

**ERIE COUNTY LEGISLATURE
MEETING NO. 23
REGULAR & BUDGET MEETING
DECEMBER 6, 2018**

The Legislature was called to order by Chair Savage.

All members present.

An Invocation was held, led by Chair Savage, who requested a moment of silence.

The Pledge of Allegiance was led by Ms. Dixon.

Item 1 – MR. MILLS moved for a Suspension of the Rules to take the agenda out of order to hear the Miscellaneous Resolution presentation concerning the DARE Program, to be immediately followed by the return to Tabled Items. MR. LORIGO seconded.

CARRIED UNANIMOUSLY.

TABLED ITEMS

Item 2 – MS. BASKIN moved to take COMM. 19E-3 AS AMENDED from the table. MR. BURKE seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MR. LORIGO, MR. MILLS, MR. RATH, MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS and CHAIR SAVAGE. NOES: None. (AYES: 11; NOES: 0)

CARRIED UNANIMOUSLY.

RESOLUTION NO. 226

RE: 2019 Tentative EC Budget
(COMM. 19E-3, 2018)
AS AMENDED

[*****TENTATIVE ERIE COUNTY BUDGET FOR 2019.](#)

[*****TABLED BUDGET AMENDMENTS.](#)

MS. BASKIN moved to separate the appropriations for the Buffalo Police Athletic League in Fund Center 12530 on page 146 of Book A, and Kids Escaping Drugs in Fund Center 1332010 in the amended 2019 Budget, and approve the balance of COMM. 19E-3 AS AMENDED. MR. BURKE seconded.

MR. LORIGO moved to further amend the tentative budget concerning the position of Asst. County Attorney VI, One Position - Job Group 15, Department: County Attorney, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning the position of Asst. County Attorney VI, One Position - Job Group 17, Department: County Attorney, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning the position of Confidential Aide (RPT), One Position - Job Group 6, Department: County Attorney, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Fringe, Department: County Attorney, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

*****CHAIR SAVAGE entered the Legislature into recess at 2:19 P.M.

*****CHAIR SAVAGE reconvened the Legislature at 2:23 P.M.

All members present.

MR. LORIGO moved to further amend the tentative budget concerning Full Time Salaries, Department: County Attorney, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Human Resource Info Sys Spec (EC Pers), Department: Personnel, One Position - Job Group 14, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Fringe, Department: Personnel, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Full Time Salaries, Department: Personnel, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Accountant,
Department: Health, One Position - Job Group 9, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, HARDWICK, MR. LORIGO, MR. MILLS, MR. RATH and MR.
LOUGHRAN. NOES: MR. MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-
WILLIAMS and CHAIR SAVAGE. (AYES: 6; NOES: 5)

CARRIED.

MR. LORIGO moved to further amend the tentative budget concerning Full Time Salaries,
Department: Health, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning State Aid Art V,
Department: Health, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Industrial Assistance
Specialist, Department: Environment & Planning, One Position - Job Group 13, Action: Decrease.
MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Dep. Comm. Of
Recreation, Department: Parks, Recreation & Forestry, One Position - Job Group 15, Action:
Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Park Ranger,
Department: Parks, Recreation & Forestry, One Position - Job Group 7, Action: Decrease. MR.
RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Full Time Salaries,
Department: Parks, Recreation & Forestry, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Head Janitor,
Department: Public Works - Buildings and Grounds, One Position - Job Group 6, Action: Decrease.
MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Full Time Salaries,
Department: Public Works - Buildings and Grounds, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Scanner Accuracy
Examiner, Department: Public Works - Weights & Measures, Two Positions - Job Group 8, Action:
Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Full Time Salaries,
Department: Public Works - Weights & Measures, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Seasonal Motor
Equipment Operator (page 393), Department: Public Works – Division of Highways, One Position -
Job Group 5, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Seasonal Motor
Equipment Operator (page 394), Department: Public Works – Division of Highways, One Position -
Job Group 5, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Seasonal Motor
Equipment Operator (page 394), Department: Public Works – Division of Highways, Two Positions
- Job Group 5, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Seasonal Motor
Equipment Operator (page 395), Department: Public Works – Division of Highways, One Position -
Job Group 5, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Seasonal Motor
Equipment Operator (page 395), Department: Public Works – Division of Highways, Two Positions
- Job Group 5, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Fringe, Department:
Public Works – Division of Highways, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Interfund Revenue
Subsidy, Department: Public Works – Division of Highways, Action: Decrease. MR. RATH
seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Interfund Road,
Countywide Interfund Accounts, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning General Liability,
County Attorney - Risk Retention Division, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Reductions Personal Services, County Wide Budget, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Fringe Benefits, DPW Buildings & Grounds, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to further amend the tentative budget concerning Fringe Benefits, Parks, Recreation & Forestry, Action: Decrease. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. LORIGO, MR. MILLS, MR. RATH and MR. LOUGHRAN.
NOES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

[*****AMENDMENTS OFFERED BY MR. LORIGO \(detailed spreadsheet\).](#)

MS. BASKIN moved to approve COMM. 19E-3 AS AMENDED. MR. BURKE seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS and CHAIR SAVAGE. NOES: MR. LORIGO, MR. MILLS and MR. RATH. (AYES: 8; NOES: 3)

CARRIED.

*****COMM. 19E-3 (2018) 2019 ERIE COUNTY BUDGET- FINAL ADOPTED AMENDMENTS/RESOLUTIONS.

MS. BASKIN moved to approve the appropriation for the Buffalo Police Athletic League in Fund Center 12530, on page 146 of Book A. MR. BURKE seconded. CHAIR SAVAGE abstained.

CARRIED. (10-0-1)

MS. BASKIN moved to approve the appropriation for Kids Escaping Drugs in Fund Center 1332010, in the amended 2019 Budget. MR. BURKE seconded. MR. BRUSO abstained.

CARRIED. (10-0-1)

Item 3 – MS. MILLER-WILLIAMS moved to take the report of the Finance & Management/Budget Committee from the table. MR. BURKE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 227

November 13, 2018, following recess, reconvened on December 3, 2018.	FINANCE & MANAGEMENT/BUDGET COMMITTEE REPORT NO. 1
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ALL MEMBERS PRESENT.
CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 19E-4 (2018)
COMPTROLLER: “Review of 2019 Revenue Projections”
(Chair’s ruling)
 - b. COMM. 19E-17 (2018)
SAVAGE: “Letter to Budget Director Concerning 2018 Budget Documents for 2019 Budget Process”
(Chair’s ruling)
 - c. COMM. 19E-18 (2018)
SAVAGE: “Letter to Clerk of Legislature Concerning 2019 Budget – Additional Member of Finance and Management/Budget Committee”

(Chair's ruling)

- d. COMM. 20E-2 (2018)
SAVAGE: "2019 Tentative EC Budget - Schedule of Budget Hearings to be Conducted by the Finance & Management/Budget Committee"
(Chair's ruling)
- e. COMM. 20D-2 (2018)
DIRECTOR OF BUDGET & MANAGEMENT: "Letter to Chair of Legislature in Response to Request for Information: Budget Consumption Reports, Position & Vacancy Reports, and Turnover Calculation"
(Chair's ruling)
- f. COMM. 21E-15 (2018)
LORIGO: "Letter to Chair of Legislature Concerning 2019 Budget - Additional Member of Finance & Management/Budget Committee"
(Chair's ruling)
- g. COMM. 21D-5 (2018)
COMMISSIONER HOMELAND SECURITY & EMERGENCY SERVICES:
"Budget Committee Follow-up on Security Staff Transfer"
(Chair's ruling)
2. COMM. 19E-3 (2018)
COUNTY EXECUTIVE: "2019 Tentative EC Budget"
- a. LORIGO, MILLS, LOUGHRAN, RATH, DIXON & HARDWICK - AMENDMENT
RESOLVED, amendments were offered to the County Executive's 2019 Tentative Budget, and approved or defeated by a majority vote.
(3-5) Legislators Baskin, Brusio, Burke, Miller-Williams & Chair Savage voted in the negative.
- b. SAVAGE, BASKIN, MILLER-WILLIAMS, BURKE & BRUSIO - AMENDMENT
RESOLVED, amendments were offered to the County Executive's 2019 Tentative Budget, and approved or defeated by a majority vote.
(5-3) Legislators Dixon, Lorigo & Mills voted in the negative.

BARBARA MILLER-WILLIAMS
CHAIR

MS. MILLER-WILLIAMS moved to approve the report of the Finance & Management/Budget Committee. MR. BURKE seconded.

CARRIED UNANIMOUSLY.

Item 4 – No items for reconsideration from previous meeting.

Item 5 – MS. BASKIN moved for the approval of the minutes for Meeting Number 21 from 2018. MR. BRUSO seconded.

CARRIED UNANIMOUSLY.

Item 6 – No Public Hearings.

MISCELLANEOUS RESOLUTIONS

Item 7 – MR. MILLS presented a proclamation Honoring the Orchard Park Police Department for Continuing its D.A.R.E. Program into its 25th Year.

Item 8 – MS. DIXON presented a proclamation to Recognize and Celebrate the 115th Charity Ball that will be Held by the Maria Love Convalescent Fund.

Item 9 – MR. LORIGO, MR. MILLS, MR. RATH, MR. HARDWICK & MS. DIXON presented a proclamation Congratulating the NFTA on the J.D. Power Ranking as Number One in Customer Satisfaction Among Medium-sized Airports.

Item 10 – MS. MILLER-WILLIAMS presented a Memorial Proclamation Commemorating Evelyn Miller, Mother of Kimberly Beaty.

Item 11 – MS. BASKIN, MR. BRUSO & MS. DIXON presented a proclamation In Remembrance of Robert A. Mendez.

MS. BASKIN moved for consideration of the above five items. MR. BURKE seconded.

CARRIED UNANIMOUSLY.

MS. BASKIN moved to amend the above five items by including Et Al Sponsorship. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

MS. BASKIN moved for approval of the above five items as amended. MR. BURKE seconded.

CARRIED UNANIMOUSLY.

LOCAL LAWS

Item 12 – CHAIR SAVAGE directed that Local Law No. 1 (Print #2) 2017 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 13 – CHAIR SAVAGE directed that Local Law No. 4 (Print #1) 2017 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 14 – CHAIR SAVAGE directed that Local Law No. 12 (Print #1) 2017 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

Item 15 – CHAIR SAVAGE directed that Local Law No. 14 (Print #1) 2017 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

Item 16 – CHAIR SAVAGE directed that Local Law No. 15 (Print #1) 2017 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 17 – CHAIR SAVAGE directed that Local Law No. 16 (Print #1) 2017 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

Item 18 – CHAIR SAVAGE directed that Local Law No. 17 (Print #1) 2017 remain on the table and in the FINANCE & MANAGEMENT COMMITTEE.

GRANTED.

Item 19 – CHAIR SAVAGE directed that Local Law No. 20 (Print #1) 2017 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

Item 20 – CHAIR SAVAGE directed that Local Law No. 23 (Print #1) 2017 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

Item 21 – CHAIR SAVAGE directed that Local Law No. 2 (Print #1) 2018 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

Item 22 – CHAIR SAVAGE directed that Local Law No. 3 (Print #1) 2018 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 23 – CHAIR SAVAGE directed that Local Law No. 6 (Print #1) 2018 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 24 – MS. BASKIN moved to take Local Law No. 7 (Print #1) 2018 from the table. MR. BURKE seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS and CHAIR SAVAGE. NOES: MS. DIXON, MR. HARDWICK, MR. LORIGO, MR. MILLS and MR. RATH. (AYES: 6; NOES: 5)

CARRIED.

