

SUSPENSION

A RESOLUTION TO BE SUBMITTED BY LEGISLATOR LORIGO

Re: Creation of a Special Investigative Counsel

WHEREAS, recent complaints have surfaced, contained in a public Notice of Claims document regularly filed with the Erie County Legislature, that explicitly accuse the County of Erie of negligent hiring practices, failing to act on repeated complaints of the Commissioner's actions, failing to inform subordinates of his actions, and failing to stop repeated abusive behavior of the Commissioner towards subordinate employees; and

WHEREAS, this honorable body determines that if there is any validity to these claims and the process for reporting abusive behavior is, in fact, broken, we must take action; and

WHEREAS, this honorable body finds that pursuant to Article II, Section 202(8), of the Erie County Charter this body is empowered to make such studies and investigations as we deem to be in the best interests of the county; and

WHEREAS, this body further finds that the Erie County Charter authorizes this body to obtain professional and technical advice, appoint temporary advisory boards, subpoena witnesses, administer oaths, and require the production of books papers and other evidence; and

WHEREAS, the study must be conducted and limited to the occurrences related to the Commissioner's termination, which has been stated to be a violation of the County's fraternization policy, which was done separately and prior to his arrest; and

WHEREAS, this body finds that time is of the essence for this study to be conducted quickly and to determine what, if anything, the county could have done to prevent this tragedy from occurring.

NOW, THEREFORE, BE IT

RESOLVED, that, pursuant to our authority in Article II of the Erie County Charter, this honorable body hereby orders the appointment of a Special Counsel to investigate:

- a) Formal claims or complaints related to former Social Services Commissioner Al Dirschberger, whether made during his tenure as Social Services Commissioner or complaints that were known or should have been known prior to his hiring;
- b) The procedure followed for each complaint or claim made during the Commissioners tenure as head of Social Services, and any corrective actions taken;
- c) Written procedures followed by other counties as to similar complaints made against supervisors; and

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- d) Whether any complaints or claims were sent to, were required to be sent to, or should have been sent to anyone in the Equal Employment Office, the Personnel Office, the County Attorney's Office, or the Executive's Office.

and, be it further

RESOLVED, that Special Counsel shall also investigate the following claims made against the County of Erie:

- Was the County negligent in the hiring and supervision of Al Dirschberger?
- Was anyone in County government aware of sexual harassment and/or abuse by Al Dirschberger while he was employed by Erie County, and allowed said conduct to continue unabated?
- Was the County negligent in their duty to protect employees from Al Dirschberger, or instances of sexual harassment or assault?
- Was the County negligent in failing to protect employees from the dangers posed by Al Dirschberger?
- Who had, or should have had actual or constructive notice of the prior actions of Al Dirschberger, specific to sexually harassing and or abusing employees in his charge?

And, be it further,

RESOLVED, that the first two resolved clauses shall form the scope of the Special Counsel's charge and mandate; and, be it further

RESOLVED, that the appointment of a Special Counsel shall be made by this body no later than May 24, 2018, pursuant to a formal RFP process drawn up by the County Attorney, as directed in this resolution, ordered today and publicly issued by this body no later than April 12, 2018; and, be it further

RESOLVED, that funding for the Special Counsel's contract shall be established within the budget of the Risk Retention Fund; and, be it further

RESOLVED, that the formal RFP issued no later than March 30, 2018 shall be co-produced by the Majority and Minority Counsels and approved as to form by the Chairman, Majority Leader and Minority Leader before its public issuance; and, be it further

RESOLVED, that the Legislature hereby establishes an oversight committee responsible for considering and reviewing responses to the RFP and making a recommendation of Special Counsel to be approved by the entire Legislature; and, be it further

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RESOLVED, that the newly formed and temporary oversight committee shall consist of five Legislators to include:

- Chairman of the Erie County Legislature
- Majority Leader of the Erie County Legislature and one additional member of the Majority Caucus chosen by the Majority leader
- Minority Leader of the Erie County Legislature and one additional member of the Minority Caucus chosen by the Minority leader

With the Chairman of the Erie County Legislature or his choice of appointed committee members serving as the Chairperson of the Committee; and, be it further

RESOLVED, that the County Attorney is hereby directed and authorized to enter into contract with the Special Counsel chosen by the Erie County Legislature to facilitate this independent process; and, be it further

RESOLVED, that all Elected Officials, Commissioners, Department Heads, and employees of the County of Erie are hereby instructed to cooperate with the chosen Special Counsel, and be it further

RESOLVED, that certified copies of this resolution shall be provided to the County Executive, County Comptroller, District Attorney, County Clerk, All Commissioners and Department Heads, the Erie County Bar Association, and any other party deemed necessary and proper.

Fiscal Impact: To be negotiated by the County Attorney and approved the Erie County Legislature Pursuant to a public RFP process.