

**ERIE COUNTY LEGISLATURE
MEETING NO. 4
FEBRUARY 23, 2012**

The Legislature was called to order by Chair Grant.

All members present.

An Invocation was held, led by Mr. Hardwick, who invited Rev. Kevin Backus, Ph.D., Senior Pastor, Bible Presbyterian Church, Grand Island, to lead the Invocation.

The Pledge of Allegiance was led by Mr. McCracken.

Item 1 – No tabled items.

Item 2 – No items for reconsideration from previous meeting.

Item 3 – MR. MAZUR moved for the approval of the minutes for Meeting Number 3 from 2012. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

Item 4 – No Public Hearings.

MISCELLANEOUS RESOLUTIONS

Item 5 – MR. HOGUES presented a resolution Recognizing Safety Week in EC.

Item 6 – MR. MILLS presented a resolution Congratulating Gowanda Mayor Richard Klancer on His 10 Years of Outstanding Service to His Community & on His Election to the Cattaraugus County Legislature.

Item 7 – MS. MARINELLI presented a resolution Congratulating Lynda Stephens Upon Receiving ECC's Louis J. Billittier Honorary Alumni Award.

Item 8 – MR. HARDWICK presented a memorial resolution Honoring the Life of Alan Capenhurst.

Item 9 – MR. HARDWICK presented a resolution Honoring Magdalyn Chauby on Performing at Carnegie Hall's Weill Recital Hall.

Item 10 – MR. McCRACKEN presented a resolution Commending the EC Division of Sewerage Management Safety Committee on the Success of the Worker Safety Program.

Item 11 – MR. MILLS presented a resolution Congratulating A Village Locksmith on Being Named the Recipient of the Small Business of the Year Award by the Evans-Brant Chamber of Commerce.

Item 12 – MR. MILLS presented a resolution Congratulating Lads Pet Supplies on Being Named the Recipient of the Large Business of the Year Award by the Evans-Brant Chamber of Commerce.

Item 13 – MR. MILLS presented a resolution Congratulating Joseph M. Pisarski on Being Named the Recipient of the Citizen of the Year Award by the Evans-Brant Chamber of Commerce.

Item 14 – MR. MILLS presented a resolution Congratulating the Boys & Girls Club of Lake Shore on Being Named the Recipient of the Not-for-Profit of the Year Award by the Evans-Brant Chamber of Commerce.

Item 15 – MR. MILLS presented a resolution Congratulating Jay’s Hilltop Bistro on Being Named the Recipient of the Emerging Business Award by the Evans-Brant Chamber of Commerce.

Item 16 – MR. MILLS presented a resolution Congratulating Kim’s Shear Expressions on Being Named the Recipient of the Emerging Business Award by the Evans-Brant Chamber of Commerce.

Item 17 – MR. MILLS presented a resolution Congratulating Scallywags Restaurant on Being Named the Recipient of the Special Perseverance Award by the Evans-Brant Chamber of Commerce.

Item 18 – MR. MILLS presented a resolution Congratulating the Lake Erie Beach Volunteer Fire Company on Being Named the Recipient of the Project of the Year Award by the Evans-Brant Chamber of Commerce.

Item 19 – MR. MAZUR presented a memorial resolution In Remembrance of Darlene Kosmoski.

Item 20 – CHAIR GRANT presented a resolution Honoring the Buffalo Colored Musicians Club.

MR. MAZUR moved for consideration of the above sixteen items. MS. MARINELLI seconded.

CARRIED UNANIMOUSLY.

MR. MAZUR moved to amend the above sixteen items by including Et Al Sponsorship. MS. MARINELLI seconded.

CARRIED UNANIMOUSLY.

MR. MAZUR moved for approval of the above sixteen items as amended. MS. MARINELLI seconded.

CARRIED UNANIMOUSLY.

LOCAL LAWS

Item 21 – CHAIR GRANT directed that Local Law No. 8 (Print #1) 2011 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 22 – CHAIR GRANT directed that Local Law No. 11 (Print #1) 2011 remain on the table and in the PUBLIC SAFETY COMMITTEE.

GRANTED.

COMMITTEE REPORTS

None.

LEGISLATOR RESOLUTIONS

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

CARRIED UNANIMOUSLY.

RESOLUTION NO. 57

RE: Opposing Closure of the Niagara Falls
Air Base
(INTRO 4-1)

WHEREAS, the direct impact of Niagara Falls Air Force Base on the economy of Western New York is well in excess of \$100 million annually; and

WHEREAS, the indirect impact of Niagara Falls Air Force Base on Western New York is even higher; and

WHEREAS, the Niagara Falls Air Force Base is important to the operation of Air Force Reserve and Guard operations in the northeastern United States and especially in New York State because of its status as the only remaining Air Force Reserve Base in New York State; and

WHEREAS, many citizens from Erie County are Reservists stationed at the Niagara Falls Air Force Base, defending the United States from threats across the globe.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby opposes closing or reducing operations at the Niagara Falls Air Base; and be it further

RESOLVED, that copies of this resolution be forwarded to the local delegation of the United States Congress.