COUNTY OF ERIE

LOCAL LAW NO. ____ -2018

LOCAL LAW INTRO NO.7-1 2018

THE PUBLIC HEALTH PROTECTION ACT OF 2018

Be it enacted by the Legislature of the County of Erie as follows:

Section 1: Legislative Findings and Intent

The Erie County Legislature hereby makes the following findings and determinations:

There exists conclusive evidence that tobacco products are addictive, inherently dangerous and cause cancer, cardiovascular disease, respiratory disease, diabetes, negative birth and developmental outcomes, allergies, and irritation to the eyes, nose, and throat. Scientific studies have proven that cigarette smoking causes chronic lung disease, coronary heart disease, stroke, and cancer of the lungs, larynx, esophagus, mouth, and bladder and contributes to cancer of the cervix, pancreas, and kidneys. The use of cigars is also known to cause lung, larynx, esophageal, and oral cancer. The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin.

Despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products remains a major problem. The majority of all smokers begin using tobacco products before age 18 and an estimated 3,000 minors begin smoking every day in the United States.

This Legislature also finds that more than 130,000 adolescents and 2,500,000 adults in New York State currently smoke. Each year about 13,000 New Yorkers are diagnosed with lung cancer and about 9,400 men and women in New York State die each year of this disease.

This Legislature also finds that tobacco use is the foremost preventable cause of premature death in the United States, causing over 440,000 deaths in the United States each year.

Furthermore, the United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a Group A carcinogen. Smoking is the most common cause of lung cancer and secondhand smoke increases the risk for cancer. Exposure to secondhand smoke is the third leading cause of preventable death in this country.

Erie County has a substantial public health interest in reducing the number of individuals of all ages who use tobacco products, and in reducing tobacco dependence and the illnesses and premature death associated with tobacco use and nicotine consumption.

In the past, public campaigns to ban smoking in public spaces such as restaurants, movie theaters and office buildings, as well as within public vehicles, trains, buses, airplanes and near/around public gathering spaces such as lobbies and around entrances to buildings have been enacted and subsequently widely praised for protecting the public and public health.

Smoking in Motor Vehicles

Smoking in a small enclosed space, such as a motor vehicle, produces a level of toxicity in the indoor air environment considerably greater than the level considered to be hazardous by the United States Environmental Protection Agency. In motor vehicles, the consumption of tobacco products is even more hazardous as tobacco particulates enter a vehicle's upholstery and can cycle back into the air, exposing passengers to toxins even after smoking in the vehicle has ceased.

Exposure to secondhand smoke causes numerous health problems in all persons, especially infants and children. Secondhand smoke has been linked to the onset of Sudden Infant Death Syndrome, cancer and an increased risk of contracting bronchitis and pneumonia. Children are especially vulnerable to the effects of secondhand smoke as they have smaller lungs and faster breathing rates than adults.

The Erie County Legislature further finds that to promote and maintain the health, safety and well-being of children, it is necessary to regulate and prohibit the smoking of tobacco products in motor vehicles when children are present.

Sale of Tobacco Products in Health Care Institutions and Pharmacies

The Erie County Legislature further finds that the sale of tobacco products is inconsistent with the mission of Licensed Health Care Institutions and pharmacies because it is detrimental to public health and mitigates efforts to educate patients on the safe and effective use of medication. This Legislature finds that the American Pharmacists Association and the Pharmacists Society of the

State of New York have called for the adoption of state and local prohibitions of tobacco sales in pharmacies.

Smoking in/Adjacent to Bus Shelters

The Erie County Legislature further finds that public bus shelters and the public areas adjacent thereto are being used by smokers as shelters during inclement weather and at other times, thereby exposing bus riders to secondhand smoke which poses a public health threat and hazard which must be addressed and prohibited.

Section 2: Definitions

As used in this Local Law, the following terms shall have the meanings indicated:

- a) "Child" shall mean any person under 18 years of age.
- b) "Smoking" within the confines of a motor vehicle, as defined under New York State's Regulation of Smoking in Public and Work Places, shall mean the burning of a lighted cigar, cigarette, electronic cigarette or electronic smoking device, pipe or any other matter or substance which contains tobacco or nicotine.
- c) "Tobacco Products" shall mean any product made or derived from tobacco or which contains synthetic nicotine marketed or sold for human consumption, whether consumption occurs through inhalation, or oral or dermal absorption. Tobacco product does not include drugs, devices, or combination products authorized for sale by the state or U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
- d) "Electronic Cigarette" or "e-cigarette" shall mean any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or "vape" pen, vapes, vaporizers, hookah pens, or under any other electronic nicotine delivery systems (ENDS).
- e) "Licensed Health Care Institution" shall mean any facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary; or nursing home, residential health care facility, out-patient lodge, general hospital or any entity subject to licensing by the New York State Department of Health pursuant to New York Public Health Article 28.
- f) "Pharmacy" means a pharmacy registered pursuant to Section 6808 of New York Education Law.
- g) "Commissioner" shall mean the Erie County Commissioner of Health.
- h) "Department" shall mean the Erie County Department of Health.
- i) "Bus Shelter" shall mean any covered structure at a bus stop, placed upon a sidewalk or concrete pad in the County of Erie, providing protection against the weather for people waiting for a bus.
- j) "Public Place" shall mean any place open to the general public, including, for example, streets, sidewalks, playgrounds, or bus stops. For sidewalks and driveways, this shall

include the curb or, if no curb, the edge of the pavement.

Section 3: Prohibitions

The following prohibitions shall be established under this Local Law:

Smoking in Motor Vehicles

The smoking of tobacco or an electronic cigarette in a motor vehicle in which a child is present in the vehicle is prohibited and deemed unlawful. This prohibition extends regardless of whether the vehicle is moving or parked or if the vehicle windows or doors are open.

Sale of Tobacco or E-Cigarette Products in Health Care Institutions and Pharmacies

No Licensed Health Care Institution, Pharmacy or Retail Establishment that contains a pharmacy within it located in Erie County shall sell or cause to be sold tobacco products or electronic cigarettes.

Smoking In/Adjacent to Bus Shelters

The smoking of tobacco or an electronic cigarette containing nicotine upon any public place adjoining or inside of any bus shelter is prohibited and deemed unlawful.

Bus transportation providers shall post “No Smoking” or “Smoke Free” signs or the international “No Smoking” symbol, or both, in conspicuous places on their properties sufficient to provide public notice of this prohibition.

Section 4: Enforcement and Penalties

Smoking in Motor Vehicles

Any person who knowingly violates the provisions of this Local Law, upon conviction thereof, shall be guilty of a violation punishable by a fine up to \$50 for the first offense after the end of the grace period. A second offense shall be a violation punishable by a fine up to \$100. A third offense shall be a violation punishable by a fine up to \$150.

A grace period will be in effect for the first 90 days after this Local Law is signed into law and certified by the New York State Secretary of State. During this time fines will not be rendered and violators will be given warnings.

Sale of Tobacco or E-Cigarette Products in Health Care Institutions and Pharmacies

The Commissioner of the Erie County Department of Health shall have sole jurisdiction to enforce the provisions of this provision of this Local Law. If the Commissioner determines after notice and a hearing that a violation of Section 3 regarding the Sale of Tobacco or E-Cigarette Products in Health Care Institutions and Pharmacies has occurred, the Commissioner may impose a civil penalty in the minimum amount of \$300, but not to exceed \$1,000 for a first violation, and a minimum of

\$500, but not to exceed \$2,000 for each subsequent violation. Nothing herein shall be construed to prohibit the Commissioner from commencing a proceeding for injunctive relief to compel compliance with this Local Law.

Hearings held pursuant to the authority of this Local Law shall be conducted in accordance with the procedures set forth in the Erie County Sanitary Code by the Commissioner or his or her designee. The decision of the Commissioner shall be reviewable pursuant to Article 78 of the New York Civil Practice Law and Rules. The Erie County Attorney may bring an action in the name of Erie County or the Erie County Commissioner of Health to recover the civil penalty provided by this Local Law in any court of competent jurisdiction.

Smoking In/Adjacent to Bus Shelters

Any person who knowingly violates the provisions of this Local Law, upon conviction thereof, shall be guilty of a violation punishable by a fine up to \$50 for the first offense after the end of the grace period. A second offense shall be a violation punishable by a fine up to \$100. A third offense shall be a violation punishable by a fine up to \$150.

A grace period will be in effect for the first 90 days after this Local Law is signed into law and certified by the New York State Secretary of State. During this time fines will not be rendered and violators will be given warnings.

The presence or absence of signs shall not be a defense to a violation of this section.

Section 5: Effective Date

This Local Law shall take effect upon filing with the New York State Secretary of State.

Section 6: Severability

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or Business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its specific application.

Sponsors:

Peter J. Savage, III
John J. Mills
Patrick B. Burke

MR. LORIGO requested separation of distinct propositions in Local Law No. 7 (Print #1) 2018, pursuant to the Rules of Order.

CHAIR SAVAGE ruled the separation out of order upon legal opinion.

MR. LORIGO challenged the ruling of the chair. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MR. LORIGO, MR. MILLS and MR. RATH.
NOES: MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to send Local Law No. 7 (Print #1) 2018 to the HEALTH & HUMAN SERVICES COMMITTEE for further consideration. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MR. LORIGO, MR. MILLS and MR. RATH.
NOES: MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MR. LORIGO moved to table Local Law No. 7 (Print #1) 2018. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MR. LORIGO, MR. MILLS and MR. RATH.
NOES: MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS
and CHAIR SAVAGE. (AYES: 5; NOES: 6)

FAILED.

MS. BASKIN moved to approve Local Law No. 7 (Print #1) 2018. MR. BURKE seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MR. LORIGO, MR. MILLS, MR. RATH, MS.
BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS and CHAIR
SAVAGE. NOES: None. (AYES: 11; NOES: 0)

CARRIED UNANIMOUSLY.

Item 25 – CHAIR SAVAGE directed that Local Law No. 8 (Print #1) 2018 remain on the table and in the PUBLIC SAFETY COMMITTEE.

GRANTED.

Item 26 – CHAIR SAVAGE directed that Local Law No. 9 (Print #1) 2018 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 27 – MS. DIXON moved to take Local Law No. 2 (Print #2) 2018 from the table. MR. RATH seconded.

CARRIED UNANIMOUSLY.

LOCAL LAW TO BE ENACTED BY
THE ERIE COUNTY LEGISLATURE
IN THE
COUNTY OF ERIE
LOCAL LAW INTRO. – NO. 2-2 - 2018
LOCAL LAW NO. _____ - 2018

A Law amending Local Law 2 (2014) to include the known abuse of drugs on property as a violation of the Social Host Law.

SECTION 1. LEGISLATIVE INTENT

- A. The Legislature of the County of Erie finds that underage drinking and drug abuse is a significant societal problem that has generated widespread concern in Erie County. Although the New York State Legislature has acted to prevent the unlawful giving, selling and possessing of alcohol in relation to individuals under the age of 21, it has not regulated the situation where a person who is 21 years old or more knowingly allows the consumption of alcohol or drugs by a minor in his or her home or other privately owned property. The underage consumption of alcohol and/or drugs, whether at a party or a smaller gathering, poses an immediate threat to the public health, safety and welfare of the residents of Erie County, often leading to alcohol abuse by minors, physical altercations, accidental injuries, neighborhood vandalism, excessive noise disturbances requiring the intervention of local law enforcement, and the commission of violent crimes including sexual offenses and serious assaults. [Further, within the last few years, the number of young people addicted to opioids throughout the United States, and especially in Erie County, has exponentially increased. As a result, opioid related deaths have become all too common occurrences, devastating countless addicted individuals, families, and communities.] In addition, the prevalence of young people addicted to opioids throughout the United States, and especially in Erie County, is unacceptable at any level. Opioid related deaths devastate addicted individuals, families, and communities.

