

**ERIE COUNTY LEGISLATURE**  
**MEETING NO. 15**  
**SEPTEMBER 23, 2010**

The Legislature was called to order by Chair Miller-Williams.

All members present.

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

The Pledge of Allegiance was led by Ms. Bove.

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 14 from 2010. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 4 – No Public Hearings.

**MISCELLANEOUS RESOLUTIONS**

Item 5 – MR. KENNEDY presented a memorial resolution Memorial Resolution in Memory of Billy James Mael.

Item 6 – MR. MAZUR presented a memorial resolution Honoring the Life of Gertrude (Williams) Ross.

Item 7 – MS. MARINELLI presented a resolution Congratulating the Athletes, Staff & Volunteers of the Empire State Games for a Successful 2010 Summer Competition in Buffalo-Niagara.

Item 8 – MR. MAZUR presented a memorial resolution In Remembrance of the Life & Contributions to Our Community Made by Reverend Monsignor Robert C. Schwab.

Item 9 – MR. MILLS presented a resolution Congratulating Griffins Mills Church in the Town of Aurora on Celebrating its 200 Year Anniversary.

Item 10 – MR. MILLS presented a resolution Congratulating David Barus on His Induction into the NYS Outdoorsmen Hall of Fame.

Item 11 – MR. MILLS presented a resolution Congratulating the Town of Colden in the Celebration of its Bicentennial.

Item 12 – MR. MAZUR presented a memorial resolution Honoring the Life of Robert J. Meier.

Item 13 – MR. HARDWICK, MS. MARINELLI & MR. LOUGHRAN presented a resolution Honoring the James V. Ryan Paramedic Foundation on its 25th Anniversary.

Item 14 – MR. HARDWICK presented a resolution Honoring the City of Tonawanda Public Library's Team 1 for Winning the Buffalo & EC Public Library's Battle of the Books.

Item 15 – MR. HARDWICK presented a resolution Honoring Art & Mary Mallwitz on the 30th Anniversary of Mallwitz's Island Lanes.

Item 16 – MR. RATH presented a resolution Commemorating the 100th Anniversary of the Williamsville Branch Library.

Item 17 – MS. DIXON presented a resolution Honoring Sharen Trembath, Coordinator of the Great Lakes Beach Sweep, for 25 Years of Service.

Item 18 – MR. FUDOLI presented a resolution Congratulating Jonathan D. Lewczyk Upon His Achievement of Earning the Rank of Eagle Scout.

MS. WHYTE moved for consideration of the above fourteen items. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to amend the above fourteen items by including Et Al Sponsorship. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved for approval of the above fourteen items as amended. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

### **LOCAL LAWS**

Item 19 – CHAIR MILLER-WILLIAMS directed that Local Law No. 4 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 20 – CHAIR MILLER-WILLIAMS directed that Local Law No. 6 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 21 – CHAIR MILLER-WILLIAMS directed that Local Law No. 7 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 22 – CHAIR MILLER-WILLIAMS directed that Local Law No. 1 (Print #1) 2010 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

Item 23 – CHAIR MILLER-WILLIAMS directed that Local Law No. 2 (Print #1) 2010 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 24 – CHAIR MILLER-WILLIAMS directed that Local Law No. 3 (Print #1) 2010 remain on the table and in the PUBLIC SAFETY COMMITTEE.

GRANTED.

Item 25 – CHAIR MILLER-WILLIAMS directed that Local Law No. 4 (Print #1) 2010 remain on the table and in the PUBLIC SAFETY COMMITTEE.

GRANTED.

Item 26 – CHAIR MILLER-WILLIAMS directed that Local Law No. 5 (Print #1) 2010 remain on the table and in the PUBLIC SAFETY COMMITTEE.

GRANTED.

### **COMMITTEE REPORTS**

None.

### **LEGISLATOR RESOLUTIONS**

Item 27 – CHAIR MILLER-WILLIAMS directed that the following item be referred to the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

INTRO 15-1 from MARINELLI, WHYTE, KOZUB, GRANT, MAZUR & LOUGHRAN.  
Calling for Full Scale Review of EC Health Insurance System.

Item 28 – CHAIR MILLER-WILLIAMS directed that the following item be referred to the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

INTRO 15-2 from MARINELLI, WHYTE, KOZUB, GRANT, MAZUR & LOUGHRAN.  
Updating on Ethics Board & Compliance with Local Law.

Item 29 – MS. DIXON presented the following resolution and moved for immediate consideration and approval. MR. FUDOLI seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 191

RE: Supporting All Federal & State  
Efforts to Prevent the Asian  
Carp from Infiltrating the Great  
Lakes  
(INTRO 15-3)

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

WHEREAS, New York is home to one of the world's natural wonders and its freshwater coastlines support a thriving tourism trade, fishing industry, and provides the State a unique competitive advantage in attracting jobs and investment; and

WHEREAS, the Great Lakes provide 20% of the World's freshwater; and

WHEREAS, recent studies have tied more than 800,000 jobs to the Great Lakes and estimated the Great Lakes fishery economy at \$7 billion; and

WHEREAS, a lack of action and understanding regarding the fragile nature of the Great Lakes eco-system has allowed numerous invasive species to enter the Great Lakes with harmful impacts; and

