

**MEETING NO. 17  
JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

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MEETING NO. 17  
JUNE 23, 2005**

The Legislature was called to order by Chairman Holt.

All Members Present.

A Moment of Silence was held.

The Pledge of Allegiance was led by Ms. Marinelli

Item 1 – CHAIRMAN HOLT directed that the Rules of the Legislature for 2005 Remain on the table.

Item 2 – No tabled items.

Item 3 – No items for reconsideration from previous meetings.

Item 4 – Minutes of previous meetings were tabled.

Item 5 - No Public Hearings.

**LEGISLATOR RESOLUTIONS**

Item 6 – MS. MARINELLI presented the following resolution and moved for immediate consideration. MS. CHASE seconded. MR. DeBENEDETTI voted in the negative.

CARRIED.

RESOLUTION NO. 172

RE: A Comprehensive Plan For  
Fiscal Recovery (Into 17-1)

WHEREAS, a \$5 million targeted cut package at this juncture is political posturing to a vocal minority of people who do not want to see county government fixed, but just want to see more chaos, and

WHEREAS, many of the targeted departments may not be able to sustain any further cuts at this time without jeopardizing vital services, reimbursements and/or revenue, and

**MEETING NO. 17**  
**JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

WHEREAS, it is more important then ever that the Legislature understand the day in and day out services provided by county government, which are executed at the department level, and

WHEREAS, if the Legislature wants to start down the road to solving the problem, the political posturing and stop gap measures must give way to a comprehensive plan that refashions the delivery of services in Erie County within the financial constraints we are currently facing, and

WHEREAS, in order to solve this fiscal problem, the Legislature needs to go back to basics, which means understanding, department by department, ECC and ECMCC, where tax dollars are being spent, where mandates are required, where reimbursements are being received and where revenue is being generated, and

WHEREAS, only with the help of the talented and committed individuals in every department, most of whom are not about politics, but about providing necessary services to county residents, will this fiscal crisis be rectified, and

WHEREAS, it is time for the departments to help the Legislature -within the parameters set by the current fiscal condition of the county -best continue county services with the scarce resources currently available, and

WHEREAS, if department heads cooperate with the Legislature in this initiative, Erie County will be able to cut costs and assure that expenses do not spiral out of control in the third and fourth quarters of this fiscal year.

NOW, THEREFORE, BE IT

RESOLVED, all Erie County Elected Officials (Executive, Comptroller, Sheriff, District Attorney, Clerk and Legislature), Erie County Appointed Officials, Erie County Administrative Units, and Erie County Departments must submit to the Legislature no later than June 24, 2005, a report on the redeployment of County resources and services after the catastrophic cuts that were made over the last six months, which assures the Legislature and the public that County resources are being spent wisely, and be it further

RESOLVED, should any Erie County Elected Officials (Executive, Comptroller, Sheriff, District Attorney, Clerk and Legislature), Erie County Appointed Officials, Erie County Administrative Units, or Erie County Departments fail to submit the above mandated report, then the Erie County Executive is charged with submitting a report by Monday, June 27, 2005, with recommendations, including but not limited to further possible reductions of any non-compliant department, and be it further

**MEETING NO. 17**  
**JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

RESOLVED, effective immediately, every fund, department and account contained in the General Fund is capped at 75% of the amount appropriated in the 2005 Amended Adopted Erie County Budget, and be it further

RESOLVED, should it become necessary to appropriate funds beyond the 75% cap, all Erie County Elected Officials (Executive, Comptroller, Sheriff, District Attorney, Clerk and Legislature) Erie County Appointed Officials, Erie County Administrative Units, and Erie County Departments must submit a detailed prior written notice of their desire to appropriate such funds beyond the 75% cap along with an official justification signed by the head of the requesting authority to the Legislature at least two (2) weeks prior to potential action on the request, and be it further

RESOLVED, that within one (1) week of the submission of the prior written notice, the requesting authority must provide the Legislature with the complete, appropriate and necessary documentation to effectuate the request should the Legislature agree to authorize it, and be it further