This local law will serve to deter the consumption of alcoholic beverages and drugs by minors by holding those persons who are 21 years old or more responsible when they knowingly allow the consumption of alcoholic beverages by minors at their residences or on their privately owned property.

SECTION 2. DEFINITIONS

Wherever used in this chapter, unless the context or subject matter otherwise requires:

- A. “Alcohol” shall mean ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever means produced.
- B. “Alcoholic beverage” shall mean any liquor, wine, beer, spirits, cider or other liquid, or solid, patented or not, composed of, or containing, alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person, except that confectionery containing alcohol as provided by subdivision twelve of section two hundred of the New York State Agriculture and Markets Law shall not be regarded as an alcoholic beverage within the meaning of this section.
- C. “Allow” shall mean to give permission for, or approval of, possession or consumption of alcohol, [or] an alcoholic beverage, and/or drugs, by any of the following means:
 - a. in writing;
 - b. by oral statement; or
 - c. by any conduct that would cause a reasonable person to believe that permission or approval has been given.
- D. “Controls a private residence” shall mean possesses authority to regulate, direct, restrain, superintend, control or govern the conduct of other individuals on or within that residence, and includes, but is not limited to, a possessory right.
- E. “Drugs” shall mean any substance listed in schedule I, II, III, and IV of New York State Public Health Law §3306, [including but not limited to marijuana, heroin, hydrocodone, oxycodone, fentanyl, anabolic steroids, and cocaine] as may be amended from time to time by the NYS Legislature.
- F. “Knowingly” shall mean to be aware of, or having reason to be aware of, the consumption of drugs or alcohol by a minor.
- G. “Minor” shall mean any person under the age of twenty-one.
- H. “Practitioner” shall mean a physician, dentist, podiatrist, or other person licensed or otherwise permitted to dispense or administer a controlled substance in the course of a licensed professional practice pursuant to Article 33 of the New York State Public Health Law. Such person shall be deemed a practitioner only as to such substances, or conduct relating to such substances, as is permitted by his license, permit or otherwise permitted by law.
- I. “Reasonable corrective action” shall include, but not be limited to:
 - a. making a prompt demand that such minor refrain from further consumption of the alcoholic beverages and/or drugs; or
 - b. if such minor does not comply with such request, either promptly reporting such underage consumption of alcohol and/or drugs:
 - 1. to the local law enforcement agency; or
 - 2. to the minor’s parent or guardian.

- J. "Residence" shall mean any home, apartment, condominium, co-operative unit or other dwelling unit of any kind, including yards and open areas adjacent thereto.

SECTION 4. UNLAWFUL CONSUMPTION OF ALCOHOL OR DRUGS BY A MINOR AT A RESIDENCE

- A. It shall be unlawful for any person who is 21 years old or more who owns, rents, or otherwise controls a private residence, to knowingly allow the consumption of alcohol, [or] alcoholic beverages, and/or drugs by one or more minors on such premises or to fail to take reasonable corrective action upon becoming aware of the consumption of alcohol, [or] alcoholic beverages, and/or drugs by one or more minors on such premises.
- B. The provisions of subdivision (a) of this section shall not apply to:
- a. the consumption of alcohol or alcoholic beverages by a minor whose parent or guardian has given such alcohol or alcoholic beverage to such minor;
 - b. the use and consumption of alcohol or alcoholic beverages by a minor for religious purposes; [or]
 - c. the use or consumption of alcohol or alcoholic beverages by a minor who is a student in a curriculum licensed or registered by the New York State Education Department and the student is required to taste or imbibe alcoholic beverages in courses which are a part of the required curriculum, provided such alcoholic beverages are used only for instructional purposes during class conducted pursuant to such curriculum; or
 - d. the consumption of drugs by a minor that have been prescribed by a practitioner pursuant to the New York State Public Health Law and all other applicable rules and regulations, and is consumed as directed by the prescription.

SECTION 5. PENALTIES AND ENFORCEMENT

- A. A violation of SECTION 4 of this law shall constitute a violation of law for the first and second offense, and a misdemeanor for the third and subsequent offenses. Each offense and subsequent offense shall be punishable as follows:
- a) First offense. Any person who violates section 4 of this chapter shall be punished by a fine of two hundred and fifty dollars, where such violation constitutes the person's first offense in violation of this provision.
 - b) Second offense. Any person who violates section 4 of this chapter shall be punished by a fine of five hundred dollars, where such violation constitutes the person's second offense in violation of this provision.
 - c) Third and subsequent offenses. Any person who violates section 4 of this chapter shall be punished by either a fine of one thousand dollars, a term of imprisonment not to exceed one year, or both a fine of one thousand dollars and a term of imprisonment not to exceed one year, where such violation constitutes the person's third or subsequent offense in violation of this provision.

d) This local law may be enforced or held active by any Police agency with authority for enforcement within their jurisdiction.

B. [Further, in accordance with NY General Obligation Law §§3-113(1) this law shall hold the parents or guardian liable for up to \$5,000 worth of damage for the acts of a minor under said guardian's supervision.] Further, in accordance with NY General Obligation Law §§3-112(1) this law shall hold the parents or guardian liable for up to \$5,000 worth of damage for the acts of their children over whom they have legal guardianship.

SECTION 6. EFFECT ON OTHER LAWS

The provisions of section 4 of this chapter shall not in any way affect the application of any other law, where appropriate, including but not limited to New York State Penal Law section 260.10 (Endangering the welfare of a child) and section 260.20(2) (Unlawfully dealing with a child in the first degree).

SECTION 7. SEVERABILITY

If any clause, sentence, paragraph, or section of this chapter shall be held invalid by any court of competent jurisdiction, or the application of this chapter to any person or set of circumstances shall be held invalid, such invalidity or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or operation of this chapter directly involved in the controversy in which the judgment shall have been rendered. To further this end, the provisions of this chapter are hereby declared to be severable.

SECTION 8. REVERSE PREEMPTION

This chapter shall be null and void on the day that federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this chapter, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Erie. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation or pertinent preempting state or federal regulations have been enacted for purposes of triggering the provisions of this section.

SECTION 9. EFFECTIVE DATE AND APPLICABILITY

This Local Law shall be effective immediately following filing in the Office of the Secretary of State and shall apply to all prohibited instances occurring on or after the effective date of this local law.

Sponsor: Legislator Dixon

Co-Sponsor: Legislators Lorigo, Rath, Hardwick and Mills

MS. DIXON moved for consideration of Local Law No. 2 (Print #2) 2018. MR. RATH seconded.

CARRIED UNANIMOUSLY.

MS. DIXON moved to approve Local Law No. 2 (Print #2) 2018. MR. RATH seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MR. LORIGO, MR. MILLS, MR. RATH, MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS and CHAIR SAVAGE. NOES: None. (AYES: 11; NOES: 0)

CARRIED UNANIMOUSLY.

Item 28 – CHAIR SAVAGE directed that Local Law No. 10 (Print #1) 2018 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

COMMITTEE REPORTS

Item 29 – MR. BRUSO presented the following report and moved for immediate consideration and approval. MS. BASKIN seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 228

November 29, 2018	ENERGY & ENVIRONMENT COMMITTEE REPORT NO. 17
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ALL MEMBERS PRESENT, EXCEPT LEGISLATOR BURKE.
CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 21D-2 (2018)
COMMISSIONER OF ENVIRONMENT & PLANNING: “SEQR Review - Repair and/or Reconstruction of Ellicott Creek Park Shelters”
(Chair’s Ruling)
 - b. COMM. 21M-1 (2018)
NYS DEC: “Invitation for Public Comment on Proposed Plan to Address Contamination at Brownfield Site on Elmwood Ave., Buffalo”
(Chair’s Ruling)

- c. COMM. 21M-2 (2018)
NYS DEC: “Fact Sheet Regarding Brownfield Cleanup Program Application & Draft Remedial Investigation Work Plan for the 3100 Clinton St. Site, in West Seneca”
(Chair’s Ruling)
- d. COMM. 21M-3 (2018)
NYS DEC: “Invitation for Public Comment on Brownfield Cleanup Program Application & Draft Investigation Plan for Site on Clinton St., West Seneca”
(Chair’s Ruling)

2. INTRO. 21-2 (2018)
BRUSO

WHEREAS, pursuant to New York State Agriculture and Markets Law (“Agriculture and Markets Law”) Section 303-b(1) the Erie County Legislature adopted Intro. 20-15 (2004) on September 23, 2004; and

WHEREAS, the Erie County Legislature designated September 1 through September 30 as the annual thirty-day period during which applicants may submit requests to include predominantly viable agricultural land into any existing certified agricultural district outside of the established 8-year review period; and

WHEREAS, during the 2018 thirty-day open enrollment period thirty seven applicants requested that sixty-six parcels of land be included in existing agricultural districts; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board reviewed each request to determine if each includes “viable agricultural land” as defined in Agriculture and Markets Law Section 301(7); and

WHEREAS, the Erie County Agricultural and Farmland Protection Board reviewed each request to determine whether the inclusion of such land would serve the public interest and maintain a viable agricultural industry within the district; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board voted to recommend that the County Legislature adopt the inclusion of forty-one parcels listed below in an existing agricultural district:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
23.14-1-5.112	42.21	3633 West River Rd	Grand Island	Patrick & Donna Albert	Amherst 17
59.13-1-1	92.96	0 Strickler Rd	Clarence	Lynne Nawrot	Clarence-Newstead 14
124.10-3-2.1	3.11	42 French Rd	West Seneca	Michael H. Weber	Elma 13
124.00-7-2	14.79	230 French Rd	West Seneca	Dennis Bengert	Elma 13

96.00-6-27	7.78	2888 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
96.00-6-28	49.15	0 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
130.00-4-2.1	52.29	15 Exchange St	Alden	Kim King	Lancaster-Alden 16
130.00-7-17	27.88	0 Exchange St	Marilla	Kim King	Marilla 5
200.00-1-20.111	11.47	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-20.112	5.94	1784 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-20.113	8.82	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-4-11.12	18.99	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-2.21	27.71	1569 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
243.00-3-7	13.88	8756 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
243.00-3-8.2	43.61	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
243.00-3-18	14.97	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
229.00-1-44	83.25	8064 Bleistein Rd	Colden	William Gersitz	Southeast 15
245.00-2-41	48.75	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-40	62.98	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-18.2	49.34	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-17	57.22	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.112	15.59	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.111	15.39	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-8.11	13.46	10991 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
257.00-1-36.12	4.98	5457 S. Feddick Rd	Boston	Mark & Kelly Palmer	Southeast 15
258.00-2-1	18.87	0 State Rd	Boston	John Spors	Southeast 15

