

ERIE COUNTY LEGISLATURE
MEETING NO. 7
APRIL 2, 2009

The Legislature was called to order by Chair Marinelli.

All members present.

An Invocation was held, led by Mr. Loughran, who requested a moment of silence.

The Pledge of Allegiance was led by Mr. Rath.

Item 1 – No tabled items.

Item 2 – No items for reconsideration from previous meeting.

Item 3 – MS. WHYTE moved for the approval of the minutes for Meeting Number 6 from 2009. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 4 – No Public Hearings.

MISCELLANEOUS RESOLUTIONS

Item 5 – MS. IANNELLO presented a resolution Congratulating Alex Fry for Being a Winner in the 11th Annual Grand Island School and Business Alliance Corporate Bowl.

Item 6 – MS. IANNELLO presented a resolution Congratulating Luke Burkhart for Being a Winner in the 11th Annual Grand Island School and Business Alliance Corporate Bowl.

Item 7 – MS. IANNELLO presented a resolution Congratulating Alex Richter for Being a Winner in the 11th Annual Grand Island School and Business Alliance Corporate Bowl.

Item 8 – MS. IANNELLO presented a resolution Congratulating Julia Figliotti for Being a Winner at the 11th Annual Grand Island School and Business Alliance Corporate Bowl.

Item 9 – MR. WROBLEWSKI presented a resolution Congratulating Melissa Sheehan on Receiving the 2009 Chamber Member of the Year Award from the West Seneca Chamber of Commerce.

Item 10 – MR. WROBLEWSKI presented a resolution Congratulating James M. McCullough on Receiving the 2009 Citizen of the Year Award from the West Seneca Chamber of Commerce.

Item 11 – MR. WROBLEWSKI presented a resolution Congratulating Kloc's Grove on Receiving the 2009 Business of the Year Award from the West Seneca Chamber of Commerce.

Item 12 – MR. WROBLEWSKI presented a resolution Congratulating the West Seneca Woman’s Club on Receiving the 2009 Community Service Organization of the Year Award from the West Seneca Chamber of Commerce.

Item 13 – MR. WROBLEWSKI presented a resolution Congratulating Margaret Borchert on Receiving the 2009 Educator of the Year Award from the West Seneca Chamber of Commerce.

Item 14 – MS. IANNELLO & CHAIR MARINELLI presented a Proclamation Naming March 31, 2009 as BPW Working Women’s Day of Action.

Item 15 –MR. WALTER presented a resolution Honoring Veronica Rosar on the Occasion of Her 90th Birthday.

Item 16 –MR. MAZUR presented a Memorial Resolution for Patrick J. Paladino.

MS. WHYTE moved for consideration of the above twelve items. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to amend the above twelve items by adding one for MS. MILLER-WILLIAMS and also by including Et Al Sponsorship. MS. MILLER-WILLIAMS seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved for approval of the above thirteen items as amended. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

LOCAL LAWS

Item 17 – CHAIR MARINELLI directed that Local Law No. 2 (Print #1) 2008 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

Item 18 – CHAIR MARINELLI directed that Local Law No. 5 (Print #1) 2008 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

COMMITTEE REPORTS

Item 19 – MR. KENNEDY presented the following report and moved for immediate consideration and approval. MR. KOZUB seconded.

MR. KENNEDY withdrew his motion.

MR. KENNEDY presented the following report, moved to separate item Numbers 3, 4 & 5, and moved to approve the balance of the resport. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 102

MARCH 30, 2009	ECONOMIC DEVELOPMENT COMMITTEE REPORT NO. 5
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ALL MEMBERS PRESENT, EXCEPT LEGISLATOR KONST.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 6M-3 (2009)
TOWN OF TONAWANDA TOWN BOARD: "Copy of Cerified Resolution Supporting the Continuation of NYS Empire Zone Program"
(4-0)
 - b. COMM. 6M-15 (2009)
FISCAL POLICY INSTUTE: "Copy of Power Point Presentation Concerning NY's Empire Zone Program"
(4-0)