RESOLVED, should an emergency arise making it necessary to expend funds beyond the 75% cap, the County Executive must make an appropriate emergency declaration under the Erie County Charter and provide the Legislature with written notice of such expenditure or expenditures within three (3) days of the emergency declaration for ratification by the Legislature, and be it further

RESOLVED, that certified copies of this resolution shall be sent to Erie County Executive Joel A. Giambra, Erie County Comptroller Nancy A. Naples, Erie County Sheriff Patrick M. Gallivan, Erie County District Attorney Frank J. Clark, Erie County Clerk David J. Swarts, all Erie County Appointed Officials, all Erie County Administrative Units and all Erie County Departments.

FISCAL IMPACT: Positive

MS. MARINELLI moved to amend the item. MR. SWANICK seconded. MR. SMITH and MR. DeBENEDETTI voted in the negative.

CARRIED.

**DELETE** the resolution in its entirety and **REPLACE** with the following:

WHEREAS, it is more important then ever that the Legislature understand the day in and day out services provided by county government, which are executed at the department level, and

WHEREAS, in order to solve this fiscal problem, the Legislature needs to go back to basics, which means understanding, department by department, ECC and ECMCC,

**MEETING NO. 17**  
**JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

where tax dollars are being spent, where mandates are required, where reimbursements are being received and where revenue is being generated, and

WHEREAS, only with the help of the talented and committed individuals in every department will this fiscal crisis be rectified, and

WHEREAS, it is time for the departments to help the Legislature - within the parameters set by the current fiscal condition of the county - best continue county services with the scarce resources currently available, and

WHEREAS, if department heads cooperate with the Legislature in this initiative, Erie County will be able to cut costs and assure that expenses do not spiral out of control in the third and fourth quarters of this fiscal year.

NOW, THEREFORE, BE IT

RESOLVED, all Erie County Elected Officials (Executive, Comptroller, Sheriff, District Attorney, Clerk and Legislature), Erie County Appointed Officials, Erie County Administrative Units, and Erie County Departments must submit to the Legislature no later than July 10, 2005, a report on the redeployment of County resources and services after the catastrophic cuts that were made over the last six months, which assures the Legislature and the public that County resources are being spent wisely, and be it further

RESOLVED, should any Erie County Elected Officials (Executive, Comptroller, Sheriff, District Attorney, Clerk and Legislature), Erie County Appointed Officials, Erie County Administrative Units, or Erie County Departments fail to submit the above mandated report then the Erie County Executive is charged with submitting a report by July 15, 2005, with recommendations, including but not limited to further possible reductions of any non-compliant department, and be it further

RESOLVED, effective immediately, all Erie County Elected Officials (Executive, Comptroller, Sheriff, District Attorney, Clerk and Legislature) Erie County Appointed Officials, Erie County Administrative Units, and Erie County Departments shall implement a spending cap on every fund, department and account contained in the General Fund, except for mandated expenses, set at 75% of the amounts appropriated by department or administrative unit, as appropriate, in the 2005 Erie County Adopted and Amended Budget, and be it further

RESOLVED, the intent of the Erie County Legislature is that all budget reductions and modifications made to-date shall be applied in achieving the 75% cap, and be it further

RESOLVED, should it become necessary to expend funds beyond the 75% cap, the applicable official, unit or department must submit a detailed prior written notice of

**MEETING NO. 17**  
**JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

their desire to expend such funds beyond the 75% cap along with an official justification signed by the head of the requesting authority to the Clerk of the Legislature at least two (2) weeks prior to such expenditure, and be it further

RESOLVED, should an emergency arise making it necessary to expend funds beyond the 75% cap, the County Executive must make an appropriate emergency declaration under the Erie County Charter and provide the Clerk of the Legislature with written notice of such expenditure or expenditures within three (3) days of the emergency declaration, and be it further

RESOLVED, that the Legislature shall state its objections to such expenditures in excess of the 75% cap within fourteen (14) days of notice by the applicable official, unit or department and in the event of such objection the applicable official, unit or department shall not proceed with such expenditure, and be it further

RESOLVED, that certified copies of this resolution shall be sent to Erie County Executive Joel A. Giambra, Erie County Comptroller Nancy A. Naples, Erie County Sheriff Patrick M. Gallivan, Erie County District Attorney Frank J. Clark, Erie County Clerk David J. Swarts, all Erie County Appointed Officials, all Erie County Administrative Units and all Erie County Departments.