257.00-1-35.21	16.19	9800 Zimmerman Rd	Boston	David Meyer	Southeast 15
263.00-3-29	5.71	12013 Hillview Terrace	Holland	Peggy & Charles Root	Southeast 15
288.00-2-5.2	17.69	10986 New Oregon Rd	North Collins	Richard P. & Eugenie R. Myers	Southeast 15
288.00-2-5.11	18.09	0 New Oregon Rd	North Collins	Richard & Eugenie Myers	Southeast 15
212.00-1-19.111	75.81	6983 Ward Rd	Boston	Julie Galluzzi	Southwest 8
183.00-3-4	84.13	4926 Newton Rd	Hamburg	Thomas Calabrese	Southwest 8
209.00-3-26	7.93	3575 N. Boston Rd	Eden	Thomas & Madonna Adymy	Southwest 8
209.00-2-31.211	39.57	0 Eckhardt Rd	Eden	Eden Valley Farms LLC	Southwest 8
270.00-3-3	18.08	0 Jennings Rd	North Collins	Edward Kaczanowski	Southwest 8
205.00-3-17	5.56	7678 Erie Rd	Evans	Joseph Kwilos	Southwest 8
220.00-4-17	9.67	1177 Church Rd	Evans	Joseph M. Kwilos	Southwest 8
236.00-4-8	21.35	9196 Newcomb Rd	Evans	Michael Hontz	Southwest 8
252.00-1-2	16.15	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
251.00-2-30	22.87	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
207.00-4-66	14.24	1759 Sturgeon Point Rd	Evans	Victoria Kurek	Southwest 8

and

WHEREAS, the Erie County Agricultural and Farmland Protection Board voted to recommend that the County Legislature reject the inclusion of twelve parcels listed below in an existing agricultural district:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
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24.19-4-11.11	5.02	2501 Stony Point Rd	Grand Island	Pamela Barton	Amherst 17
51.18-3-34	0.24	974 Stony Point Rd	Grand Island	James Olmstead	Amherst 17
50.02-1-12	6.79	2663 Love Rd	Grand Island	Peggy Lewis	Amherst 17
50.00-1-4.2	14.35	3012 Staley Rd	Grand Island	James Montanari	Amherst 17
51.15-3-12.1	0.68	1212 East River Rd	Grand Island	Paul G. Leuchner	Amherst 17
50.02-1-11	5.36	2685 Love Rd	Grand Island	Betsy Hiser	Amherst 17
37.04-1-47	6.86	1925 Stony Point Rd	Grand Island	Thomas & Margaret Victor	Amherst 17
12.13-1-36	0.31	5541 East River Rd	Grand Island	Daniel Furmanek	Amherst 17
12.17-5-14	0.48	79 Havenwood Ln	Grand Island	Ryan & Lindsay McGowan	Amherst 17
81.14-1-4	0.34	1195 Wehrle Dr	Amherst	Michael Pope	Amherst 17
220.00-3-17.22	5.97	1102 Church Rd	Evans	Robert & Sheryl Tait	Southwest 8
205.00-3-18	5.84	7724 Erie Rd	Evans	Raymond Gallman	Southwest 8

and

WHEREAS, the Erie County Agricultural and Farmland Protection Board acknowledges that the following parcel, in addition to twelve parcels identified prior to the Agricultural and Farmland Protection Board recommendations, is already included into the Erie County Agricultural District program and that no action is required on the application:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
220.00-4-22.2	5	1123 Church Rd	Evans	Jeremy Schlenker	Southwest 8

and

WHEREAS, pursuant to Agriculture and Markets Law Sections 303-b(2)(b) and 303-b(3) the Erie County Legislature gave the required public notice and set a public hearing for November 5, 2018; and

WHEREAS, pursuant to Agriculture and Markets Law Section 303-b(3)(b) the Erie County Legislature published a public hearing notice in a newspaper having general circulation within the County and notified in writing those municipalities whose territory encompasses the lands which are proposed to be included in an agricultural district; and

WHEREAS, a public hearing was held at 6:00 p.m. on November 5, 2018 at the Dard Hunter Hall, 21 S. Grove Street in East Aurora, New York to consider the 2018 Open Enrollment period requests and recommendations of the Erie County Agricultural and Farmland Protection Board; and

WHEREAS, the Erie County Legislature reviewed the requests pursuant to the NYS Environmental Quality Review Act.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature adopts the inclusion of the following forty-one parcels into an adjacent existing agricultural district:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
23.14-1-5.112	42.21	3633 West River Rd	Grand Island	Patrick & Donna Albert	Amherst 17
59.13-1-1	92.96	0 Strickler Rd	Clarence	Lynne Nawrot	Clarence-Newstead 14
124.10-3-2.1	3.11	42 French Rd	West Seneca	Michael H. Weber	Elma 13
124.00-7-2	14.79	230 French Rd	West Seneca	Dennis Bengert	Elma 13
96.00-6-27	7.78	2888 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
96.00-6-28	49.15	0 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
130.00-4-2.1	52.29	15 Exchange St	Alden	Kim King	Lancaster-Alden 16
130.00-7-17	27.88	0 Exchange St	Marilla	Kim King	Marilla 5
200.00-1-20.111	11.47	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-20.112	5.94	1784 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-20.113	8.82	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-4-11.12	18.99	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-2.21	27.71	1569 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
243.00-3-7	13.88	8756 Heath	Colden	Garrett &	Southeast 15

		Rd		Christina Hacker	
243.00-3-8.2	43.61	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
243.00-3-18	14.97	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
229.00-1-44	83.25	8064 Bleistein Rd	Colden	William Gersitz	Southeast 15
245.00-2-41	48.75	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-40	62.98	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-18.2	49.34	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-17	57.22	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.112	15.59	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.111	15.39	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-8.11	13.46	10991 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
257.00-1-36.12	4.98	5457 S. Feddick Rd	Boston	Mark & Kelly Palmer	Southeast 15
258.00-2-1	18.87	0 State Rd	Boston	John Spors	Southeast 15
257.00-1-35.21	16.19	9800 Zimmerman Rd	Boston	David Meyer	Southeast 15
263.00-3-29	5.71	12013 Hillview Terrace	Holland	Peggy & Charles Root	Southeast 15
288.00-2-5.2	17.69	10986 New Oregon Rd	North Collins	Richard P. & Eugenie R. Myers	Southeast 15
288.00-2-5.11	18.09	0 New Oregon Rd	North Collins	Richard & Eugenie Myers	Southeast 15
212.00-1-19.111	75.81	6983 Ward Rd	Boston	Julie Galluzzi	Southwest 8
183.00-3-4	84.13	4926 Newton Rd	Hamburg	Thomas Calabrese	Southwest 8
209.00-3-26	7.93	3575 N. Boston Rd	Eden	Thomas & Madonna Adymy	Southwest 8

209.00-2-31.211	39.57	0 Eckhardt Rd	Eden	Eden Valley Farms LLC	Southwest 8
270.00-3-3	18.08	0 Jennings Rd	North Collins	Edward Kaczanowski	Southwest 8
205.00-3-17	5.56	7678 Erie Rd	Evans	Joseph Kwilos	Southwest 8
220.00-4-17	9.67	1177 Church Rd	Evans	Joseph M. Kwilos	Southwest 8
236.00-4-8	21.35	9196 Newcomb Rd	Evans	Michael Hontz	Southwest 8
252.00-1-2	16.15	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
251.00-2-30	22.87	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
207.00-4-66	14.24	1759 Sturgeon Point Rd	Evans	Victoria Kurek	Southwest 8

and be it further

RESOLVED, that the Erie County Legislature rejects the inclusion of the following twelve parcels into an existing agricultural district:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
24.19-4-11.11	5.02	2501 Stony Point Rd	Grand Island	Pamela Barton	Amherst 17
51.18-3-34	0.24	974 Stony Point Rd	Grand Island	James Olmstead	Amherst 17
50.02-1-12	6.79	2663 Love Rd	Grand Island	Peggy Lewis	Amherst 17
50.00-1-4.2	14.35	3012 Staley Rd	Grand Island	James Montanari	Amherst 17
51.15-3-12.1	0.68	1212 East River Rd	Grand Island	Paul G. Leuchner	Amherst 17
50.02-1-11	5.36	2685 Love Rd	Grand Island	Betsy Hiser	Amherst 17
37.04-1-47	6.86	1925 Stony Point Rd	Grand Island	Thomas & Margaret Victor	Amherst 17
12.13-1-36	0.31	5541 East River Rd	Grand Island	Daniel Furmanek	Amherst 17
12.17-5-14	0.48	79 Havenwood Ln	Grand Island	Ryan & Lindsay McGowan	Amherst 17

81.14-1-4	0.34	1195 Wehrle Dr	Amherst	Michael Pope	Amherst 17
220.00-3-17.22	5.97	1102 Church Rd	Evans	Robert & Sheryl Tait	Southwest 8
205.00-3-18	5.84	7724 Erie Rd	Evans	Raymond Gallman	Southwest 8

and be it further

RESOLVED, that the Erie County Legislature acknowledges that the following parcel, in addition to twelve parcels identified prior to the Agricultural and Farmland Protection Board recommendations, is already included into the Erie County Agricultural District program and no action is required on the application:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
220.00-4-22.2	5	1123 Church Rd	Evans	Jeremy Schlenker	Southwest 8

and be it further

RESOLVED, that the Erie County Legislature has complied with the requirements of the New York State Environmental Quality Review Act and hereby determines that the requested parcel additions to the Agricultural Districts noted above will not have a significant adverse environmental impact and therefore an environmental impact statement will not be required; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Commissioner of Environment and Planning, the Director of Real Property Tax Services, the Chair of the Erie County Agricultural and Farmland Protection Board, and the Supervisors of the Towns of Alden, Aurora, Boston, Clarence, Colden, Eden, Evans, Grand Island, Hamburg, Holland, North Collins, and West Seneca; and be it further

RESOLVED, that the Commissioner of Environment and Planning send a certified copy of this resolution along with the Erie County Agricultural and Farmland Protection Board report and maps for each parcel of land to be included in an existing agricultural district to the Commissioner of New York State Department of Agriculture and Markets for certification and immediate inclusion into existing agricultural districts.

(4-0) Legislator Mills not present for vote.

3. COMM. 21E-11 (2018)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning (DEP) has played a crucial role in water quality issues throughout the region for decades and continues to administer many initiatives that protect and preserve our natural water resources; and

WHEREAS, DEP is committed to coordinate, oversee, and support work towards the delisting of the Buffalo River as a Great Lakes Area of Concern; and

WHEREAS, the United States Environmental Protection Agency (USEPA) Great Lakes Restoration Initiative (GLRI) provides grant assistance to municipalities to implement projects to improve the quality of the Great Lakes; and

WHEREAS, DEP provides technical assistance regarding the management of the Erie County Natural Habitat Parks; and

WHEREAS, the USEPA-GLRI awarded Erie County a \$831,000 grant (SAP Grant Account #162BRRPMPH2) to complete the USEPA-GLRI Buffalo River Habitat Restoration –Erie County: NFTA-61 Smith Street project; and

WHEREAS, on December 21, 2017 the Erie County Legislature approved a no-cost time extension through 12/31/18 (COMM. 23E-11 (2017)); and

WHEREAS, the project has not yet been completed, necessitating the execution of a no-cost contract amendment with the USEPA-GLRI.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute the necessary agreements to extend the USEPA-GLRI Buffalo River Habitat Restoration –Erie County: NFTA-61 Smith Street contract for two years (January 1, 2019-December 31, 2020); and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Director of the Division of Budget and Management; the County Attorney; the County Comptroller; Thomas R. Hersey, Jr., Commissioner of Environment and Planning; and Bonnie L. Lawrence, Deputy Commissioner of Environment and Planning.
(5-0)

4. COMM. 21E-12 (2018)
COUNTY EXECUTIVE AS AMENDED

WHEREAS, the County of Erie advertised for and received responses to a Request for Proposals to perform professional services associated with air permit assistance for the Erie County Sewer District No. 3 – Southtowns Advanced Wastewater Treatment Facility; and

WHEREAS, a review committee was established by the Division of Sewerage Management to evaluate all responses to the County’s Request for Proposals, using a consistent scoring matrix; and

WHEREAS, the proposal review committee recommends O’Brien and Gere Engineers, Inc. (O’Brien and Gere) to complete the requested consulting services.