2. COMM.6E-3 (2009)
COUNTY EXECUTIVE
WHEREAS, the existing roofing systems at the Erie County Court Building (25 Delaware Avenue) and Dr. Gajewski Human Services Center (1500 Broadway) are twenty-five plus years old and are leaking, causing damage to the building interior spaces and systems; and

WHEREAS, your honorable body has previously authorized Architectural/Engineering Term Agreements for several Architectural/Engineering firms; and

WHEREAS, Chaintreuil Jensen & Stark has recently submitted qualifications complying with this department's term agreements and this department is requesting this firm be added to the term list of Architectural/Engineering firms for providing professional Architectural/Engineering Services; and

WHEREAS, the County Executive is requesting authorization from your honorable body to issue an Agreement to Chaintreuil Jensen & Stark for providing Design and Construction Documents for the roof replacement projects at the Erie County Court Building and Dr. Gajewski Human Services Center.

NOW, THEREFORE, BE IT

RESOLVED, that the firm of Chaintreuil Jensen & Stark be added to this department's Architectural/Engineering term agreements; and be it further

RESOLVED, that the County Executive be authorized to issue an Agreement to Chaintreuil Jensen & Stark for providing Professional Design and Construction Document Services for the Erie County Court Building and Dr. Gajewski Human Services Center – 2009 – Roof Replacement Projects for an amount not to exceed \$50,000.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for the above from SAP Projects A.00026 – 2001 Roof Replacement for an amount not to exceed \$23,528.00 and A.00070 – 2003 Roof Replacement & Waterproofing for an amount not to exceed \$26,472.00 for a total amount not to exceed \$50,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Division of Real Estate and Asset Management, and one copy each to the Office of the County Executive, the Division of Budget, Management and Finance, and the Office of the Comptroller.

(4-0)

3. COMM. 6E-13 (2009)
COUNTY EXECUTIVE

WHEREAS, a project for intersections improvements of Maple Road CR 192, at Flint, North Forest and Hopkins Roads, Amherst, Erie County, PIN 5755.33 (the "Project") was authorized by this honorable body on May 22, 2003 via Communication 9E-59; and

WHEREAS, in a resolution dated May 25, 2006 (Reference: Comm. 8E-23), the Legislature authorized the County of Erie to acquire the acquisition in fee, permanent easement or temporary easement for the Project; and

WHEREAS, in order to facilitate the reconstruction of the intersections, it will be necessary for the County to acquire by acquisition in fee, permanent easement or temporary easement, portions of real property in the vicinity of the intersections:

<u>PORTIONS OF TAX MAP SBL NUMBERS</u>	<u>TOWNSHIP</u>
55.01-1-1	Amherst
55.16-2-23	Amherst
56.17-4-3	Amherst
56.62-1-1	Amherst

such property to be acquired by the County is herein referred to as the "Subject Properties;" and

WHEREAS, in order to acquire the acquisition in fee, permanent easement or temporary easement for the Project, it will be necessary for the County to establish an amount which it believes to represent just compensation for the real property interests to be acquired and to thereafter make a

written offer to purchase the real property interests for the respective just compensation amounts;
and

WHEREAS, the acquisitions of the portions of the Subject Properties are de minimis in nature so that the public interest will not be prejudiced by the reconstructed intersections and other general improvements to the subject section of Maple Road (CR 192); and

WHEREAS, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not exceeding fair market value, it will be necessary for the County to acquire the Subject Properties by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the above subject actions;
and be it further

RESOLVED, that the sum of \$77,900.00 has previously been appropriated from the 1999 Federal Aid Road and Bridge Project Program (SAP B.00007) via County Resolution 9E-59 adopted May 22, 2003 and made available to cover the cost of Right-of-Way acquisition; and be it further

RESOLVED, that the County of Erie is authorized to acquiring fee and/or easement title to the aforementioned Subject Properties for the purpose of reconstructing and improving the aforementioned Maple Road Intersections Improvement (CR 192) Project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to establish the amounts which he believes to represent just compensation for the real property to be acquired; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to negotiate and offer just compensation amounts to the owners of the Subject Properties for the purpose of acquiring interests in portions of their respective parcel of real property by fee, permanent easement or temporary easement, which acquisitions are necessary for the Maple Road Intersections Improvement (CR 192) project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are authorized to act on behalf of the County of Erie in connection with the acquisition of the portions of the aforementioned Subject Properties; and be it further