WHEREAS, the Asian carp has proven to be highly detrimental to the safety of people and the health of eco-systems in the United States where the fish are now established; and

WHEREAS, the Asian carp can grow up to six feet and one hundred pounds, some are easily frightened by boats and personal watercraft, which causes them to leap as high as eight feet into the air injuring boaters by collisions with the fish; and

WHEREAS, the Asian carp is considered to be voracious plankton feeder, eating up to 40% of its body weight per day, that could breed quickly, and dominate food supplies within the Great Lakes harming precious gaming fish; and

WHEREAS, two species of Asian carp have now spread through the Mississippi River basin into the Chicago Waterway System that connects to the Great Lakes and have been detected at the edge of Lake Michigan; and

WHEREAS, New York Attorney General Andrew Cuomo and numerous elected officials have sought comprehensive action to close connections in the Chicago Waterway system to Lake Michigan in order to create a permanent separation between the waterways that have already been invaded by the Asian carp and the Great Lakes, an action that is supported by the states of Ohio, Wisconsin, Minnesota, Michigan and Pennsylvania and the Canadian Province of Ontario; and

WHEREAS, further inaction could have extreme and detrimental consequences on the ecology of the Great Lakes should the Asian carp enter the lakes system and begin to breed.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature urges Congress and the President of the United States to take all necessary precautions to protect the Great Lakes from the Asian carp and the eventual economic and ecological disaster that an invasion of Asian carp would pose to the Great lakes ecosystem, and ultimately, the economies of the Great Lakes States; and be it further

RESOLVED, that the Erie County Legislature urges New York State Attorney General Andrew Cuomo to continue efforts to prevent the Asian Carp from entering the Great Lakes ecosystem; and be it further

RESOLVED, that certified copies of this resolution be sent to President Barack Obama, Senator Charles Schumer, Senator Kirsten Gillibrand, Congressman Brian Higgins, Congressman Chris Lee, Congresswoman Louise Slaughter, Governor Davis Paterson, Attorney General Andrew Cuomo, members of the Western New York State Delegation, Erie County Executive Chris Collins, and Erie County Commissioner of Environment and Planning Kathy Konst.

Item 30 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 192

RE: Asking Board of Elections  
Commissioners Dennis Ward &  
Ralph Mohr to Appear Before  
the Government Affairs  
Committee to Answer Questions  
Regarding the 2010 Primary  
(INTRO 15-4)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATOR MILLER-WILLIAMS**

WHEREAS, during the 2010 elections for the Buffalo Board of Education questions were raised about the voting process and procedures at some of the polling locations within the City; and

WHEREAS, Mayor Byron Brown addressed a letter to the Commissioners of the Board of Elections, Dennis Ward and Ralph Mohr, regarding those concerns, sending a copy of that letter to this Legislative Body; and

WHEREAS, this Legislative Body then asked the Commissioners to come before this body to answer questions regarding the Board of Education election; and

WHEREAS, Commissioner Dennis Ward attended a meeting and answered questions about the voting process and problems that the Board of Elections was facing with the new machines that were now in use and a letter was sent to the Mayor outlining his testimony to this Legislative Body; and

WHEREAS, during the 2010 Primary Election new and additional concerns were raised by constituents throughout the City concerning their polling location and the votes that they cast; and

WHEREAS, some of those concerns included a feeling that there was not enough privacy while voting and occurrences where ballots that were cast were not accepted by the voting machine and the voter was left unsure if their vote would be counted, in addition to other problems; and

WHEREAS, individuals attempted on the day of the election to call attention to these concerns during the time the polls were opened by calling the Democratic Commissioner directly and they felt that their concerns were not addressed at that time.

NOW, THEREFORE, BE IT

RESOLVED, that a request is made to the Commissioners of the Board of Elections, Dennis Ward and Ralph Mohr, that they attend a meeting of the Government Affairs Committee to answer questions and concerns which have arisen about the voting process and the new machines that are being used by the Erie County Board of Elections.

MS. WHYTE moved to amend the resolution by adding MS. WHYTE, MR. KENNEDY, MS. GRANT, MR. MAZUR and MS. BOVE as Co-Sponsors. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

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

CARRIED UNANIMOUSLY.

Item 31 – CHAIR MILLER-WILLIAMS directed that the following item be referred to the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

INTRO 15-5 from KOZUB. Supporting Renewable Energy Sources but Opposing Offshore Wind Farms in Lake Erie.

Item 32 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 193

RE: NYS Tourism Act  
Re-Designation for 2010-2011  
(INTRO 15-6)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATORS MILLER-WILLIAMS, LOUGHRAN, MILLS, KOZUB, WALTER,  
FUDOLI, BOVE, HARDWICK, MARINELLI, DIXON & RATH**

WHEREAS, the promotion, development and expansion of the tourist travel, report and vacation business are vital and necessary concerns to the citizens of Erie County, since such tourism business strengthens the county's vital and necessary opportunities, and promotes the general welfare of county residents; and

WHEREAS, the NYS Legislature, in 1977, recognizing the value of local and state involvement and assistance in tourism promotion, enacted the NYS Tourism Protection Act; and

WHEREAS, this Tourism Protection Act authorizes the state's Department of Commerce to initiate a program of matching state funds for non-profit tourist promotion agencies designated by county legislative bodies as agencies authorized to apply for and receive grants for recognized media advertising programs; and

WHEREAS, the Buffalo Niagara Convention and Visitors Bureau, a non-profit tourism promotion association, has begun to bring together many new segments of the county, servicing the tourism industry in a coordinated effort.