NOW, THEREFORE, BE IT

RESOLVED, that O'Brien and Gere be retained to perform professional services associated with a 3-Year Term Agreement to perform air permit assistance for Erie County Sewer District No. 3; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with O'Brien and Gere, 400 Andrews Street, Suite 710, Rochester, New York 14604 for professional services associated with this project in an amount not to exceed \$300,000, subject to approval as to content by the Commissioner of the Department of Environment and Planning, and approval as to form by the County Attorney's Office; and be it further

RESOLVED, that funding for work orders issued under this Agreement be allocated from Sewer Operating Fund 220, Funds Center 183, Account 516020 (Professional Service Contracts); and be it further

RESOLVED, that the Division of Sewerage Management, be required to notify the Legislature of each work order assigned under this resolution; and be it further

RESOLVED, that no individual work order issued under this Agreement be greater than \$50,000.00; and be it further

RESOLVED, that the Clerk of the Legislature shall send one (1) certified copy each to the County Executive, the Erie County Director of Budget and Management, the Erie County Comptroller, Kristen Walder, Assistant County Attorney; and send two (2) certified copies of this resolution to Joseph Fiegl, P.E., Division of Sewerage Management.
(5-0)

5. COMM. 21E-13 (2018)

COUNTY EXECUTIVE

AS AMENDED

WHEREAS, the County of Erie advertised for and received responses to a Request for Proposals to perform professional services associated with the Erie County Sewer District (ECSD) No. 6 – Lackawanna Water Resource Recovery Facility (WRRF) and Overflow Retention Facility (ORF) – Disinfection Systems Upgrades/Improvements Project; and

WHEREAS, this project is necessary to address requirements in the State Pollutant Discharge Elimination System (SPDES) permit for ECSD No. 6; and

WHEREAS, a review committee was established by the Erie County Division of Sewerage Management to evaluate all responses to the County's Request for Proposals for this project, using a consistent scoring matrix; and

WHEREAS, the proposal review committee recommends GHD Consulting Services, Inc. (GHD) to complete the requested consulting services; and

WHEREAS, the Disinfection Systems Upgrades/Improvements Project has been awarded a \$1,479,000 grant from the New York State Department of Environmental Conservation to partially fund the engineering and construction work associated with this project; and

WHEREAS, ECSD No. 6 has proper bond usage authorization for Capital Project C.00064 in order to fund the local share of this project.

NOW, THEREFORE, BE IT

RESOLVED, that GHD be retained to perform professional services associated with this Disinfection Systems Improvements Project; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with GHD, 285 Delaware Ave, Suite 500, Buffalo, New York 14202 for professional services associated with this project in an amount not to exceed \$280,000, subject to approval as to content by the Commissioner of the Department of Environment and Planning, and approval as to form by the County Attorney's Office; and be it further

RESOLVED, that the Director of Budget and the County Comptroller be authorized to increase estimated revenues and appropriations in Capital Project C.00064 for the receipt of the \$1,479,000 New York State Department of Environmental Conservation grant; and be it further

RESOLVED, that the costs associated with this project be allocated in Capital Project C.00064; and be it further

RESOLVED, that the Clerk of the Legislature shall send one (1) certified copy each to the County Executive, the Erie County Comptroller, the Erie County Director of Budget and Management, and Kristen Walder, Assistant County Attorney; and send two (2) certified copies of this resolution to Joseph Fiegl, P.E., Division of Sewerage Management.

(5-0)

**JOHN BRUSO
CHAIR**

Item 30 – MR. BURKE presented the following report and moved for immediate consideration and approval. MR. BRUSO seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 229

November 29, 2018	ECONOMIC DEVELOPMENT COMMITTEE REPORT NO. 17
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ALL MEMBERS PRESENT.

CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 21M-4 (2018)

ECIDA: “2019 Budgets for the ECIDA, RDC & ILDC”
(Chair’s ruling)

b. COMM. 21M-7 (2018)
NFTA: “Minutes of NFTA Board Meeting Held on October 25, 2018”
(Chair’s ruling)

2. COMM. 21E-8 (2018)
COUNTY EXECUTIVE
WHEREAS, the Elim Townhomes Project consists of 30-units of affordable housing in the City of Buffalo located at 205 Holden; and

WHEREAS, the project consists of new construction of 130-units of affordable housing; and

WHEREAS, the Erie County Legislature adopted a policy on Payment in Lieu of Taxes (PILOT) on December 16, 1999, and the PILOT is consistent with said policy; and

WHEREAS, in order to make the Project economically feasible for Elim Townhomes LLC, Elim Townhomes HDFC, Inc. to operate the housing project it is necessary to obtain tax relief from the County of Erie and the City of Buffalo.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute a Payment in Lieu of Taxes (PILOT) Agreement with Elim Townhomes LLC, Elim Townhomes HDFC, Inc., the City of Buffalo, and any other organizations necessary to conclude this PILOT Agreement; and be it further

RESOLVED, that said Agreement shall include an annual PILOT in the amount of taxes due as set forth on Schedule A attached hereto; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Director of the Division of Budget and Management; the Director of Real Property Tax Services; the Commissioner of the Department of Environment and Planning; the County Comptroller; and the County Attorney.

**SCHEDULE A
ELIM TOWNHOMES PILOT**

SCHEDULE A			
YEAR	TOTAL PILOT	COUNTY	CITY
1	7,082.82	1,770.71	5,312.11
2	7,295.30	1,823.82	5,471.48
3	7,514.16	1,878.54	5,635.62
4	7,739.58	1,934.90	5,804.68
5	7,971.77	1,992.94	5,978.83
6	8,210.92	2,052.73	6,158.19

7	8,457.25	2,114.31	6,342.94
8	8,710.97	2,177.74	6,533.23
9	8,972.30	2,243.08	6,729.22
10	9,241.47	2,310.37	6,931.10
11	9,518.71	2,379.68	7,139.03
12	9,804.27	2,451.07	7,353.20
13	10,098.40	2,524.60	7,573.80
14	10,401.35	2,600.34	7,801.01
15	10,713.39	2,678.35	8,035.04

(6-0)

3. COMM. 21E-9 (2018)
COUNTY EXECUTIVE

WHEREAS, the replacement of Quaker St. Bridge over Clear Creek, BIN 3328340, PIN 5762.14, (the "Project") is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 95% Federal funds and 5% local share, depending upon the BridgeNY Funding program; and

WHEREAS, the County of Erie previously advanced the Project via Legislative Communication 8E-10 dated May 11, 2017; and

WHEREAS, the BridgeNY Program requires the Project to be let no later than 18 months after award of the Project to the County of Erie; and

WHEREAS, the County of Erie desires to advance the Construction and Construction Inspection phase of the Project by making a commitment for the Federal and non-Federal share of the costs of the project; and

WHEREAS, in order to facilitate the Construction and Construction Inspection Phases for the Project, it will be necessary for the County to execute a Supplemental Agreement with New York State Department of Transportation (NYSDOT) in the total amount of \$1,850,000 of which \$92,500 is the required local share, for the construction and construction inspection phase of the Project; and

WHEREAS, the Department of Public Works would like to successfully implement the Project in a timely manner, it will be necessary for the County to execute the construction contract with the responsible low bidder, enter an into a construction phase engineering services agreement with CHA Consultants, and establish a local share construction contingency in an amount not to exceed \$200,000, for a total project allowance not to exceed \$2,050,000.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into a Supplemental Agreement with New York State Department of Transportation (NYSDOT) for this BridgeNY Project in the total amount of \$1,850,000 of which \$92,500 is the required local share; and be it further

RESOLVED, that the County Legislature of the County of Erie hereby authorizes the County of Erie to pay in the first instance 100% of Federal and non-Federal shares of the cost of construction and construction inspection phases of the Project or portions thereof; and be it further

RESOLVED, that the County Executive is hereby authorized to execute the construction contract with the responsible low bidder, enter into a construction phase engineering services agreement with CHA Consultants, and establish a local share construction contingency in an amount not to exceed \$200,000 for a total project cost not to exceed \$2,050,000; and be it further

RESOLVED, that the estimated total sum, with adjustments for the anticipated Federal revenue, of the Construction, Construction Inspection Phase, and contingency for the Project, in an amount not to exceed \$2,050,000 is hereby appropriated from the Project B.18015 – Federal Aid Bridge Project, Fund 420, Funds Center 123; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to adjust the project budget for the Federal revenue in accordance with the current Supplemental Agreement; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to adjust the project budget accordingly should additional Federal and/or State revenue be made available for this Project; and be it further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the Federal and non-Federal shares of the costs of the Project's construction and construction inspection phases exceeds the amount appropriated, \$2,050,000 the County of Erie shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the NYSDOT thereof; and be it further

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the County of Erie, with the NYSDOT in connection with the advancement or approval of the Project and providing for the administration of the Project and the Municipality's first instance funding of Project costs and permanent funding of the local share of Federal aid and State aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and be it further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation, by attaching it to any necessary Agreement in connection with the Project; and be it further

RESOLVED, that the Clerk of the Legislature forward six (6) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the NYSDOT; and be it further

RESOLVED, that the Clerk of the Legislature forward one (1) certified copy of this Resolution to the Department of Public Works, Division of Highways, and also one copy each to the

Office of the County Executive, the Division of Budget and Management and the Office of the Comptroller.
(6-0)

**PATRICK B. BURKE
CHAIR**

Item 31 – MS. BASKIN presented the following report and moved for immediate consideration and approval. MR. BRUSO seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 230

November 29, 2018	PUBLIC SAFETY COMMITTEE REPORT NO. 15
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ALL MEMBERS PRESENT.
CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. COMM. 21E-6 (2018)
SHERIFF

WHEREAS, Axe is a certified accelerant detection canine assigned to the Fire Investigation Unit within the Police Service Division; and

WHEREAS, the accelerant canine was provide to the Erie County Sheriff's Office at no cost by the New York State Department of Homeland Security; and

WHEREAS, Axe has served well and assisted in numerous fire investigations, but recently has stopped alerting on odors he is trained to detect; and

WHEREAS, Axe was attacked by another canine during initial training and certification, and he has become increasing skittish and unresponsive; and

WHEREAS, since the handler/canine relationship is special and unique it is appropriate to transfer ownership to the handler; and

WHEREAS, the Erie County Sheriff's Office has identified a Bureau of Alcohol, Tobacco, Firearms and Explosives program that provides a canine free charge to law enforcement agencies and trains the accelerant detection canine team; and

WHEREAS, the Sheriff's Office will participate in this program and accept a new canine; and

WHEREAS, the Sheriff's Office Fire Investigation Unit assists area law enforcement and fire companies with fire investigations; and

WHEREAS, the Sheriff's Office Accelerant Detection K9 is proven to be valuable to fire investigations and their work has led to the prosecution of suspects.