RESOLVED, that based upon the factors previously set forth herein, it is the determination of this County Legislature that such acquisitions of portions of the aforementioned Subject Properties are de minimis in nature; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring fee and/or easement interests in the Subject Properties; and be it further

RESOLVED, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not to exceed the just compensation determined by the Commissioner of Public Works, or his authorized representatives, the County is authorized to commence eminent domain procedures; and be it further

RESOLVED, that the Clerk of the Legislature forward ten (10) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the New York State Department of Transportation and also one copy each to the Office of the County Executive, the Office of Budget, Management and Finance and the Office of the Commissioner.
(3-0) Legislator Miller-Williams not present for vote.

4. COMM. 6E-15 (2009)
COUNTY EXECUTIVE

AS AMENDED

WHEREAS, The Economic Recovery Project for the Reconstruction of CR192, Maple Road, from US 62, Niagara Falls Boulevard to Flint Road and North Bailey Avenue from Maple Road to Romney Road, in the Town of Amherst, Erie County, PIN 5755.47 (the "Project") is eligible for funding under Title 23, U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 100% Federal funds and 0% Non-Federal funds or the ratio of 80% Federal funds and 20% non-Federal funds, depending on the Federal Aid Funding Program; and

WHEREAS, the County of Erie advanced the above Project by making a commitment of 100% of the non-Federal share of the costs of the Preliminary Engineering (Scoping and Design I-VI) via Comm. 10E-33, adopted on June 12, 2008; and

WHEREAS, the County of Erie desires to advance the Construction & Construction Inspection Phases of the Project, PIN 5755.47 through a Supplemental Agreement that increases the original Project Agreement in the amount of \$11,284,000.00 (\$2,257,000.00 required local share).

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie hereby approves the above subject project; 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 the Federal and Non-Federal share of the cost of the Preliminary Engineering (Scoping and Design I-VI), Right-of-Way Incidentals, Right-of-Way Acquisition and Construction & Construction Inspection Phases of the Project or portions thereof; and be it further

RESOLVED, that the total sum of the Project, \$2,257,000.00 is hereby appropriated from B.00183 2008 Maple Road Reconstruction (in addition to \$302,000.00 previously appropriated for the project's Preliminary Engineering (Scoping & Design I-VI), Right-of-Way Incidentals and Right-Of-Way Acquisition phases via County Resolution No. 10E-33 adopted on June 12, 2008 and made available to cover the cost of participation in the above phases of the 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 Preliminary Engineering (Scoping and

Design I-VI), Right-of-Way Incidentals, Right-of-Way Acquisition and Construction & Construction Inspection Phases exceeds the amount appropriated, \$2,559,000.00 and/or 100% of the full Federal and non-Federal shares of the cost of the Project's Preliminary Engineering (Scoping and Design I-VI), Right-of-Way Incidentals, Right-of-Way Acquisition and Construction & Construction Inspection Phases exceeds \$12,793,000.00, the Project's current Total Cost, the County of Erie shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation 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 and/or Marchiselli Aid on behalf of the County of Erie, (subject to the County of Erie Attorney's approval as to form and Content), with the New York State Department of Transportation in connection with the advancement or approval of the Project identified in the State/Local Agreement; 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 ten (10) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the New York State Department of Transportation and also one copy each to the Office of the County Executive, the Office of Budget, Management and Finance, and the Office of the Comptroller.
(3-1) Legislator Miller-Williams voted in the Negative.