CHARLES M. SWANICK

**Fiscal Impact:** Positive.

MS. MARINELLI moved to further amend the item by adding Mr. McCarville, Ms. Chase, Ms. Cusack, Mr. Ranzenhofer, Mr. Wroblewski, and Mr. Kuwik as co-sponsors. MR. SWANICK seconded.

CARRIED UNANIMOUSLY.

MS. MARINELLI moved to approve the item as amended. MR. SWANICK seconded. MR. SMITH and MR. DeBENEDETTI voted in the negative.

CARRIED.

Item 7 – MS. MARINELLI presented the following resolution and moved for immediate consideration. MS. CHASE seconded. MR. SMITH voted in the negative.

CARRIED.

RESOLUTION NO. 173

RE: Stabilizing The 2005 Erie  
 County Budget (Intro 17-2)

**MEETING NO. 17  
JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

A RESOLUTION TO BE SUBMITTED BY  
LEGISLATOR MARINELLI

WHEREAS, the Erie County Legislature, in order to continue to address the \$118.4 million 2005 deficit identified by the New York State Comptroller, and to reduce or eliminate the possibility of further financial problems in 2006 and subsequent years, does hereby commit itself to further actions to address the imbalance in the 2005 Erie County Adopted Amended Budget.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature notes the passage of local laws concerning budget monitoring reports, an early release of the budget, the establishment of the Citizens Budget Review Commission of Erie County, which is working in concert with the Buffalo Niagara Partnership's Stabilization Project, and the creation of a Charter Review Commission – all measures advanced by the Legislature to help develop fiscal stability and fiscal reform in Erie County, and be it further

RESOLVED, that the Erie County Legislature, taking note of the \$118.4 million deficit and the respective recommendations of the State and County Comptrollers for actions concerning that deficit, and noting current proposals by legislators concerning deficit reductions including Intro. 16-8 in the Government Affairs Committee and Intros. 15-1, 15-2, and 15-10 in the Finance and Management Committee, commits to streamlining and making Erie County government more efficient and providing necessary services to the taxpayers at less expense through appropriate future actions, and be it further

RESOLVED, that certified copies of this resolution be transmitted to the County Executive, New York State Comptroller, Erie County Comptroller, the local delegation of the New York State Legislature, and the Governor.

LYNN M. MARINELLI

**Fiscal Impact:** Positive.

MS. MARINELLI moved to amend the item. MR. SWANICK seconded. MR. SMITH and MR. DeBENEDETTI voted in the negative.

CARRIED.

AN AMENDMENT TO INTRO. 17-2  
TO BE SUBMITTED BY LEGISLATORS MARINELLI, SWANICK AND HOLT

**RE: STABILIZING THE 2005 ERIE COUNTY BUDGET**

**MEETING NO. 17**  
**JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

**ADD** the following RESOLVE Clauses after the second (2nd) RESOLVE:

RESOLVED, that the Erie County Legislature does hereby call on the Giambra Administration to comply with Section 1803(f) of the Erie County Charter and calls on the County Executive and his appointed Director of Budget, Management and Finance to transmit the certified 2005 Erie County budget to the Legislature forthwith, and be it further

RESOLVED, that in order to accurately monitor and develop adjustments to the 2005 Erie County Budget, the Erie County Legislature calls on the County Executive and his appointed Director of Budget, Management and Finance to transmit to the Legislature immediately, accurate, up-to-date (as of June 15, 2005) financial data, including budgeted revenues and expenditures and actual revenues and expenditures for each account in each County department, office or agency as the County Executive is required to do under the terms of the state's deficit financing legislation, and be it further

