus needing at least a supermajority of the Legislature's votes include: 1, 5, 6, 12*, 13*, 14*, 15*, 16, 20*, 29, 42, 45, 54, 68, 71, 109, 157 and 164.

and

WHEREAS, initiatives **currently before the Legislature** include: 41, 68, 70, 71, 84, 90, 110, and 138.

and

WHEREAS, initiatives **previously rejected by the Legislature** include: 65, former 92 (centralized collections and account receivable unit), 121, and 126.

and

WHEREAS, initiatives contained in the County Executive's proposed FY 2006 county budget, **currently under deliberation by the Legislature** through the charter adoption deadline by December 6, 2005 include: 1, 2, 3, 5, 6, 8, 11, 35, 44, 46, 47, 48, 54, 64, 65, 68, 69, 82, 83, 84, (former 92), 110, 120, 126, 158, and 159.

and

WHEREAS, initiatives contained in the administration/PFM four-year plan **recommended by or similar to the Buffalo/Niagara Partnership's Stabilization Report** include: 1, 3, 5, 7, 8, 11, 31, 37, 40, 44, 46, 72, 80, 91, 92, 93, 94, 95, 96, 97, 113, 120, 121, 122, 123, 138, 139, 140, 147, 148, 159, 160, 161 and 165.

NOW, THEREFORE BE IT,

RESOLVED, that the Erie County Legislature:

- Calls on federal, state & local officials and union representatives to respond, in writing, to items in the FIRST WHEREAS.

- Calls on ECFSA & PFM to qualify, in writing, the TBD initiatives contained in the SECOND WHEREAS.
- Calls on the administration to report on savings, revenues, restorations, reductions, and CQ measures on the fiscal impacts, the management timelines, and the quality of the delivery of services contained in the THIRD, FIFTH, NINTH and TWELTH WHEREAS.
- Calls on the New York State WNY legislative delegation to promptly indicate, in writing, the likelihood of an extraordinary session of the NYS Legislature before the close of 2005, particularly as it pertains to items in the FIRST, SIXTH and NINTH WHEREAS.
- Calls on Buffalo Niagara Partnership to suggest, in writing, any other realistic recommendations not contained in the executive's proposed FY 2006 county budget or the administration/PFM four-year plan.
- Calls on the ECMCC, ECC, Library and CVB boards to respond, in writing, to the executive's proposed FY 2006 budget and initiatives contained in the administration/PFM four-year plan as it relates to those institutions.
- Calls on the Erie County Comptroller to submit an assessment, in writing, on initiatives contained in the executive's proposed FY 2006 operational and capital budget; to report on fund balance; to report on status of tobacco funding; to qualify the projected revenue and expenditure items as realistic; and to report on the amount (*approximately \$60 million, annualized value \$80 million*) or percentage of cuts made to the FY 2005 budget, by department, to date.
- Calls on the Charter Review Commission to assess, upon adoption of the FY 2006 budget, initiatives that alter the charter, particularly items 39, 53, 116, 119, 152, 159.

and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, County Comptroller, County Attorney, Personnel Commissioner, County Clerk, County Sheriff, WNY federal and state delegation members, board members and director of ECFSA, union representatives, CEO of ECMC, President of ECC, Director of the B&ECPL, CEO of the BNCVB, Chair of the Erie County Charter Review Commission, PFM, Buffalo Niagara Partnership and town supervisors.

(3-0)

6. COMM. 20E-25 (2005)
COUNTY EXECUTIVE

WHEREAS, Erie County is in need of laborer services to demolish approximately 6000 square feet of space on the first floor of the Geneva B. Scruggs/Old School 84 building and dispose of trash pursuant to the scope of work identified in the proposal from Cloverbank Construction dated April 13, 2005, in order to convert the building to warehouse space to be used by the Division of Purchase, and

WHEREAS, Erie County Medical Center Corporation has estimated the cost to be approximately \$22,700 from the estimate of Cloverbank Construction, and

WHEREAS, Erie County has reduced its need for vehicles in its general fleet making available for surplus two 2001 Chevrolet Blazer SUVs with a retail value of approximately \$11,000 each, and

WHEREAS, Erie County Medical Center Corporation is in need of reliable vehicles with lower mileage for use on the Grider Street Campus.

NOW, THEREFORE, BE IT

RESOLVED, that the County of Erie be authorized to enter into a contract with Erie County Medical Center Corporation to perform the necessary demolition work at the Old School 84 Building, and be it further

RESOLVED, that for the value of the work performed, Erie County will transfer to Erie County Medical Center Corporation the following vehicles:

- 2001 Chevrolet Blazer; VIN # 1GNDDT13WX2K197823
- 2001 Chevrolet Blazer; VIN# 1GNDDT13W81K228890

and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive, Comptroller, Director of Budget, Management & Finance, Director of Purchase, and the Erie County Attorney.
 (3-0)

LYNN M. MARINELLI
CHAIRPERSON