5. COMM.6E-16 (2009)

COUNTY EXECUTIVE

AS AMENDED

WHEREAS, bids will taken for the Rehabilitation of the Federal Aid Project for Maple Road (CR 192), in the Town of Amherst, tentatively, on April 23, 2009, dependent upon NYSDOT approvals, to meet Federal deadlines; and

WHEREAS, the Project is to be funded with Locally Administered Federal Aid Funds, Town of Amherst Funds and Federal Economic Stimulus Funds; and

WHEREAS, time is of the essence and the Project must be awarded to the lowest responsible bidder within 120 days from the enacting of the Stimulus Bill; and

WHEREAS, a Contract was previously awarded for design and engineering services for the above noted project to the engineering firm of DiDonato Associates, P.C. of Buffalo, New York on July 10, 2003, at the 14th session of the Legislature of Erie County, Communication No.13E-22, and it has been determined that the Contract must be increased to include construction inspection services.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to award and execute a Contract for Erie County Project No. FA-192-08, NYS PIN 5755.47 for the Maple Road Rehabilitation (CR 192), between the County of Erie and the lowest responsible bidder, at an amount not to exceed \$11,284,000.00 as reflected in the 2008 adopted Capital Budget; and be it further

RESOLVED, that an appropriate amount of funds be allocated for a Department of Public Works, Division of Highways construction contingency fund with authorization for the County Executive to approve change orders in a percentage not to exceed 14% of the lowest bid amount; and be it further

RESOLVED, that an amount to be negotiated and not to exceed \$950,000.00 from B.00183 2008 Maple Road Rehabilitation for a change order to the Contract for services during construction, construction reimbursables, and construction inspection with DiDonato Associates, P.C. of Buffalo, New York; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward ten (10) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Office of Budget, Management and Finance, and the Office of the Comptroller.

(3-1) Legislator Miller-Williams voted in the Negative.

TIMOTHY M. KENNEDY
CHAIR

MR. KENNEDY moved to approve item Number 3. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

MS. MILLER-WILLIAMS moved to approve item Number 4. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

MR. KENNEDY moved to approve item Number 5. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

LEGISLATOR RESOLUTIONS

Item 20 – MS. WHYTE presented the following resolution and moved for immediate consideration. MS. GRANT seconded.

MR. WALTER moved to send the resolution to committee for further consideration. MR. MILLS seconded.

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

AYES: MR. MILLS, MR. RATH and MR. WALTER. NOES: MS. GRANT, MS. IANNELLO, MR. KENNEDY, MS. KONST, MR. KOZUB, MR. LOUGHRAN, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. WHYTE and MR. WROBLEWSKI. (AYES: 3; NOES: 12)

FAILED.

CHAIR MARINELLI moved to previous question.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 103

RE: Requesting a Complete Review and Analysis of the Process Used by the Erie County Cultural Resources Advisory Board to Make Funding Recommendations
(INTRO 7-1)

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS MARINELLI, GRANT & REYNOLDS**

WHEREAS, the Erie County Cultural Resources Advisory Board (ECCRAB) was created to provide a systematic, fair and transparent process through which cultural organizations in Erie County could apply for financial support from Erie County, thereby insuring fair and equitable treatment of all organizations regardless of size; and

WHEREAS, the ECCRAB process consists of an application submittal with supporting documents, a review by the ECCRAB, recommendation for funding and an appeal for cultural organizations of final ECCRAB recommendations, if requested; and

WHEREAS, the County Executive has traditionally adopted the recommendations for cultural funding made by ECCRAB in his budget submission to the Erie County Legislature; and

WHEREAS, during the 2009 budget cycle, the final recommendations for cultural funding submitted by ECCRAB were in some instances different than what many organizations were advised they would be and many organizations were not afforded an opportunity to appeal the final recommendations made by ECCRAB; and

WHEREAS, the recommendations for cultural funding in the County Executive's Proposed 2009 Budget were significantly different from the recommendations submitted by ECCRAB as well as substantially different from the 2008 level of funding that many of the cultural organizations received; and

WHEREAS, the Erie County Legislature believes that the residents of Erie County and the cultural organizations of Erie County are entitled to a systematic, fair and transparent process which results in a fair and equitable distribution of the county's resources in support of its many cultural institutions.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does direct that the Commissioner of Environment and Planning and the Chair of the Erie County Cultural Resources Advisory Board to appear before the Legislature's Community Enrichment Committee to discuss in detail the current ECCRAB application and review process in detail and present recommendations for improvements in this process which will result in fair and equitable treatment of all cultural organizations in Erie County as we prepare for the 2010 budget and future budgets; and be it further

RESOLVED, that certified copies of this resolution be presented to the County Executive, the Commissioner of Environment and Planning and the Chair of the Erie County Cultural Resources Advisory Board and all others deemed necessary and proper.