NOW, THEREFORE, BE IT

RESOLVED, that the Buffalo Niagara Convention and Visitors Bureau, having been designated as the authorized tourism promotion agency for Erie County in 1974, is hereby re-designated as such for 2010-2011; and be it further

RESOLVED, that this Honorable Body does hereby request that the Buffalo Niagara Convention and Visitors Bureau make the appropriate application to the Commissioner of the NYS Department of Commerce for state matching funds to assist said tourism promotion agency in the financing of a recognized media advertising program, as defined and set forth in the NYS Tourism Protection Act; and be it further

RESOLVED, that officials of the Convention and Visitors Bureau are hereby requested to appear at a future meeting of the Legislature's Community Enrichment Committee to discuss the status of the aforementioned state matching fund grants and other matters relating to the furtherance of tourist activities within Erie County and Western New York; and be it further

RESOLVED, that certified copies of this resolution be sent to Commissioner of the NYS Department of Economic Development, 30 South Pearl St., Albany, NY 12245; Dottie Gallagher Cohen and Leah Mueller of the Buffalo-Niagara Convention and Visitors Bureau, 617 Main St., Suite 200, Buffalo, NY 14203-1496; NYS Assembly Tourism, Arts and Sports Development Committee, LOB 712, Albany, NY 12248; NYS Senate Tourism, Recreation and Sports Development Committee, LOB 310, Albany, NY 12248; and to Erie County Executive Chris Collins.

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

CARRIED UNANIMOUSLY.

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

CARRIED UNANIMOUSLY.

Item 33 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 194

RE: Encouraging the County  
Executive to Appoint Five (5)  
Members to the EC Board of  
Ethics  
(INTRO 15-7)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATORS MILLER-WILLIAMS, BOVE & MARINELLI**

WHEREAS, section 10(b) of the Erie County Code of Ethic states that the Board “shall consist of six members who shall serve five year terms of office, one such term expiring each year;” and

WHEREAS, members of the Board are to be appointed by the County Executive, subject to confirmation by the County Legislature; and

WHEREAS, there is currently only one member serving on the Erie County Board of Ethics; and

WHEREAS, the important work of this Board is unable to proceed without all six (6) Board Members.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is encouraged to name five (5) qualified persons to serve on the Erie County Board of Ethics, subject to the approval of the County Legislature at his earliest convenience; and be it further

RESOLVED, that the Erie County Legislature is encouraged to expeditiously review the five individuals submitted by the County Executive to serve upon the Erie County Board of Ethics on September 21, 2010; and

RESOLVED, that a copy of this certified resolution be sent to the County Executive, the County Comptroller and Mr. Steven Schwartz.

MR. WALTER moved to amend the resolution. MR. RATH seconded.

MS. WHYTE moved to amend the amendment by deleting the words "and approve." MS. MARINELLI seconded.

CHAIR MILLER-WILLIAMS directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. FUDOLI, MR. HARDWICK, MR. MILLS, MR. RATH, MR. WALTER, MS. BOVE, MS. GRANT, MR. KENNEDY, MR. KOZUB, MR. LOUGHRAN, MS. MARINELLI, MR. MAZUR, CHAIR MILLER-WILLIAMS and MS. WHYTE. NOES: None. (AYES: 15; NOES: 0)

CARRIED UNANIMOUSLY.

CHAIR MILLER-WILLIAMS moved the previous question, and directed that a roll-call vote be taken.

AYES: MS. DIXON, MR. FUDOLI, MR. HARDWICK, MR. MILLS, MR. RATH, MR. WALTER, MS. BOVE, MS. GRANT, MR. KENNEDY, MR. KOZUB, MR. LOUGHRAN, MS. MARINELLI, MR. MAZUR, CHAIR MILLER-WILLIAMS and MS. WHYTE. NOES: None. (AYES: 15; NOES: 0)

CARRIED UNANIMOUSLY.

Insert the Following After the First Resolve Clause:

RESOLVED, that the Erie County Legislature is encouraged to expeditiously review the five individuals submitted by the County Executive to serve upon the Erie County Board of Ethics on September 21, 2010; and

MS. WHYTE moved to further amend the resolution by adding MS. WHYTE, MR. KENNEDY and MS. GRANT as Co-Sponsors. MS. MARINELLI seconded.

CARRIED UNANIMOUSLY.

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

CARRIED UNANIMOUSLY.

Item 34 – MR. HARDWICK presented the following resolution and moved for immediate consideration. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 195

RE: Release Restrictive Covenant on Properties Located on Long Road in the Town of Grand

Island  
(INTRO 15-8)

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

MR. HARDWICK moved to amend the resolution. MR. WALTER seconded.