MR. MAZUR moved to amend the resolution by adding Et Al Sponsorship. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

MR. MAZUR moved to approve the resolution as amended. MS. DIXON seconded.

CARRIED UNANIMOUSLY.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

None.

SUSPENSION OF THE RULES

Item 24 – MR. MAZUR moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 4E-13 from the COUNTY EXECUTIVE Re: Personnel Adjustments - EC Correctional Health Services

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 25 – MR. MAZUR moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 4E-14 from the COUNTY EXECUTIVE Re: US Department of Justice/Personnel Adjustments - EC Correctional Health Services

MR. MAZUR moved for immediate consideration and approval. MS. MARINELLI seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 58

WHEREAS, the Erie County Sheriff is responsible for health care at the Erie County Correctional Facility and the Erie County Holding Center; and

WHEREAS, the Erie County Department of Health provides medical oversight and medical staffing to provide health care at the Erie County Correctional Facility and Erie County Holding Center under an Interdepartmental Agreement with the Erie County Sheriff; and

WHEREAS, the availability of Physician Assistants and Nurse Practitioners, Registered Nurses and Medical Aides (Licensed Practical Nurses) locally, is very competitive, thus we must offer a competitive salary commensurate with the responsibilities of the position and in line with community standards, to attract a qualified candidate in Correctional Health Services; and

WHEREAS, in order to reduce contractual services and recruit and retain additional qualified professional staff for the Correctional Health Services, it is necessary to create one new position and establish variable minimums for four medical service positions; and

WHEREAS, funding for the implementation of this restructuring is built into the Health Department's 2012 Budget and is also available from vacancy savings and there is no negative 2012 budgetary impact.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the creation of one full time position of Head Nurse Holding Center, JG 10, Step 4 variable minimum (\$49,978 annual salary) in the Teamsters bargaining unit, as indicated on B100 #6800; and be it further

RESOLVED, that the Erie County Legislature hereby authorizes the establishment of variable minimum hiring levels in order to facilitate the recruitment of medical personnel for the Health Department's Correctional Health Services Division as follows:

Number of Positions	Bargaining Unit	Title	Job Group	Current Budgeted Step	New Step Variable Minimum	New Annual Salary	2012 Budgeted Annual Salary
1	CSEA	Physician Assistant	16	Step 3	Step 2	76,158	78,359
3	NYSNA	Nurse Practitioner	12	Step 0	Step 8	78,393	59,072

and be it further

RESOLVED, that while there is additional expense due to the new position and four variable minimums (approximately \$130,000), due to vacancy savings from other correctional health positions being vacant throughout the first two months of 2012 (total vacancy savings of over \$579,000), there is no additional 2012 budgetary impact above the adopted budget for the Department of Health from any of these adjustments; and be it further

RESOLVED, that certified copies of this resolution will be forwarded to the Erie County Sheriff, the County Executive, the Office of the Comptroller, the Department of Personnel, the Director of Labor Relations, the Division of Budget and Management, the Department of Law and to Commissioner Gale R. Burstein in the Erie County Department of Health.

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM LEGISLATOR McCracken

Item 26 – MR. MAZUR presented the following resolution and moved for immediate consideration and approval. MS. MARINELLI seconded. MR. McCracken abstained.

CARRIED. (10-0-1)

RESOLUTION NO. 59

RE: Lease Agreement for Legislative Office
Space
(COMM. 4E-1)

RESOLVED, the Erie County Executive is hereby authorized to sign a Two (2) Year Lease Agreement with Cycan, LLC for Legislative office space for Terrence D. McCracken, located at 2640 George Urban Blvd., Cheektowaga, New York for a monthly rate of \$700.

FROM THE COUNTY EXECUTIVE

Item 27 – MR. MAZUR presented the following resolution and moved for immediate consideration. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

MR. MAZUR moved to amend the item. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

Insert the Attached:

RESOLUTION NO. 60

RE: Morales Settlement
(COMM. 4E-2)

WHEREAS, the County of Erie is self-insured; and

WHEREAS, the prior County Administration agreed to a \$7 million settlement of a lawsuit brought by Jannette Morales involving her injury at a City of Buffalo pool in August 2009; and

WHEREAS, the County must effectuate the payment of the settlement by March 3, 2012 or face interest and penalty charges; and

WHEREAS, the County received higher than budgeted sales tax revenues in 2011; and

WHEREAS, the County's 2012 budgeted Risk Retention Fund has insufficient funds to effectuate the \$7 million payment; and

WHEREAS, the County's Risk Retention Fund will also require funding replenishment for 2012 to effectuate payment of other claims, judgments and settlements, as well as payments to outside legal counsel, including consultants retained by the County for the Buffalo Bills negotiations; and

WHEREAS, upon approval of this resolution the County will end 2011 with a positive variance in the Risk Retention Fund which can be partially utilized to make the Morales settlement payment as well as designate \$5,000,000 into 2012 for use in the Risk Retention Fund.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the \$7 million settlement payment in the Morales matter; and be it further

RESOLVED, that this payment shall be made through appropriating \$5,675,320 in higher than budgeted 2011 sales tax revenues and utilizing \$1,324,680 in 2011 funds available from the Risk Retention Fund; and be it further