MS. WHYTE moved to amend the resolution by adding MS. MILLER-WILLIAMS, MS. KONST, MS. WHYTE, MR. WROBLEWSKI, MS. IANNELLO, and MR. LOUGHRAN as Co-Sponsorship. MS. IANNELLO seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MR. KENNEDY seconded. MR. MILLS, MR. RATH and MR. WALTER voted in the negative.

CARRIED. (12-3)

***** MS. KONST left the Chambers at 3:37 P.M.

Item 21 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 104

RE: Requesting that the County Attorney
Draft a Local Law Amending Certain
Provisions of the Erie County Tax Act
(INTRO 7-2)

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATOR REYNOLDS**

WHEREAS, the Distressed Real Property Task Force (DRPTF) was established by the Erie County Legislature in February of 2008 to examine issues related to distressed properties, vacant and abandoned homes, tax foreclosures, mortgage foreclosures and other relevant issues, with the goal indentifying solutions for these issues and recommending their implementation; and

WHEREAS, the DRPTF has regularly met in committee and sub-committee to develop ideas and recommendations, including the introduction of new legislation on the County and State levels, to offer solutions and remedies; and

WHEREAS, the DRPTF has determined based upon the information and testimony received that a first step for addressing these problems is to amend the Erie County Tax Code to shorten the length of time to foreclose on tax delinquent property; and

WHEREAS, the City of Buffalo has used one year and the experience has been positive and resulted in the City being able to address potential problems in a more timely manner; and

WHEREAS, the DRPTF has identified several community partners and available programs to assist property owners in distress and these resources will be made available, where appropriate, to property owners through the use of an aggressive public outreach and marketing plan; and

WHEREAS, the DRPTF has also concluded that it is appropriate that the Erie County Tax Code should be amended to include a definition of the terms “owner-occupied residential property and “vacant or abandoned residential property;” and

WHEREAS, the DRPTF has further concluded and recommends that the Erie County Tax Code should be amended to define and identify the means to establish an “owner occupant.”

WHEREAS, one of the recommendations of the Task Force is to amend the Erie County Tax Act, with the specific mandate to shorten the length of time to foreclose on tax delinquent property to a period of one year, from the longer periods now allowed under Articles VII, IX and XI of the Erie County Tax Act, and to provide for assistance to owner-occupied properties under distress.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature direct the County Attorney to conduct a review of the Erie County Tax Act and make the necessary recommendations for development of an appropriate Local Law to amend the Tax Act to shorten the redemption period to one year under Articles VII, VIII, IX, and XI and other relevant portions of the Erie County Tax Act providing for the foreclosure of Tax Certificate, Tax Lien or sale by Deed; and be it further

RESOLVED, that the County Attorney also conduct an article by article review of the same Tax Act to make any other changes relevant to support of the shortening of this time frame to a period of one year, as well as a review of any other relevant language pertaining to departmental titles, job titles and other outdated sections of the Act; and be it further

RESOLVED, that the County Attorney be directed to establish a distinguishing definition of “owner – occupied” homes in financial distress, as opposed to “vacant or abandoned” properties in the same distress, to provide any and all remedies available to such homeowners to make foreclosure the option of last resort, including but not limited to a stay of enforcement where an agreement allowing partial payments is in effect and not in default of the terms there under; and be it further

RESOLVED, that the County Attorney reply to the Distressed Real Property Task Force with its recommendations by April 14, 2009; and be it further

RESOLVED, that certified copies of this resolution be forwarded to Cheryl Green, County Attorney, James Tuppen, Assistant County Attorney, and all other interested parties.