CARRIED UNANIMOUSLY.

Insert the Following Resolution:

WHEREAS, JSJ is the owner of certain parcels lying and being in the Town of Grand Island, County of Erie and State of New York and having the tax account nos. of 11.00-1-1.2 and 11.00-1-3 (hereinafter "the Parcels"); and

WHEREAS, the Parcels are burdened by certain restrictive covenants imposed in a deed from General Electric Pension Trust to Better Senior Living Corporation dated May 24, 1999 and recorded June 8, 1999 in Liber 10952 of Deeds, page 5263 and which covenants indicate the Parcels shall be operated as a not-for-profit senior housing facility, not-for-profit senior housing facilities or for not-for-profit senior services for the public good; and

WHEREAS, the County of Erie wishes to release JSJ from said restriction.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature consents to release JSJ from said restriction; and; be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Attorney and County Executive Chris Collins.

MR. HARDWICK moved to approve the resolution as amended. MR. FUDOLI seconded.

CARRIED UNANIMOUSLY.

**COMMUNICATIONS DISCHARGED FROM COMMITTEE**

Item 35 – MS. WHYTE moved to discharge the PUBLIC SAFETY COMMITTEE of further consideration of INTRO 14-1 (2010). MS. GRANT seconded. MS. DIXON, MR. FUDOLI, MR. HARDWICK, MR. MILLS, MR. RATH, MR. WALTER, MS. BOVE and MR. KENNEDY voted in the negative.

FAILED. (7-8)

**SUSPENSION OF THE RULES**

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

GRANTED.

COMM. 15D-20 from the ENVIRONMENT & PLANNING COMMISSIONER Re: Letter to Legislator Marinelli Concerning Erie Canal Harbor Development Corporation

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

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

GRANTED.

COMM. 15M-21 from the NYS OFFICE OF CHILDREN & FAMILY SERVICES Re: Letter to Social Services Commissioner Concerning EC Single Audit for 2009

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

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

GRANTED.

COMM. 15M-22 from the NYS DOT Re: Letter to EC Comptroller Concerning Closeout of EC 2009 Budget

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

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

GRANTED.

COMM. 15M-23 from the NYS DIVISION OF HOMELAND SECURITY & EMERGENCY SERVICES Re: Letter to EC Comptroller Concerning Closeout of EC 2009 Budget

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

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

GRANTED.

COMM. 15M-24 from STANDARD & POOR'S Re: Letter to EC Comptroller Concerning EC 2009 Audit Report

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

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

GRANTED.

COMM. 15M-25 from the NYS DEPARTMENT OF HEALTH Re: Letter to EC Comptroller Concerning EC 2009 Audit Report

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

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

GRANTED.

COMM. 15M-26 from the NYS OFFICE OF ALCOHOLISM & SUBSTANCE ABUSE SERVICES Re: Letter to EC Comptroller Concerning EC Single Audit for 2009

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

### **COMMUNICATIONS FROM ELECTED OFFICIALS**

#### **FROM THE COUNTY EXECUTIVE**

Item 43 – (COMM. 15E-1) Veto Message Concerning 2009 Year-End Budget Balancing Amendments & Designations.

MS. MARINELLI moved to override. MS. GRANT seconded.

CHAIR MILLER-WILLIAMS directed that a roll-call vote be taken.

AYES: MS. BOVE, MS. GRANT, MR. KENNEDY, MR. KOZUB, MR. LOUGHRAN, MS. MARINELLI, MR. MAZUR, CHAIR MILLER-WILLIAMS and MS. WHYTE. NOES: MS. DIXON, MR. FUDOLI, MR. HARDWICK, MR. MILLS, MR. RATH and MR. WALTER.  
(AYES: 9; NOES: 6)

FAILED.

#### **FROM THE COMPTROLLER**

Item 44 – (COMM. 15E-2) Letter to Legislature Concerning 1% Sales & Compensating Use Tax

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 45 – (COMM. 15E-3) Letter to Legislature Requesting Special Legislature Session

Received and Filed.

Item 46 – (COMM. 15E-4) Additional 2010 Disproportionate Share Payment - ECMCC

Item 47 – (COMM. 15E-5) Financial Report of EC for Six Months Ended 6/30/2010

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

Item 48 – (COMM. 15E-6) County Comptroller Disclosure Statement

Received and Filed.

Item 49 – (COMM. 15E-7) Certificate of Determination by the County Comptroller Relative to \$45,000,000 Revenue Anticipation Note

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM CHAIR MILLER-WILLIAMS

Item 50 – (COMM. 15E-8) Letter to Clerk of Legislature Concerning Change of Date of Regular Session

Received, Filed and Printed.

August 19, 2010

Mr. Robert M. Graber  
Clerk, Erie County Legislature  
92 Franklin Street, 4th Floor  
Buffalo, N.Y. 14202

Dear Mr. Graber:

There is a need to change the date of the Regular Session of the Erie County Legislature scheduled for Thursday, September 16, 2010.

The Regular Session scheduled for Thursday, September 16, 2010 at 2:00 p.m. must be changed to Thursday, September 23, 2010 at 2:00 p.m.

Accordingly, please notify Members of the Legislature, elected officials, Erie County staff, and news media about this change.