NOW, THEREFORE, BE IT

RESOLVED, the Legislature hereby authorized the Erie County Executive and the Erie County Sheriff's Office to enter into an agreement with Detective Scott Kuhlmeier for the consideration of one (1) U.S. Dollar for the transfer of ownership of Axe; and be it further

RESOLVED, Detective Kuhlmeier shall assume full responsibility for the canine under such agreement and shall further hold the County of Erie and the Erie County Sheriff's Office harmless against any liability; be it further

RESOLVED, the Legislature hereby grants authorization to the County Executive and the Sheriff Timothy B. Howard to enter into an agreement with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to accept an accelerant detection canine and reimbursement funds for the agency; and be it further

RESOLVED, certified copies of this resolution be forwarded to the Erie County Executive, Erie County Purchasing Department, the County Attorney, the Erie County Comptroller, and the Office of the Sheriff for implementation.
(6-0)

2. COMM. 21E-10 (2018)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Homeland Security & Emergency Services requests the Legislature to approve an amendment to the Televate, LLC contract in the amount of \$28,655.00 making the contract not to exceed \$170,641; and

WHEREAS, this will amend the previously approved resolution, COMM 19E-22 for Televate, LLC not to exceed \$141,986.

NOW, THEREFORE, BE IT

RESOLVED, that Televate, LLC., 8229 Boone Blvd, Suite 720, Vienna, VA 22182 is to provide Interoperable Communications consulting services at the additional cost identified in this resolution; and be it further

RESOLVED, that the funding for this amended contract is hereby authorized in the HS167SICG1617, (Account 516020); and be it further

RESOLVED, that certified copies of this resolution are sent to the County Executive's Office, the Division of Budget and Management, the Department of Homeland Security & Emergency Services c/o Melissa Calhoun, the County Comptroller, and the County Attorney.
(6-0)

3. COMM. 21E-14 (2018)
SHERIFF

WHEREAS, as of January 2017, the Division of Correctional Health (DoCH) is under the authority of the Erie County Sheriff's Office; and

WHEREAS, the Sheriff's Office and the DoCH has identified needs within the division to assist in providing inmate health; and

WHEREAS, due to age or damage caused during inmate incidents the DoCH needs to purchase new equipment such as an EKG machine, dental X-ray machine, autoclave, wheelchairs and computer equipment for both facilities; and

WHEREAS, the EKG machine will be used to diagnosis and monitor cardiac issues with inmates; the autoclave is used to sterilize medical instruments properly; wheelchairs are to transport inmates to and from the facilities' medical units; the dental X-ray machine is used to examine the dental health of the inmates; and

WHEREAS, the DoCH will replace damaged laptops and replace the units with "Toughbooks" which are manufactured to stand up to unusual circumstances or workplaces; and

WHEREAS, inmates who require treatment for chronic or serious medical conditions are admitted to Erie County Medical Center; and

WHEREAS, the amount allocated for long-term hospital care has surpassed the budgeted amount, and the DoCH has received invoices from the medical center for inmate care for \$230,000.00; and

WHEREAS, the DoCH is relying on personal vehicles to transport prescription drugs and medical equipment between the Erie County Holding Center and the Erie County Correctional Facility; and

WHEREAS, the DoCH is seeking to purchase two all-wheel-drive Ford Explorers for this function because these vehicles will provide greater cargo space suitable for transporting equipment as well as providing a vehicle which is reliable in all weather conditions; and

WHEREAS, office chairs and conference table will be utilized in a new and private room where DoCH, forensic mental, and medical professionals health conduct confidential inmate medical reviews.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby approve the reallocation of funds from transfer \$215,290.00 from Account # 505800 and \$251,146.00 from Account # 516050 to Account # 561410 Lab and Tech, Account # 561440 Motor Vehicles, Account # 506200 Maintenance and Repair, Account # 561420 Furniture, and Account # 516050 ECMC; and be it further

RESOLVED, that Budget and Management Division is hereby authorized to transfer an amount not to exceed \$ 461,836.00 between the following accounts:

ERIE COUNTY SHERIFF'S OFFICE

<u>ACCOUNT #</u>		<u>DECREASE</u>
505800	Medical & Health Supply	\$210,690.00
516020	Professional Services	<u>\$251,146.00</u>
	TOTAL	\$461,836.00

<u>ACCOUNT #</u>		<u>INCREASE</u>
561410	Lab and Tech	\$112,778.00
561440	Motor Vehicle	\$68,110.00
506200	Maintenance and Repair	\$3,000.00
561420	Furniture	\$47,948.00
516050	Erie County Medical Center	<u>\$230,000.00</u>
	TOTAL	\$461,836.00

and be it further

RESOLVED, the Division of Budget and Management is authorized to make any technical adjustments necessary to effectuate this transfer should there be any unforeseen issues; and be it further

RESOLVED, the Erie County Comptroller's Office is hereby authorized to release the designated funds and make payments as necessary; and be it further

RESOLVED, that certified copies of the approved resolution are sent to the Division of Budget and Management, the Erie County Comptroller's Office, and the Chief of Administration of the Sheriff office for implementation.

(6-0)

**APRIL N.M. BASKIN
CHAIR**

Item 32 – MR. BURKE presented the following report and moved for immediate consideration and approval. MR. BRUSO seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 231

November 29, 2018	GOVERNMENT AFFAIRS COMMITTEE REPORT NO. 7
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ALL MEMBERS PRESENT.

CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. LL INTRO. 4-1 (2017)
BURKE: “Preventing Underground Tattoo Parlors: A LL to Increase the Ability of Law Enforcement to Prevent Illegal Tattooing”
(Chair’s ruling)
 - b. INTRO. 13-2 (2017)
BURKE: “Calling on Albany to Stop Siding with Lobbyists and Allow Municipalities to Regulate Pesticide Usage”
(Chair’s ruling)
 - c. INTRO. 19-3 (2017)
MILLER-WILLIAMS: “Supporting the Restoration of the Parent Facilitator Program in Buffalo Public School District”
(Chair’s ruling)
 - d. INTRO. 23-2 (2017)
BURKE: “Calling for the Establishment of the Erie County Broadband Network in Light of the FCC’s Vote to Repeal Net Neutrality Provisions”
(Chair’s ruling)
 - e. INTRO. 11-1 (2018)
SAVAGE, BASKIN, LOUGHRAN, BRUSO, BURKE & MILLER-WILLIAMS:
“Amending the Erie County Tax Act – Home Rule Requests”
(Chair’s Ruling)
 - f. COMM. 11E-7 (2018)
COUNTY CLERK: “Letter to Chair Savage Requesting Committee Discussion Regarding Security at Auto Bureau Locations”
(Chair’s Ruling)
 - g. COMM. 11E-14 (2018)
COUNTY EXECUTIVE: “Appointments to the EC Salary Review Commission”
(Chair’s ruling)
 - h. COMM. 13E-8 (2018)
LORIGO: “Letter to County Executive Requesting Department’s FOIL/FOIA History”
(Chair’s ruling)
 - i. COMM. 14M-9 (2018)
NYS AUTHORITIES BUDGET OFFICE: “Annual Report on Public Authorities in NYS – July 1, 2018”
(Chair’s ruling)

- j. COMM. 15E-10 (2018)
DIXON: “Letter to SUNY Erie President Regarding Information Hot Line with Lemire LLC”
(Chair’s ruling)
- k. COMM. 15E-11 (2018)
DIXON: “Letter to Chair Savage Regarding Press Release from Lemire Group”
(Chair’s ruling)
- l. COMM. 15M-1 (2018)
ASSIGNED COUNSEL PROGRAM: “Financial Report for the Period 1/1/18 – 6/30/18”
(Chair’s ruling)
- m. COMM. 15M-2 (2018)
ASSIGNED COUNSEL PROGRAM: “Quarterly Report for the 2nd Quarter of 2018”
(Chair’s ruling)
- n. COMM. 19D-1 (2018)
DEPARTMENT OF LAW: “Transmittal of New Claims Against Erie County”
(Chair’s ruling)
- o. COMM 19M-7 (2018)
ASSIGNED COUNSEL PROGRAM: “Quarterly Report for the 3rd Quarter of 2018”
(Chair’s ruling)
- p. COMM. 20M-1 (2018)
BUFFALO NIAGARA COALITION FOR OPEN GOVERNMENT: “Report Titled, ‘Behind Closed Doors, Executive Sessions & the Public’s Right to Know’”
(Chair’s ruling)
- q. COMM. 21D-1 (2018)
FIRST ASSISTANT COUNTY ATTORNEY: “Transmittal of New Claims Against Erie County”
(Chair’s ruling)
- 2. RESOLVED, the following items are hereby received, filed and printed:
 - a. COMM. 18E-5 (2018)
COUNTY EXECUTIVE: “Appointments to the Erie County Council on the Disabled Advisory Board”
(Chair’s ruling)

October 2, 2018

The Honorable
Erie County Legislature
92 Franklin Street, 4th Floor

Buffalo, New York 14202

Dear Honorable Members:

Pursuant to Section 1707 and 2205 of the Erie County Charter, I do hereby appoint and submit for your confirmation the following individuals to the Erie County Council on the Disabled Advisory Board. Their terms will expire October 1, 2020.

Appointees

Kimberly Bandura
114 Southridge Drive
West Seneca, NY 14224
Reappointment

Kristin Collins
718 Jewett Holmwood Rd
East Aurora, NY 14052

Andrew Marcum
552 Park Hall
University at Buffalo
Buffalo, NY 14260
Reappointment

Richard Marino
3617 Lake Avenue
Blasdell, NY 14219
Reappointment

Dennis Martinez
165 Mariner Street
Buffalo, NY 14201

Frances Moyer
111 E. Union Street
Hamburg, NY 14075

Sheri Shaw
640 Union Road
West Seneca, NY 14224
Reappointment

Andrea Russell
1985 Delaware Ave.
Apartment 3G
Buffalo, NY 14216

Patricia Wiseman
181 Ellicott Street
Buffalo, NY 14203

Thank you in advance for your cooperation and continuing assistance.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

- b. COMM. 18E-6 (2018)
COUNTY EXECUTIVE: "Appointment to Erie County Board of Ethics"
(Chair's ruling)

October 2, 2018

The Honorable
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Appointment of Member of Erie County Board of Ethics

Dear Honorable Members:

Pursuant to Section 19.01 of the County Administrative Code, I do hereby appoint and submit for your confirmation the following individual to the Erie County Board of Ethics. His term will expire December 31, 2022.

Appointee

Mr. Brian W. Downey, Esq.
976-A Union Road
West Seneca, New York 14224

Thank you in advance for your courtesies.

Sincerely yours,

Mark C. Poloncarz
Erie County Executive

3. INTRO. 2-3 (2018)
LORIGO, DIXON, MILLS, RATH, SAVAGE,
MILLER-WILLIAMS, HARDWICK,
LOUGHRAN, BURKE & BRUSO AS AMENDED
WHEREAS, Governor Cuomo has proposed ending New York State's tip credit for tipped food service employees; and

WHEREAS, tip credit is the difference between what a tipped employee makes and what the established minimum wage is. This lower minimum wage for tipped employees allows employers to save money on their cost of labor and allows tipped workers to earn additional income through tips from customers; and

WHEREAS, elimination of the tip credit would lead to increased costs for employers, which would be passed on to customers or eliminated through a decrease in employee hours. Further, elimination of the tip credit would decrease the main incentive customers have to tip service employees all together; and

WHEREAS, the practice of tipping often leads to workers earning well above the prevailing minimum wage and as a result a decrease in tips offered will harm workers in the end. Further, the restaurant industry relies on the tip credit to manage labor costs, which helps many of these small businesses operate in an industry with exceptionally high failure rates in the first few years; and

WHEREAS, Governor Cuomo is working to find a solution to a problem that doesn't exist, citing sexual harassment and racial discrimination associated with tipping practices as reason for the elimination of the tip credit; and

WHEREAS, New York State, with the 4th highest cost of doing business according to a CNBC poll, has the reputation for having a hostile business climate encouraging many businesses, and therefore residents, to leave our state. Elimination of the tip credit and raising the cost to

operate a restaurant will only serve to increase the perception that New York State does not support businesses.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body goes on record opposing the elimination of the tip credit and supporting our tipped workers in the service industry; and be it further

RESOLVED, that certified copies of this resolution be sent to Governor Andrew Cuomo, the Western New York Delegation to the New York State Senate and Assembly, and any other party deemed necessary and proper.