MS. WHYTE moved to amend the resolution by adding Et Al Sponsorship. MR. LOUGHRAN seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

Item 22 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MS. GRANT seconded. MR. MILLS, MR. RATH and MR. WALTER voted in the negative.

CARRIED. (11-3)

RESOLUTION NO. 105

RE: Final Payment Authorization for Legal Services
(INTRO 7-3)

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS MARINELLI & WHYTE**

WHEREAS, on December 11, 2008 the Erie County Legislature approved INTRO 28-2 (2008), “Legal and Fiscal Matters Related to the 2009 Erie County Budget as Adopted by the Erie County Legislature;” and

WHEREAS, pursuant to INTRO 28-2 (2008), the Chair of the Legislature signed a retainer agreement with the law firm Lipsitz Green Scime Cambria LLP in order to provide pre-litigation services; and

WHEREAS, in further accordance with INTRO 28-2 (2008), the Chair of the Legislature further signed a second retainer agreement with the law firm Lipsitz Green Scime Cambria LLP in order to provide litigation services related to the 2009 Erie County Budget as Adopted by the Erie County Legislature; and

WHEREAS, a budget amendment is necessary to the 2009 departmental budget of the Erie County Legislature in order to effectuate a final payment for said legal services; and

WHEREAS, in order to effectuate said budget amendment and final payment, authorization of this Honorable Body is necessary.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature desires to amend the 2009 departmental budget of the Legislature in order to effectuate a final payment to the law firm Lipsitz Green Scime Cambria LLP for legal services related to the 2009 Erie County Budget as Adopted by the Erie County Legislature, to wit:

ERIE COUNTY LEGISLATURE - 2009 DEPARTMENTAL BUDGET
FUND 110 – FUND CENTER 100

<u>Account</u>	<u>Appropriations</u>	<u>Amount</u>
Acct. 530000	Other	- \$ 5,000
Acct. 516020	Pro Ser Cnt And Fees	+ \$ 5,000

and be it further

RESOLVED, that said funding for a final payment is available in the 2009 departmental budget of the Erie County Legislature, and said final payment is hereby approved in the amount of \$5,778.00 for the law firm Lipsitz Green Scime Cambria LLP for legal services related to the 2009 Erie County Budget as Adopted by the Erie County Legislature, to wit:

ERIE COUNTY LEGISLATURE - 2009 DEPARTMENTAL BUDGET
FUND 110 – FUND CENTER 100

<u>Account</u>	<u>Appropriations</u>	<u>Amount</u>
Acct. 516020	Pro Ser Cnt And Fees	\$ 5,778.00

\$ 5,778.00 – FINAL PAYMENT

and be it further

RESOLVED, that the Clerk of the Erie County Legislature is directed to forward certified copies of this resolution to the Erie County Comptroller, the Erie County Attorney, the Director of Purchase and the Division of Budget and Management.

Item 23 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. WROBLEWSKI seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 106

RE: Supporting the Volunteer Fire Service
Through Enactment of A.6051/S.1624-A
(INTRO 7-4)

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS WROBLEWSKI & IANNELLO**

WHEREAS, inquiries have been generated from all over New York State regarding a recent opinion issued by the New York State Department of Motor Vehicles (NYS DMV) that requires a CDL (Commercial Driver's License) to drive fire apparatus; and

WHEREAS, confusion surrounds an amendment to the New York State Transportation Bond Act of 2005 which went largely unnoticed because the amendments were inconsistent, vague and, for these reasons, arguably unenforceable; and

WHEREAS, three years later, a group of volunteer fire service leaders discovered the language of the Bond Act, and without advice of counsel, asked the NYS DMV for an opinion as to what the amendments meant; and

WHEREAS, the DMV responded with an unfavorable opinion, basically stating that volunteer fire company personnel could drive apparatus to an emergency, but could not drive it back to the firehouse without a CDL; and

WHEREAS, this was not the intent of the New York State legislators who voted for the Bond Act or the governor who signed it at that time; and