Thank you.

Sincerely,

Barbara Miller-Williams, Chair  
Erie County Legislature

Item 51 – (COMM. 15E-9) Updated 2010 Schedule of Legislative Sessions

Received, Filed and Printed.

To: Robert M. Graber, Clerk  
From: Barbara Miller-Williams, Chair  
Subject: 2010 SCHEDULE OF LEGISLATIVE SESSIONS  
*\*Updated August 19, 2010*

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JANUARY

7  
21

FEBRUARY

4  
25

MARCH

4  
25

APRIL

22  
29

MAY

20  
27

JUNE

10  
24

JULY

8  
22

AUGUST

Recess

SEPTEMBER

23  
30

OCTOBER

14  
28

NOVEMBER

4  
18

DECEMBER

7 *Budget*  
2  
14 *Budget Override*  
16

All Regular Sessions: Pre-Session Caucuses begin at 9:30 A.M.,  
in the Legislative Caucus Room.

All Regular Sessions: Begin at 2:00 P.M., in the Legislature Chambers.

Item 52 – (COMM. 15E-10) Updated 2010 Schedule of Legislative Sessions - Invocation & Pledge Schedule

Received, Filed and Printed.

To: Robert M. Graber, Clerk  
From: Barbara Miller-Williams, Chair  
Subject: 2010 SCHEDULE OF LEGISLATIVE SESSIONS  
INVOCATION & PLEDGE SCHEDULE

\*Updated August 19, 2010

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ORDER OF LEGISLATORS: INVOCATION & PLEDGE

JANUARY

7 – Kennedy and Bove  
21 – Walter and Hardwick

FEBRUARY

4 – Fudoli and Marinelli  
25 – Whyte and Dixon

MARCH

4 – Grant and Mills  
25 – Mazur and Loughran

APRIL

22 – Bove and Rath  
29 – Hardwick and Kozub

MAY

20 – Marinelli and Kennedy  
27 – Dixon and Walter

JUNE

10 – Mills and Fudoli  
24 – Loughran and Whyte

JULY

8 – Rath and Grant  
22 – Kozub and Mazur

AUGUST

Recess

SEPTEMBER

23 – Kennedy and Bove  
30 – Walter and Hardwick

OCTOBER

14 – Fudoli and Marinelli  
28 – Whyte and Dixon

NOVEMBER

4 – Grant and Mills  
18 – Mazur and Loughran

DECEMBER

7 *Budget*  
2 – Bove and Rath  
14 *Budget Override*  
16 – Hardwick and Kozub

FROM THE COUNTY EXECUTIVE

Item 53 – MS. DIXON presented the following resolution and moved for immediate consideration. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 196

RE: Award of Construction Contract  
- Execution of Contract for  
Engineering & Construction  
Inspection Services - Lakeshore  
Shoreline Trail Multi-Use  
Pathway - Phase 1 - Town of  
Evans  
(COMM. 15E-11)

WHEREAS, bids were taken for the Lakeshore Shoreline Trail Multi-Use Pathway – Phase 1 in the Town of Evans, on June 10, 2010, and the low bidder was ERW Enterprises, Inc. of Irving, New York at a low bid amount of \$572,800.00; and

WHEREAS, a Contract for engineering and construction inspection services for the above noted project to the engineering firm of Wendel Duchscherer Architects & Engineers, Amherst, New York is required in the amount of \$84,045.00.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to execute a Contract for Erie County Project No. TFA-127-10, NYSDOT PIN 5756.75, for the Lakeshore Shoreline Trail Multi-Use Pathway – Phase 1, between the County of Erie and the low bidder, ERW Enterprises, Inc. of Irving, New York at a low bid amount of \$572,800.00; and be it further

RESOLVED, that an amount of \$572,800.00 be allocated from SAP Account A.00213, Lakeshore Shoreline Trail, and an additional amount of \$57,280.00 be allocated for a Department of Environment and Planning construction contingency fund with authorization for the County Executive to approve change orders in an amount not to exceed \$57,280.00, also to be allocated from SAP Account A.00213; and be it further

RESOLVED, that an amount of \$84,045.00 be allocated from Lakeshore Shoreline Trail (SAP Account A.00213) for a contract for engineering services during construction, and construction inspection services with Wendel Duchscherer Architects & Engineers, Amherst, New York; and be it further

RESOLVED, that an amount of \$274,499.12 be allocated from 2008 Bicycle/Pedestrian Trail Construction project (SAP Account A.00344.1) for any necessary local share requirements for the Lakeshore Shoreline Trail; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward certified copies of this resolution to Kathy Konst, Commissioner of the Department of Environment and Planning; the Office of the County Executive; the Director of the Division of Budget and Management; the Office of the Comptroller; and the Commissioner of the Department of Public Works.

MS. DIXON moved to approve the item. MR. FUDOLI seconded.

CARRIED UNANIMOUSLY.