RESOLVED, that the Erie County Legislature expresses its intention to stabilize the County's finances through appropriate measures and future actions which include cost reduction and cost containment measures, and be it further

RESOLVED, that as per the state's requirement for a four-year fiscal plan by October 1, 2005, and as per previous requests by this Honorable Body for multi-year planning, as noted in the passage of a Local Law concerning the budget, the Erie County Legislature expresses its support for the creation of a multi-year fiscal plan by the Giambra Administration and calls on the Administration to share the plan with the Legislature by September 1, 2005, and to work with the Office of the Comptroller and the Legislature to address projections of cash flow, employment levels, capital costs, anticipated debt service costs, cash reserves and fund balances, to attend to the structural deficits and financial gaps in the 2006-2009 fiscal years, and be it further

RESOLVED, that the Erie County Legislature expresses its support for the creation of fee-for-service arrangements and/or intermunicipal agreements that reduce County costs while maintaining essential or requested services in communities including Sheriff, Highway, and Park services as a way to access funds pledged by the State, and be it further

MS. MARINELLI moved to further amend the item by adding MS. CHASE and MR. McCARVILLE as co-sponsors.

CARRIED UNANIMOUSLY.

MS. MARINELLI moved to approve the item as amended. MR. SWANICK seconded. MR. SMITH and MR. DeBENEDETTI voted in the negative.

**MEETING NO. 17  
JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

CARRIED.

Item 8 – MS. MARINELLI presented the following resolution and moved for immediate consideration. MR. SWANICK seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 174

RE: Imposition of Additional .25%  
Sales and Compensating Use Tax –  
Assembly and Senate (Intro 17-3)

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

MS. MARINELLI moved to amend the resolution by attaching the following amendment. MR. SWANICK seconded.

CARRIED UNANIMOUSLY.

**AN AMENDMENT TO INTRO. 17-3  
TO BE SUBMITTED BY LEGISLATOR HOLT**

**RE: IMPOSITION OF ADDITIONAL .25% SALES AND COMPENSATING  
USE TAX – ASSEMBLY AND SENATE**

**ADD** the following:

RESOLUTION

of the

Legislature of Erie County increasing taxes on sales and uses of tangible personal property and of certain services, on occupancy of hotel rooms and on amusement charges pursuant to Article 29 of the Tax Law of the State of New York.

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

Section 1. The Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number



31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, is hereby further amended by adding a new section 4-A to read as follows:

Section 4-A. Imposition of additional rate of sales and compensating use taxes.

In addition to the sales and compensating use taxes imposed by sections 2 and 4 of this resolution, there is hereby imposed and there shall be paid an additional one-quarter of one percent rate of such sales and compensating use taxes, for the period beginning July 1, 2005, and ending November 30, 2007. Such additional taxes shall be identical to the taxes imposed by such sections 2 and 4 and shall be administered and collected in the same manner as such taxes. All of the provisions of this resolution relating or applicable to the administration and collection of the taxes imposed by such sections 2 and 4 shall apply to the additional taxes imposed by this section, including the applicable transitional provisions, limitations, special provisions, exemptions, exclusions, refunds and credits as are set forth in this resolution, with the same force and effect as if those provisions had been incorporated in full into this section and had expressly referred to the additional taxes imposed by this section; provided that net collections from such additional rate shall be set aside for county purposes as provided in subdivision (f) of section 14 of this resolution.

Section 2. A new subdivision (E) is added to clause (1) of section 11 of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, to read as follows:

**MEETING NO. 17**  
**JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

(E) With respect to the additional taxes imposed at the rate of one-quarter of one percent by section 4-A of this resolution, for the period beginning July 1, 2005, and ending November 30, 2007, in respect to the use of property used by the purchaser in this county prior to July 1, 2005.