WHEREAS, the intent of the federal government is to allow states to grant exemptions to volunteer organizations for the operation of their vehicles without the threat of conflict with federal statutes or funding streams; and

WHEREAS, according to the Firemen's Association of New York State (FASNY), U.S. Senator Charles Schumer's Office has been helpful in obtaining clarification from the Federal Motor Carrier Safety Administration (FMCSA) on this issue, and has confirmed that the FMCSA has stated to the NYS DMV that the exemption from the CDL requirement in place prior to the Transportation Bond Act's passage in 2005 would not endanger federal highway funds; and

WHEREAS, there is pending state legislation, A.6051/S.1624-A, to correct this situation by allowing for a commercial driver's license exemption on behalf of the volunteer fire service and the citizens of New York State who are honorably and capably served by these dedicated, well-trained volunteers.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby go on record in support of A.6051/S.1624-A, a bill that would allow for commercial driver's license exemption for volunteer fire company personnel; and be it further

RESOLVED, that certified copies of this resolution be conveyed to the Governor, the Speaker of the New York State Assembly, the Majority Leader of the New York State Senate, the Western New York Delegation to the New York State Legislature, the Firemen's Association of New York State and all others deemed necessary and proper.

MS. WHYTE moved to amend the resolution by adding Et Al Sponsorship. MS. IANNELLO seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

Item 24 – CHAIR MARINELLI directed that the following item be referred to the FINANCE & MANAGEMENT COMMITTEE.

MR. WALTER presented a Challenge to the Chair. MR. RATH seconded.

CHAIR MARINELLI directed that roll-call vote be taken.

AYES: MR. MILLS, MR. RATH and MR. WALTER. NOES: MS. GRANT, MS. IANNELLO, MR. KENNEDY, MR. KOZUB, MR. LOUGHRAN, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. WHYTE and MR. WROBLEWSKI. (AYES: 3; NOES: 11)

FAILED.

INTRO 7-5 from WALTER, MILLS & RATH Requesting the New York State Legislature to Vote Against the Proposed 2009 New York State Budget.

Item 25 – CHAIR MARINELLI directed that the following item be referred to the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

INTRO 7-6 from IANNELLO, MARINELLI & LOUGHRAN Create a Task Force for Kenmore Avenue from Military Road to Main Street.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

None.

SUSPENSION OF THE RULES

Item 26 - MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 7E-7 from the COMPTROLLER Re: EC 2009 Consolidated Bond Resolution
Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 27 - MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 7E-8 from the COMPTROLLER Re: Technical Amendments to 2007 Consolidated Bond Resolution

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 28 - MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 7E-9 from the COMPTROLLER Re: Technical Amendments to 2008 Consolidated Bond Resolution (DPW)

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 29 - MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 7E-10 from the COMPTROLLER Re: Technical Amendments to 2008 Consolidated Bond Resolution (DISS)

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM THE SHERIFF

Item 30 – (COMM. 7E-1) Erie County Sheriff's Office - Personnel Adjustments

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 31 – (COMM. 7E-2) Authorization to Transfer a Going Places Van

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM LEGISLATOR MAZUR

Item 32 – (COMM. 7E-3) Copy of Letter to NYS Health Commissioner Concerning Erie County's Role in WIC Program

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM CHAIR MARINELLI

Item 33 – (COMM. 7E-4) Copy of Letter to Legislator Kozub Concerning Appointment of Commissioner to the Erie County Water Authority

Item 34 – (COMM. 7E-5) Copy of Letter to Legislature Clerk Concerning Appointment of Commissioner to the Erie County Water Authority

The above two items were received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM LEGISLATORS MILLS & WALTER

Item 35 – (COMM. 7E-6) Copy of Letter to Chair Marinelli Concerning Mtg. No. 6 Vote on Item in Economic Development Comm. Report

MR. WALTER moved for consideration of the above referenced communication. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

MR. MILLS moved for a Change of Vote for MR. RATH and MR. WALTER on INTRO 5-6 (2009) approved in the ECONOMIC DEVELOPMENT COMMITTEE report at Session Number 6, March 26, 2009. MR. WALTER seconded.