Item 54 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 197

RE: EC Idling Reduction Grant  
Budget  
(COMM. 15E-12)

WHEREAS, the New York State Energy and Research Development Authority (NYSERDA), through the American Recovery and Reinvestment Act (ARRA), provides grant assistance to assist with energy conservation; and

WHEREAS, NYSERDA solicited proposals for anti-idling projects; and

WHEREAS, the Erie County Department of Public Works (DPW) worked with the Department of Environment and Planning (DEP) to develop and submit a proposal for funding from NYSERDA to retrofit diesel fueled vehicles in the County fleet; and

WHEREAS, NYSERDA granted approval of the application of RFP 1613, allocating funding for an Erie County Idling Reduction Program to be implemented in Erie County for the period August 1, 2010, through September 1, 2011; and

WHEREAS, the NYSERDA funding available for equipment will include the purchase and installation of fuel-operated heaters on approximately sixty-four (64) vehicles in the County fleet; and

WHEREAS, the required local match will be provided by efficiency grant number FS107GPS1011, fund center 107, fund 281 to be used for the purchase and installation of forty-eight (48) automatic vehicle locators on county vehicles; and

WHEREAS, the grant budget for the Erie County Idling Reduction Program needs to be established.

NOW, THEREFORE, BE IT

RESOLVED, that the County be and is hereby authorized to accept the Idling Reduction Funds from NYSERDA as detailed in Agreement Number 20395; and be it further

RESOLVED, that the budget for the Erie County Idling Reduction Program, 123IDLE1011 be established as follows:

		INITIAL BUDGET
REVENUES		
<u>Account</u>	<u>Description</u>	
414000	Federal Aid	<u>\$ 192,000</u>
	TOTAL REVENUE	<u>\$ 192,000</u>
APPROPRIATIONS		
516020	Prof Serv Cont & Fees	<u>\$ 192,000</u>
	TOTAL APPROPRIATIONS	<u>\$ 192,000</u>

and be it further

RESOLVED, that two certified copies of this resolution be forwarded to the Department of Public Works, and one copy each to the Office of the County Executive, the Office of the County Comptroller, the Director of Budget and Management and the Office of the County Attorney.

Item 55 – (COMM. 15E-13) Appointments to the EC Board of Ethics

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 56 – (COMM. 15E-14) Notice of Adoption - EC Sewer Districts - 2011 Assessment  
Rolls

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 57 – (COMM. 15E-15) Department of Central Police Services Forensic Laboratory  
Fees

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 58 – (COMM. 15E-16) Payment in Lieu of Taxes (PILOT) Agreement for Main-Ferry  
Housing Affordable Housing Development

Item 59 – (COMM. 15E-17) Payment in Lieu of Taxes (PILOT) Agreement for  
Commercial Wind Energy Conversion Systems - City of Lackawanna & Town of Hamburg

The above two items were received and referred to the ECONOMIC DEVELOPMENT  
COMMITTEE.

Item 60 – (COMM. 15E-18) EC Sales & Use Tax Resolution Amendment

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 61 – (COMM. 15E-19) 2010 EC Dam Safety, Inspection & Design Engineering Services Award of Consultant Agreement

Item 62 – (COMM. 15E-20) 2010 EC Culvert Inspection & Design Award of Consultant Agreements

The above two items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 63 – (COMM. 15E-21) Semi-Annual Attendance Records - Board of Managers - EC Sewer Districts

Item 64 – (COMM. 15E-22) EC Sewer Districts 1-6 & 8 - Section 270/271 Resolutions

Item 65 – (COMM. 15E-23) EC Soil & Water Conservation District Agreement - Technical Services & Stream Bank Maintenance, Bridge & Culvert Scour Maintenance Program

Item 66 – (COMM. 15E-24) EC Sewer District No. 3 - Contract No. 8 - EC Southtowns Energy Performance Contract - Contract Close-Out

Item 67 – (COMM. 15E-25) EC Sewer District No. 2 - Engineer Term Agreement - Wendel-Duchscherer

Item 68 – (COMM. 15E-26) EC Division of Sewerage Management - Engineering Service Agreement

Item 69 – (COMM. 15E-27) EC Division of Sewerage Management - Engineering Service Agreement

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

Item 70 – (COMM. 15E-28) Request to Accept American Recovery & Reinvestment Act of 2009 Funds

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 71 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 198

RE: Notice of Public Hearing - EC  
Sewer Districts - 2011  
Assessment Rolls  
(COMM. 15E-29)

WHEREAS, Article 5-A, Sections 270 and 271 of County Law requires your Honorable Body to hold a Public Hearing on the Sewer District Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5, 6 and 8; and

WHEREAS, Notice of said Public Hearing shall be published at least once in the official County newspapers prior to holding the Public Hearing.

NOW, THEREFORE, BE IT

RESOLVED, that the Sewer District assessment rolls are open for public inspection in the offices of the Division of Sewerage Management, 95 Franklin Street, Buffalo, New York 14202; and be it further

RESOLVED, that a Public Hearing be held in the Chambers of the Erie County Legislature, 92 Franklin Street, 4th Floor, Buffalo, NY, at 1:30 p.m., local time, on November 5, 2010 for the purpose of meeting to hear and consider any objections which may be made to the 2011 Sewer District Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5, 6 and 8; and be it further

RESOLVED, that the Clerk of the Legislature be directed to have published in the official County Newspapers, and the Buffalo News, a Notice of Public Hearing no later than the week of September 26, 2010; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to Michael J. Quinn, P.E., Deputy Commissioner, Department of Environment and Planning, the County Executive, Erie County Comptroller, and Eric Ziobro, Assistant County Attorney.