Section 3. A new subdivision (f) is added to section 14 of the Erie County Sales and Use Tax Resolution, being a resolution adopted by the Board of Supervisors of the County of Erie as Item 8 of Meeting Number 31, held July 27, 1965, Supervisors Proceedings, page 666, as amended, to read as follows:

(f) Net collections from the additional one-quarter of one percent rate of taxes imposed during the period commencing July 1, 2005 and ending November 30, 2007, by section 4-A of this resolution shall be paid to the county and shall be used by the county solely for county purposes and shall not be subject to any revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section 1262 of the Tax Law. Nor shall any part of such net collections, or other County revenues, be subject to the revenue sharing formula set forth in a resolution adopted by the Erie County Legislature on December 7, 2004, relative to twelve million five hundred thousand dollars.

Section 4. This enactment shall take effect July 1, 2005.

MS. MARINELLI moved for the approval of the item as amended. MR. SWANICK seconded.

CHAIRMAN HOLT directed that a roll-call vote be taken.

AYES: CHASE, McCARVILLE, SWANICK, DeBENEDETTI, DUSZA, HOLT, KUWIK, MARINELLI, SMITH, and WROBLEWSKI. NOES: CUSACK, MARSHALL, RANZENHOFER, WEINSTEIN, and KENNEDY. (AYES:10, NOES: 5)

**MEETING NO. 17  
JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

---

CARRIED.

**COMMUNICATIONS FROM ELECTED OFFICIALS**

**FROM CHAIRMAN HOLT**

Item 9 – (Comm. 17E-1) Calling Special Session of 6/23/2005

Received, Filed, and Printed.

June 23, 2005

Kevin M. Kelley  
Clerk  
Erie County Legislature  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, New York 14202

Dear Mr. Kelley:

Pursuant to Rule 2.02 of the *RULES OF ORDER* of the Erie County Legislature, you are hereby directed to call a Special Meeting of the Erie County Legislature to be held on *TUESDAY, JUNE 28, 2005 at 1:00 O’CLOCK* in the afternoon of that day in the Erie County Legislature Chambers on the 4<sup>th</sup> floor of old County Hall, 92 Franklin Street, in the City of Buffalo, New York.

This session will entail action concerning the Office of Erie County Comptroller and a vote on the Erie Community College Budget for 2005-2006.

Please notify legislators, the administration and the public of this meeting. Thank you for your assistance.

Sincerely,

GEORGE A. HOLT, JR.  
Chairman  
Erie County Legislature

**COMMUNICATIONS FROM THE DEPARTMENTS**

**FROM THE CLERK OF THE LEGISLATURE**

Item 10 – (Comm. 17D-1) Special Session Notice

**MEETING NO. 17**  
**JUNE 23, 2005**

**ERIE COUNTY LEGISLATURE**

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Received, Filed, and Printed.

To: All Erie County Legislators  
From: Kevin M. Kelley, Clerk of the Legislature  
Subject: SPECIAL MEETING NOTICE

*PLEASE TAKE NOTICE* that pursuant to Rule 2.02 of the *RULES OF ORDER* of the Erie County Legislature and under the direction of Chairman George A. Holt, Jr., there will be a SPECIAL MEETING of the Erie County Legislature on *TUESDAY, JUNE 28, 2005 at 1:00 O'CLOCK* in the afternoon of that day in the Erie County Legislature Chambers concerning the 4<sup>th</sup> floor of old County Hall, 92 Franklin Street, in the City of Buffalo, New York.

This session will entail action on the Office of Erie County Comptroller and a vote on the Erie Community College Budget for 2005-2006.

Thank you.

ATTACHMENT – Chairman Holt's Letter

**MEMORIAL RESOLUTIONS**

None.

**ADJOURNMENT**

Item 11 - At this time, there being no further business to transact, the Chairman announced that the Chair would entertain a Motion to Adjourn.

MS. MARINELLI moved that the Legislature adjourn until 2 p.m. Tuesday, July 7, 2005. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

The Chairman declared the Legislature adjourned until Tuesday, July 7, 2005 at 2 p.m. Eastern Standard Time.

**KEVIN M. KELLEY**  
**CLERK**