(6-0)

4. INTRO. 3-12 (2018)

LORIGO, MILLS, DIXON, HARDWICK & RATH

WHEREAS, Governor Cuomo's new spending plan proposes deep cuts, almost \$20 million, to upstate transit authorities, including a \$1.7 million cut in overall funding to the Niagara Frontier Transit Authority (NFTA); and

WHEREAS, this most recent funding cut will remove about one percent of the total budget for the NFTA likely delaying or canceling capital projects that are a part of their five year plan; and

WHEREAS, ridership for the last fiscal year was just above 26 million; and

WHEREAS, in part because of the growth in the City of Buffalo over the past few years the NFTA is in desperate need to keep up with demand from residents and continue their needed capital improvements; and

WHEREAS, capital projects planned for the NFTA would help increase overall ridership and transportation options affording more employment access and opportunity to residents throughout Western New York; and

WHEREAS, these varying levels of funding make it very difficult to set, and stick to, a program of capital improvements; and

WHEREAS, the Governor's proposal disproportionately favors NYC offering a seven and a half percent year-over-year increase in funding for the MTA. This increase allows the MTA to continue their future projects and expansions; and

WHEREAS, this honorable body finds and determines that upstate NY is deserving of the same percent increase in overall funding as downstate; and

WHEREAS, the NYS Legislature should amend the Governor's budget to include, at the very least, even increases in funding for all transit authorities in NYS.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body hereby supports the NFTA and encourages expansion of its rail lines and local public transit options; and be it further

RESOLVED, that this body further encourages the NYS Legislature amend the Governor's budget to ensure proper funding to the NFTA and other upstate transit authorities; and be it further

RESOLVED, that certified copies of this resolution be sent to Governor Cuomo, the Western New York Delegation to the NYS Legislature, and any other party deemed necessary and proper.
(6-0)

5. INTRO. 6-5 (2018)

HARDWICK, LORIGO, MILLS, RATH & DIXON

WHEREAS, recent events have exposed a long-standing problem at the Erie County Water Authority relative to offering long-term employment contracts to outgoing, non-civil service, employees to prevent their involuntary release as a result of a turnover of appointed commissioners; and

WHEREAS, most recently contracts have approved of advantageous golden parachute provisions, which bind the authority to pay out large sums of money to otherwise at will employees who are fired without cause prior to the end of the contract; and

WHEREAS, an amendment to §1054 of New York State Public Authorities law affords management of the Erie County Water Authority broad authority to enter into any contracts or agreements as they see fit; and

WHEREAS, New York State, which regulates all public authorities, is the only entity with the ability to directly address the problem with a ban on employment contracts like the ones at hand with an amendment to Public Authorities Law; and

WHEREAS, that a prohibition against employment contracts longer than one year and any severance packages in excess of a full year's pay would help address the problem and increase the accountability of all public authorities; and

WHEREAS, this honorable body finds it in the best interests of all residents of New York that any amendment to Public Authorities Law banning the use of employment contracts containing golden parachutes be equally applicable to all public authorities across the state.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body urges New York State's legislature to review the issues surrounding employment contracts at public authorities and implement a ban on employment contracts containing "golden parachutes" for non-civil service employees; and be it further

RESOLVED, that certified copies of this resolution be sent to Governor Andrew Cuomo, the Western New York delegation to the New York State Senate and Assembly, and any other party deemed necessary and proper.
(6-0)

**PATRICK B. BURKE
CHAIR**

LEGISLATOR RESOLUTIONS

Item 33 – CHAIR SAVAGE directed that the following resolution be referred to the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

INTRO. 23-1 from LORIGO, RATH, MILLS, HARDWICK & DIXON. Opposition to Proposed NYS Legislation Requiring Social Media & Search Engine Reviews Prior to Approval of Applications for Renewal of Pistol or Revolver Permits.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

Item 34 – MS. BASKIN moved to discharge the GOVERNMENT AFFAIRS COMMITTEE of further consideration of INTRO. 19-5 (2018). MR. BURKE seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS and CHAIR SAVAGE. NOES: MS. DIXON, MR. LORIGO, MR. MILLS and MR. RATH. (AYES: 7; NOES: 4)

CARRIED.

RESOLUTION NO. 232

RE: Fairness and Safety for Wendt
Corporation Employees
(INTRO. 19-5, 2018)

**A RESOLUTION SUBMITTED BY
LEGISLATORS BURKE, BRUSO & SAVAGE**

WHEREAS, the Wendt Corporation on Walden Avenue in Cheektowaga is a scrap metal recycling facility that manufactures shredders and recycling equipment for junkyards and scape metal facilities; and

WHEREAS, on June 9, 2017, fabrication workers at Wendt overwhelmingly won their worker rights election with the National Labor Relations Board and chose to affiliate and be represented by the Ironworkers International union (Ironworkers International Local 576); and

WHEREAS, more than one year later, the Wendt Corporation refuses to acknowledge the union's concerns about health and safety issues at Wendt and negotiate a fair contract for the employees; and

WHEREAS, the workers are seeking Dignity and Respect and want to have strong health and safety language and protection enshrined in their union contract with Wendt; and

WHEREAS, in September 2018, union leaders presented a report titled, "Wendt Corporation, Don't Shred Your Workers' Rights! A report on workers at Wendt Corporation" which noted major safety deficiencies at the facility; and

WHEREAS, the 24-page report was authored by the Western New York Worker's Rights Board, sponsored by the Buffalo Coalition for Economic Justice, and it documents how and why the union organized, employee testimonies about workplace conditions, recommendations from the union, and union accusations of delay tactics used by Wendt concerning contract negotiations; and

WHEREAS, the report is a corollary to the WNYCOSH "Risky Business Report," released in July 2018, in which WNYCOSH conducted a walkthrough assessment of the Wendt facility, coupled with safety reports from OSHA and found that of the 31 areas inspected during that walkthrough, 17 had "Major Hazards" and four areas were identified as having "Fatal Hazards"; and

WHEREAS, according to the Cheektowaga Chronicle, ten years ago the company faced \$169,500 in fines from the U.S. Department of Labor's Occupational Safety and Health Administration for failing to fully correct hazards cited during a prior OSHA inspection and recently, two people in separate incidents on the same day required medical attention from Forks firefighters according to Cheektowaga Police records; and

WHEREAS, the National Labor Relations Board held a hearing in September 2018 concerning the union's concerns and allegations about Wendt's treatment of its employees; and

WHEREAS, the workers held an informational picket in February 2018, claiming the company has been "dragging its feet" in negotiating a union contract, held another picket on October 17, 2018 and will hold another on October 24, 2018.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature expresses its strong support for the Ironworkers 576 members at the Wendt Corporation and urges the company to offer a fair and equitable contract with appropriate health and safety provisions for employees; and be it further

RESOLVED, that certified copies of this resolution shall be transmitted to Thomas Wendt, Jr. of the Wendt Corporation, Iron Workers District Council President James Mahoney, James Wagner of the Ironworkers International Union, and National Labor Relations Board Regional Director Paul J. Murphy.

MS. BASKIN moved to amend the resolution. MR. BURKE seconded.

CARRIED UNANIMOUSLY.

Amend INTRO. 19-5 by Deleting the Fifth (5th) Whereas Clause.

MS. BASKIN moved to approve the resolution as amended. MR. BURKE seconded.

CHAIR SAVAGE directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. HARDWICK, MS. BASKIN, MR. BRUSO, MR. BURKE, MR. LOUGHRAN, MS. MILLER-WILLIAMS and CHAIR SAVAGE. NOES: MR. LORIGO, MR. MILLS and MR. RATH. (AYES: 8; NOES: 3)

CARRIED.

SUSPENSION OF THE RULES

Item 35 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-24 from BASKIN Re: Letter to Sheriff - Invitation to Appear at Public Safety Committee Meeting

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 36 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-25 from SHERIFF Re: Medical Care Subscription to Database for Up-to-Date Community & Healthcare Standards

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 37 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-26 from SAVAGE Re: Abstention on Vote on Buffalo Police Athletic League Funding

Received, filed and printed.

December 6, 2018

Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

Re: Abstention on Vote on Buffalo Police Athletic League Funding

Dear Clerk Graber:

Pursuant to Rule 2.21 of the Erie County Legislature Rules of Order and the Erie County Code of Ethics, my abstention to the vote concerning County 2019 funding for the Buffalo Police Athletic League was to avoid any possible conflict of interest.

Sincerely,

Peter J. Savage, III
Erie County Legislator – 3rd District

Item 38 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-27 from BRUSO Re: Abstention on Vote on Kids Escaping Drugs Funding

Received, filed and printed.

December 6, 2018

Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

Re: Abstention on Vote on Kids Escaping Drugs Funding

Dear Clerk Graber:

Pursuant to Rule 2.21 of the Erie County Legislature Rules of Order and the Erie County Code of Ethics, my abstention to the vote concerning County 2019 funding for Kids Escaping Drugs was to avoid any possible conflict of interest.

Sincerely,

John Brusio

Erie County Legislator – 8th District

Item 39 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-28 from LOUGHRAN & LORIGO Re: Letter to Chair, Energy & Environment Committee - Erie County Water Authority Hiring Practices

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 40 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-29 from LORIGO, DIXON, RATH & MILLS Re: Letter to Chair of Legislature, Regarding Local Law Intro. No. 7-1 (2018)

Received and filed.

Item 41 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23D-4 from DEPARTMENT OF LAW Re: Opinion as to Form - Local Law Intro. No. 7-1 (2018)

Received, filed and printed.

December 4, 2018

Via Email Only
Hon. Peter J. Savage, III, Chairman
Erie County Legislature
Old Erie County Hall
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Opinion as to Form Local Law Intro No 7-1 – 2018

Dear Chairman Savage:

In accordance with the obligations of the Erie County Attorney set forth in subsection 3, Section 204 of Article 2 of the Erie County Charter, this legal opinion concerns Local Law Intro No. 7-1-2018 (7-1).

Preemption

Under New York state law, preemption occurs when a local law directly conflicts with a state statute, or where a state statute expressly states that local laws on a given subject matter are preempted. Preemption can also occur where the State Legislature has assumed full regulatory responsibility in a field related to the proposed local law.

Here, on its face, 7-1 does not prohibit conduct that the state law expressly permits, and the state has not enacted legislation which expressly or implicitly preempts local regulation of the sale of tobacco products in health care institutions and pharmacies or smoking in motor vehicles and in or adjacent to bus shelters.

Grammar and Intent

The purpose of 7-1 is to prohibit the smoking of tobacco and electronic cigarettes in motor vehicles when children are present, to prohibit tobacco sales in licensed health care institutions and pharmacies, and to prohibit the smoking of tobacco and electronic cigarettes in or adjacent to bus shelters. The grammar and usage of 7-1 is sufficient to achieve the stated purpose.

Ambiguities

While every hypothetical circumstance or eventuality cannot be addressed in the scope of this opinion, 7-1 does not present any facial ambiguities that would frustrate its implementation and enforcement.