Item 72 – (COMM. 15E-30) Request to Contract with Buffalo Guidance Group LLC

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 73 – (COMM. 15E-31) Property Transfer Request

Item 74 – (COMM. 15E-32) Property Transfer Request

Item 75 – (COMM. 15E-33) Property Transfer Request

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

Item 76 – (COMM. 15E-34) Agreement with M&T Mortgage Corporation - Preferred Lender Status for EC First Time Home Buyer Program

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 77 – (COMM. 15E-35) EC Division of Sewerage Management - Engineering Service Agreement

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 78 – (COMM. 15E-36) Award of Construction Contract - Change Order for Engineering & Construction Inspection Services - Reconstruction of Youngs Road & Aero Drive Intersection - Town of Cheektowaga

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM LEGISLATOR MARINELLI

Item 79 – (COMM. 15E-37) Letter to Commissioner Kathy Konst Concerning Waterfront Development

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE COUNTY ATTORNEY

Item 80 – (COMM. 15D-1) Transmittal of New Claims Against EC

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE CLERK OF THE ENERGY & ENVIRONMENT COMMITTEE

Item 81 – (COMM. 15D-2) Letters to Legislature in Relation to Supporting Renewable Energy in EC

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE DIRECTOR OF BUDGET & MANAGEMENT

Item 82 – (COMM. 15D-3) Budget Monitoring Report (BMR) for Period Ending 6/30/2010

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 83 – (COMM. 15D-4) Vacancy Report as of 7/29/2010

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE COUNTY ATTORNEY

Item 84 – (COMM. 15D-5) Transmittal of New Claims Against EC

Item 85 – (COMM. 15D-6) Transmittal of New Claims Against EC

Item 86 – (COMM. 15D-7) Transmittal of New Claims Against EC

Item 87 – (COMM. 15D-8) Transmittal of New Claims Against EC

Item 88 – (COMM. 15D-9) Transmittal of New Claim Against EC

Item 89 – (COMM. 15D-10) Transmittal of New Claims Against EC

Item 90 – (COMM. 15D-11) Transmittal of New Claims Against EC

Item 91 – (COMM. 15D-12) Transmittal of New Claims Against EC

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

FROM THE DIRECTOR OF BUDGET & MANAGEMENT

Item 92 – (COMM. 15D-13) Vacancy Report as of 8/31/2010

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE COUNTY ATTORNEY

Item 93 – (COMM. 15D-14) Transmittal of New Claims Against EC

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE CLERK OF  
FINANCE & MANAGEMENT COMMITTEE

Item 94 – (COMM. 15D-15) Mid-Year Budget Hearings Report

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY ATTORNEY

Item 95 – (COMM. 15D-16) Transmittal of New Claims Against EC

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE CLERK OF LEGISLATURE

Item 96 – (COMM. 15D-17) Change the Date of Regular Session

Received, Filed and Printed.

DATE: August 19, 2010

TO: All Members of the Erie County Legislature, Erie County

Elected Officials, Erie County Departments, New Media  
and Interested Citizens

FROM: Robert M. Graber, Clerk

RE: CHANGING DATE OF LEGISLATURE SESSION

Please be advised that Legislature Chair Barbara Miller-Williams has changed the date of the session of the Erie County Legislature scheduled for Thursday, September 16, 2010.

The Regular Session scheduled for Thursday, September 16, 2010 at 2:00 p.m. is changed to Thursday, September 23, 2010 at 2:00 p.m.

Pursuant to Section 2.01 of the Rules of Order for the Erie County Legislature, the Chair is authorized to establish the schedule for regular sessions of the Legislature.

I have also attached an updated 2010 Schedule of Legislative Sessions and Invocation & Pledge Schedule for your use.

Thank you.

**FROM THE COMPTROLLER'S OFFICE**

Item 97 – (COMM. 15D-18) Review of the EC Board of Ethics for the Period 1/1/2007 - 12/31/2009

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

**FROM THE MAJORITY COUNSEL**

Item 98 – (COMM. 15D-19) Letter to Chair Miller-Williams Concerning Alcoholic Beverage Control Law

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

**COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES**

**FROM THE NFTA**

Item 99 – (COMM. 15M-1) Minutes of Meeting Held 6/28/2010

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

**FROM DORETHA FANNING**

Item 100 – (COMM. 15M-2) Letter to Clerk of Legislature Concerning a Better Investment Climate for Verizon Corporation in NYS

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE ORCHARD PARK TOWN CLERK

Item 101 – (COMM. 15M-3) Copy of Resolution for Orchard Park & Angola Fire Districts Grant Application

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM THE NYSDEC

Item 102 – (COMM. 15M-4) Fact Sheet: Brownfield Cleanup Program - Proposed Final Cleanup Plan for the 1132-1146 Seneca Street Site Available for Public Comment

Item 103 – (COMM. 15M-5) Fact Sheet: Brownfield Cleanup Program - Cleanup Activities to Begin at 1318 Niagara Street Site