CARRIED UNANIMOUSLY.

CHAIR MARINELLI directed that COMM. 7E-6 be Received, Filed and Printed.

March 31, 2009

Hon. Lynn M. Marinelli, Chair
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Chair Marinelli,

This letter serves as a request to have the minutes for Meeting No.6 of the Erie County Legislature accurately reflect our intention to vote against item number 2 of the Economic Development Report, known in our records as INTRO 5-6 (2009) "Employee Free Choice Act."

As you recall, it was stated in majority caucus that the item would be separated from the committee report and that the balance of the report would be up for approval. It was our understanding that we were voting for the balance of the report when we cast our "aye" votes, and not item number two. When it became apparent to us that item number two was not separated from the report, Legislator Walter moved to reconsider the report, which motion failed.

Given the circumstances leading to the approval of the Economic Development report, and pursuant to Erie County Legislature Rule 2.28, we request your general consent to change our vote on the Economic Development Report to reflect our intended "Nay" vote.

Thank you for your consideration of this matter.

Sincerely,

John J. Mills
Erie County Legislator – 13th District

Raymond W. Walter
Erie County Legislator – 4th District

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE DEPUTY COMMISSIONER, ENVIRONMENT & PLANNING

Item 36 – (COMM. 7D-1) Copy of Letter to Chair Marinelli and Legislator Kozub
Concerning Sewerage Management

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM THE NFTA

Item 37 – (COMM. 7M-1) NFTA Five Year Plan

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM SENATOR STACHOWSKI

Item 38 – (COMM. 7M-2) Copy of NYS Senate Bill Concerning Real Property Tax Law in
Relation to Sales Tax Factor Applicable to STAR Exemptions

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE NIAGARA ERIE REGIONAL COALITION

Item 39 – (COMM. 7M-3) Agenda Items for Meeting Held March 27, 2009

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE NFTA

Item 40 – (COMM. 7M-4) Copy of NFTA Board Minutes for Meeting Held February 23,
2009

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM ECMCC

Item 41 – (COMM. 7M-5) Annual Report as Required by NY Public Authority Law

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

ANNOUNCEMENTS

Item 42 – CHAIR MARINELLI announced that the schedule of upcoming meetings has been distributed.

Item 43 – MS. GRANT announced that on Saturday, April 4, 2009, from 1:00 P.M. to 6:00 P.M., a community celebration commemorating the life and legacy of Dr. Martin Luther King Jr. and Brother Romeo Doyle Muhammad will be held at the Frank E. Merriweather Library.

MEMORIAL RESOLUTIONS

Item 44 – Chair Marinelli requested that when the Legislature adjourns, it do so in memory of Patrick J. Paladino and Loretta L. (Hennigan) Mosey.

Item 45 – Legislator Whyte requested that when the Legislature adjourns, it do so in memory of Patricia E. (Maloney) Black.

Item 46 – Legislator Kennedy requested that when the Legislature adjourns, it do so in memory of Betty (Fix) Ratchuk and Patrick J. Paladino.

Item 47 – Chair Marinelli, on behalf of Legislator Konst, requested that when the Legislature adjourns, it do so in memory of Patrick J. Paladino and Mark K. Reukauf II.

Item 48 – Legislator Grant requested that when the Legislature adjourns, it do so in memory of Dr. Martin Luther King Jr.

Item 49 – Legislator Iannello requested that when the Legislature adjourns, it do so in memory of the Teresa Seabury.

Item 50 – Legislator Reynolds requested that when the Legislature adjourns, it do so in memory of Lou Saban.

ADJOURNMENT

Item 51 - At this time, there being no further business to transact, CHAIR MARINELLI announced that the Chair would entertain a Motion to Adjourn.

MS. GRANT moved that the Legislature adjourn until Thursday, April 23, 2009 at 2:00 P.M. Eastern Standard Time. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

CHAIR MARINELLI declared the Legislature adjourned until Thursday, April 23, 2009 at 2:00 P.M. Eastern Standard Time.

ROBERT M. GRABER
CLERK OF THE LEGISLATURE