Conclusion

We find that the Local Law Intro 7-1-2018 is sufficient as to form.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By Gregory P. Kammer
Assistant County Attorney
Direct Dial: (716) 858-2248
E-mail: gregory.kammer@erie.gov

Item 42 - MS. BASKIN moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23D-4 from DEPARTMENT OF LAW Re: Opinion Concerning Procedure of Adoption for Local Law Intro. No. 7-1 (2018)

Received, filed and printed.

Via Email Only
Hon. Peter J. Savage, III, Chairman
Erie County Legislature
Old Erie County Hall
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Intro No 7-1 – 2018

Dear Chairman Savage:

You have asked for an opinion from the County Attorney with respect to the propriety of a letter request made today by certain legislators for you, in your capacity as Chairman, to separate Erie County Local Law Intro No 7-1-2018 (7-1) into three distinct propositions for individual vote on each proposition. In addition, you have asked specifically if 7-1 is in violation of New York State Municipal Home Rule Law Section 20(3) (MHRL) which mandates that each local law address only one subject. Our brief opinion follows.

Local Law Intro 7-1-2018 cannot be separated and voted on as three distinct local laws. There is no legal mechanism within NYS Municipal Home Rule Law or the Erie County Charter or Code which would authorize or even contemplate such an action. Absent minor non-material changes to a local law resulting from comments made at public hearing and/or opinion of the County Attorney, a local law is voted on in the form in which it was introduced. Part of the concept here is that a local law can only be put to a vote after adequate public input has been considered by the adopting body. Here, if the Erie County Legislature had the authority to separate the current Intro into three distinct laws as suggested, it would be voting on a law or laws without any opportunity for the public to comment. In order to separate as indicated, three separate and distinct local laws would need to be introduced and the local law adoption process followed from the beginning for each such law. The reference to Section 2.20 of the ECL Rules of Order, made within the letter request, is misplaced and has no bearing on the Local Law process.

MHRL provides that every local law "...shall embrace only one subject.". In *Woll v. Erie County Legislature*, 83 A.D.2nd 792, 440 N.Y.S.2d 146, the Fourth Department promulgated a test to determine whether or not a local law violates the one subject rule. The Court found that in determining whether a local law runs afoul of this section requiring local laws to embrace only one subject, the test is whether there is a necessary or natural connection between the items covered in the local law. The issue presented to the Court here was, inter alia, whether a local law addressing reapportionment could also reduce the number of county legislative seats. In finding that such a law did not violate the one subject rule, the Court reasoned that the reduction of legislative seats was a necessary corollary to the objective of reapportionment. Here, 7-1 purports to protect the public health by prohibiting smoking of tobacco and electronic cigarette use both in cars with minors

present and in and around public bus shelters. In addition, 7-1 prohibits the sale of tobacco cigarettes and electronic cigarettes at licensed health care facilities and pharmacies. The overriding subject of 7-1 is therefore to protect the health of the citizens of Erie County from the dangers of tobacco and electronic cigarettes. 7-1 states this intent within its body and attempts to achieve such public health protection through three main regulations. Each of these regulations is naturally connected to the stated purpose. For these reasons, it is our view that 7-1 embraces only one subject and does not violate MHRL.

It is important to note that any MHRL challenge here is premature as 7-1 has not been acted on yet. If adopted and approved by the county Executive after public hearing, it then becomes ripe for challenge under MHRL grounds. The remedy for a local law which is in violation of MHRL is for a court to declare it void. The remedy is not to take provisions contained within a current Introduction, such as 7-1, and attempt to separate them into distinct laws at this late juncture. The only scenario where this would be authorized is where each separate law was re-introduced and the process started again as mentioned above.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By Gregory P. Kammer
Assistant County Attorney
Direct Dial: (716) 858-2248
E-mail: gregory.kammer@erie.gov

Item 43 - MR. LORIGO moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 23E-30 from LORIGO Re: Letter to Chair of Legislature, Regarding 2019 Legislature Budget Allocation

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM LEGISLATOR LORIGO

Item 44 – (COMM. 23E-1) Letter to Commissioner of EC Dept. of Parks & Recreation Regarding EC Fall Festival Locations

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM LEGISLATOR DIXON

Item 45 – (COMM. 23E-2) Letter to Chair of Legislature Regarding Local Law Intro. 2-2 (2018) as Amended

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM CHAIR SAVAGE

Item 46 – (COMM. 23E-3) Final Report Concerning the Former Commissioner of Social Services

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE COMPTROLLER

Item 47 – (COMM. 23E-4) A Report on IGT Payments to ECMCC

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 48 – (COMM. 23E-5) DSS & DEP - Healthy Homes Erie County

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 49 – (COMM. 23E-6) ECSD No. 6 - Close Out of Contract with Kandey Company, Inc.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 50 – (COMM. 23E-7) Establishing Benefit Enrollment Center Grant Funding 2019-2020

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 51 – (COMM. 23E-8) Notice of Adoption - ECSD 2018 Assessment Rolls

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 52 – (COMM. 23E-9) Section 520 Exemption Charges for 2019

Item 53 – (COMM. 23E-10) Levy & Apportionment of EC Real Property Tax for 2019

The above two items were received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 54 – (COMM. 23E-11) Establishing NYSOFA Grant to Expand the Aging Mastery Program

Item 55 – (COMM. 23E-12) EMS - New Training Fee Schedule

The above two items were received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 56 – (COMM. 23E-13) Adoption of the Downtown Pedestrian Transit Mall Special District Service Charge Roll for 2019

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 57 – (COMM. 23E-14) ECSD No. 5 - Flow Monitoring & Infiltration/Inflow Quantification Project

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 58 – (COMM. 23E-15) Budget Revision & No-Cost Extension - WNY Sustainable Business Roundtable Grant

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 59 – (COMM. 23E-16) Establishing Access to Home for Medicaid 2018-2020 Grant

Item 60 – (COMM. 23E-17) Authorization to Enter into Contract with Amerigroup IPA of NY, LLC

The above two items were received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 61 – (COMM. 23E-18) Appointments & Reappointments to the Erie County Fair Housing Board

Item 62 – (COMM. 23E-19) Appointments & Reappointments to the Senior Services Advisory Board

The above two items were received and referred the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE COUNTY CLERK

Item 63 – (COMM. 23E-20) Extension of Lease for Space - SUNY Erie South Auto Bureau

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM CHAIR SAVAGE

Item 64 – (COMM. 23E-21) 2019 Schedule of Legislative Sessions

Received, filed and printed.

December 4, 2018

Robert M. Graber
Clerk
Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

Re: 2019 Schedule of Legislative Sessions

Dear Clerk Graber:

Please find attached the 2019 Schedule of Legislative Sessions for the Erie County Legislature.

Please distribute the schedule to all legislators, county officials, media outlets, and interested parties and place the schedule on the Legislature's website. Thank you in advance for your assistance.

Sincerely,

Peter J. Savage, III
Chair of the Legislature

2019 SCHEDULE OF LEGISLATIVE SESSIONS

JANUARY

3
17

JULY

11
25

FEBRUARY

7
21

AUGUST

Recess

MARCH

7
21

SEPTEMBER

12
26

APRIL

OCTOBER

4
18

10
24

MAY
9
23

NOVEMBER
7
21

JUNE
6
20

DECEMBER
5 - Session & Budget Vote
19 - Session & Budget Override

All Regular Sessions listed begin at 2:00 p.m. in the Legislature Chambers.
Pre-Session Joint Caucus Meetings held on the day of Session begin at 10:00 a.m.
in the Legislature Caucus Room. All Meetings are open to the public.

FROM LEGISLATORS DIXON & LORIGO

Item 65 – (COMM. 23E-22) Request for Witness Memo. Referenced in Special Counsel Report

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM LEGISLATOR DIXON

Item 66 – (COMM. 23E-23) Request for College Findings Related to Former Commissioner of DSS

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE DEPARTMENT OF LAW

Item 67– (COMM. 23D-1) Opinion as to Form - Local Law Intro. No. 2-1 (2018)

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE COMMISSIONER OF HEALTH

Item 68 – (COMM. 23D-2) Changes to Septic System Inspection Policy

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

**FROM THE DIRECTOR OF
BUDGET & MANAGEMENT**

Item 69 – (COMM. 23D-3) Economic Concerns & Potential Impact on the 2019 Budget

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM THE REV. PATRICK E. HILKEY

Item 70 – (COMM. 23M-1) Letter to Legislature Regarding Local Law No. 1 (2018)

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE NFTA

Item 71 – (COMM. 23M-2) NFTA's Annual 17A Report FYE 2018

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE VISIT BUFFALO NIAGARA

Item 72 – (COMM. 23M-3) 3rd Quarter Reports for 2018

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE EC MINORITY & WOMEN
BUSINESS ENTERPRISES UTILIZATION ADVISORY BOARD

Item 73 – (COMM. 23M-4) Minutes of Meeting Held on October 1, 2018

Received and referred to the MINORITY & WOMEN BUSINESS ENTERPRISE COMMITTEE.

FROM THE AMERICAN HEART ASSOCIATION

Item 74 – (COMM. 23M-5) Letter to Chair of Legislature in Support of Local Law Intro. 7-1 (2018)

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE AUDIT COMMITTEE FOR EC

Item 75 – (COMM. 23M-6) Annual Report - Year Ended December 31, 2017

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

ANNOUNCEMENTS

Item 76 – Clerk of Legislature announced that the committee schedule for meetings to be held on Thursday, December 13, 2018 has been distributed.

Item 77 – Chair Savage announced that the schedule for meetings to be held in 2019 has been distributed, and further announced committee meetings for Thursday, December 13, 2018.

Item 78 – Legislator Miller-Williams introduced Bryant and Stratton student LeRae Smith, who has successfully completed the Internship Program in the First Legislature District for the Fall 2018 Semester.

MEMORIAL RESOLUTIONS

Item 79 – Legislator Burke requested that when the Legislature adjourns, it do so in memory of Rachael Wierzbicki.

Item 80 – Legislator Miller-Williams requested that when the Legislature adjourns, it do so in memory of Ms. Evelyn M. Miller.

Item 81 – Legislator Rath requested that when the Legislature adjourns, it do so in memory of Grace Shear, Robert H. Henley, Rosanna P. (Holler) Gorrow, and Catherine A. Spino.

Item 82 – Legislator Dixon requested that when the Legislature adjourns, it do so in memory of James Sieracki, Robert Mendez, James R. Walsh, James Eberhardt, Kimberly Rozwood-Jackson, Carolyn Fruchtel, Harold Monckton, and atricia Hens-Loretto.

Item 83 – Legislator Lorigo requested that when the Legislature adjourns, it do so in memory of Rita Clemons and Kenneth Schaff.

Item 84 – Legislator Hardwick requested that when the Legislature adjourns, it do so in memory of David Smyers, Helen Rezabek, and Theodora Linenfelser.

Item 85 – Chair Savage requested that when the Legislature adjourns, it do so in memory of Jan Scarato.

Item 86 – Legislator Loughran requested that when the Legislature adjourns, it do so in memory of the 41st President of the United States, George Herbert Walker Bush.

ADJOURNMENT

Item 87 - At this time, there being no further business to transact, CHAIR SAVAGE announced that the Chair would entertain a Motion to Adjourn.

MR. BURKE moved that the Legislature adjourn until Thursday, December 20, 2018 at 2:00 p.m. Eastern Standard Time. MR. RATH seconded.

CARRIED UNANIMOUSLY.

CHAIR SAVAGE declared the Legislature adjourned until Thursday, December 20, 2018 at 2:00 p.m. Eastern Standard Time.

ROBERT M. GRABER
CLERK OF THE LEGISLATURE