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

FROM THE NYS PUBLIC SERVICE COMMISSION

Item 104 – (COMM. 15M-6) Order Requiring Additional Mobile Stray Voltage Testing

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE NFTA

Item 105 – (COMM. 15M-7) 17A Report & Capital Expenditure Reports for First Quarter of Fiscal Year Ending 3/21/2011

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE INTERCOUNTY ASSOCIATION OF WNY

Item 106 – (COMM. 15M-8) Minutes of Meeting Held 6/18/2010

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE CLERK OF THE BOARD  
OF SUPERVISORS OF FULTON COUNTY

Item 107 – (COMM. 15M-9) Copy of Resolution Demanding that State Legislators Reduce Unfunded Mandates that Cause Local Property Tax Increases Prior to Imposing a Cap on Local Property Taxes

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE NYS DEPARTMENT OF AGRICULTURE & MARKETS

Item 108 – (COMM. 15M-10) Letter to Clerk of Legislature Regarding a Review of EC Agricultural District No. 13

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE DEPARTMENT OF THE ARMY

Item 109 – (COMM. 15M-11) Letter to Clerk of Legislature Regarding Supplemental Reconnaissance Report & Great Lakes Navigation System Review

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM ECMCC

Item 110 – (COMM. 15M-12) Minutes of Meeting Held 8/3/2010

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE ASSIGNED COUNSEL PROGRAM

Item 111 – (COMM. 15M-13) Financial Report, List of Attorneys who are Currently on the Panel & Minutes of Each Meeting Held Between 1/1/10 - 6/30/10

Item 112 – (COMM. 15M-14) Quarterly Report for the Second Quarter of 2010

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

FROM THE NYSAC

Item 113 – (COMM. 15M-15) Enacted 2010-2011 State Budget Impact on Counties Report

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE NFTA

Item 114 – (COMM. 15M-16) Minutes of Meeting Held 7/26/2010

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE CITY OF BUFFALO  
DEPARTMENT OF ASSESSMENT & TAXATION

Item 115 – (COMM. 15M-17) Assessment Pursuant to Local Laws - Downtown Pedestrian/Transit Mall

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE NYS DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION

Item 116 – (COMM. 15M-18) Region 9 Fish & Wildlife Monthly Highlights for 5/16/2010 - 6/15/2010

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM ECMCC

Item 117 – (COMM. 15M-19) Minutes of Meeting Held 9/7/2010

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE BUFFALO & EC PUBLIC LIBRARY

Item 118 – (COMM. 15M-20) Minutes of Meetings Held 7/15/2010 & 8/18/2010

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

**ANNOUNCEMENTS**

Item 119 – LEGISLATOR WHYTE announced that on Saturday, October 16, 2010, the first annual West Side Wellness Walk will be held.

Item 120 – LEGISLATOR KOZUB announced that the 2<sup>nd</sup> Annual Grilling for a Good Cause, a benefit for people with cancer, will be held at J & M West End Inn (340 Union St., Hamburg) on Saturday, October 2, 2010, from 4:00 until 9:00 P.M.

Item 121 – LEGISLATOR DIXON announced that on Saturday, September 25, 2010, from 11:00 A.M. until 3:00 P.M., she will be sponsoring a hot dog roast on behalf of the Hamburg Public Library, to be held at the Hamburg Library. All are invited to attend.

**MEMORIAL RESOLUTIONS**

Item 122 – Legislator Mazur requested that when the Legislature adjourns, it do so in memory of Robert J. Meier.

Item 123 – Legislator Hardwick requested that when the Legislature adjourns, it do so in memory of Brian Dugan and Andrew Iraci.

Item 124 – Legislator Loughran requested that when the Legislature adjourns, it do so in memory of Stephen J. Meyers.

Item 125 – Legislator Whyte requested that when the Legislature adjourns, it do so in memory of Richard Colon.

Item 126 – Legislator Rath requested that when the Legislature adjourns, it do so in memory of T.J Senff.

Item 127 – Legislator Kozub requested that when the Legislature adjourns, it do so in memory of Lawrence R. Basel Sr.

Item 128 – Legislator Mills requested that when the Legislature adjourns, it do so in memory of Anthony DiFilippo III.

Item 129 – Legislator Mazur requested that when the Legislature adjourns, it do so in memory of Elizabeth M. ‘Betty’ Selva.

Item 130 – Legislator Dixon requested that when the Legislature adjourns, it do so in memory of Joan Haws, Michael Corski and Irene Cafferty.

**ADJOURNMENT**

Item 131 - At this time, there being no further business to transact, CHAIR MILLER-WILLIAMS announced that the Chair would entertain a Motion to Adjourn.

MR. MAZUR moved that the Legislature adjourn until Thursday, September 30, 2010 at 2:00 p.m. Eastern Standard Time. MR. WALTER seconded.

CARRIED UNANIMOUSLY.

CHAIR MILLER-WILLIAMS declared the Legislature adjourned until Thursday, September 30, 2010 at 2:00 p.m. Eastern Standard Time.

**ROBERT M. GRABER**  
**CLERK OF THE LEGISLATURE**