RESOLVED, that authorization is hereby provided to appropriate the required funds for payment of the Morales settlement as follows:

Fund 110 - 2011 Budget		
Fund Center 14010 – County Wide Accounts Budget		
Revenue		Increase
Account 402000	3% Sales Tax EC Purposes	3,500,000
Account 402100	1% Sales Tax EC Purposes	<u>2,175,320</u>
	Total Revenue Increase	5,675,320

Fund Center 16020 – Risk Retention

Expense		Increase
Account 555000	General Liability	5,675,320
	Revenue less Expense	0

and be it further

RESOLVED, that authorization is provided to designate the remaining available balance of 2011 funding within the County Attorney's Risk Retention Fund in the amount of \$5,000,000 and rollover said amount into the 2012 Risk Retention Fund; and be it further

RESOLVED, that the Budget Director and Comptroller are hereby authorized to make the necessary budgetary adjustments to effectuate these changes; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Budget Director, County Attorney and Comptroller.

MR. MAZUR moved to approve the item as amended. MR. RATH seconded.

CARRIED UNANIMOUSLY.

Item 28 – MR. MAZUR presented the following resolution and moved for immediate consideration and approval. MS. MARINELLI seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 61

RE: Authorization to Allow the EC Department of Mental Health to Increase the 2011 Agency Funding & Contract with Catholic Charities of WNY, Inc. (COMM. 4E-3)

WHEREAS, the Erie County Department of Mental Health is responsible for the delivery of a comprehensive range of mental health services for the residents of Erie County; and

WHEREAS, the Erie County Department of Mental Health has available \$162,938 in New York State Aid revenues and Professional Service dollars to enhance the NYS Promise Zone Initiative at identified Buffalo Public Schools and expand the Multisystemic Therapy Contingency Management program for chemically dependent youth; and

WHEREAS, the Erie County Department of Mental Health has an established 2011 appropriation and contract with Catholic Charities of WNY, Inc., to provide behavioral health services to youth and families in Erie County; and

WHEREAS, New York State has identified Catholic Charities of WNY, Inc., as the preferred recipient of these additional funds to provide the enhanced services.

NOW, THEREFORE, BE IT

RESOLVED, that the 2011 Single Point of Accountability Grant (#124SPOA2011) appropriation for Catholic Charities of WNY, Inc., (GL #517541), be increased by \$162,938; the source of these funds being available balance in Professional Service Contracts (GL #516020); and be it further

RESOLVED, that the County Executive be authorized to amend and increase the 2011 appropriation and contract for the period January 1, 2011 through December 31, 2011, with Catholic Charities of WNY, Inc., by an amount not to exceed \$162,938; and be it further

RESOLVED, that certified copies of this resolution be furnished to the Office of the County Executive, the Department of Mental Health, the Office of the Comptroller, and the Division of Budget & Management.

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

CARRIED UNANIMOUSLY.

RESOLUTION NO. 62

RE: County-Wide Petroleum Based Storage
Tanks & Environmental Concerns
(COMM. 4E-4)

WHEREAS, the County has been cited by the United States of America, on behalf of the United States Environmental Protection Agency for non-compliance with Section 9006 of the Resource Conservation & Recovery Act (RCRA) and Section 311 of the Clean Water Act (CWA) for violations stemming from non-compliance of state and federal regulations for petroleum based storage tanks and environmental concerns; and

WHEREAS, the attorneys for the Department of Justice have filed a motion to enter the Consent Decree with the United States District Court for Western New York on February 7, 2012; and

WHEREAS, the County will have 30 days for correcting the violations contained in the Consent Decree; and

WHEREAS, your Honorable Body has previously approved a general A/E term agreement with the firm of Wendel-Duchscherer for providing professional A/E services on County projects; and

WHEREAS, the firm of Wendel-Duchscherer has previously provided professional A/E consulting services on a portion of this work.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to enter into an Agreement Amendment with the firm of Wendel-Duchscherer for providing professional A/E consulting services and project administration for the initial phase of the project for an amount not to exceed \$50,000; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from SAP Project A.20917 – Countywide Code and Environmental Compliance for an amount not to exceed \$50,000; and be it further

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

Item 30 – (COMM. 4E-5) Supplemental Agreement with NYSDOT - Bridge Painting Project Two

Item 31 – (COMM. 4E-6) Bridge Painting Project Construction Award Project Two

Item 32 – (COMM. 4E-7) August 2009 Storms - 2011 FEMA, FHWA & EWP Match - Road Reconstruction Design

Item 33 – (COMM. 4E-8) Supplemental Agreement with NYSDOT - Colvin Boulevard at Highland Avenue - Town of Tonawanda

Item 34 – (COMM. 4E-9) Colvin Boulevard at Highland Avenue - Construction Award - Town of Tonawanda

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

Item 35 – (COMM. 4E-10) Appointments to EC Sewer District No. 2 Board of Managers

Item 36 – (COMM. 4E-11) Appointments to EC Sewer District No. 4 Board of Managers

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

Item 37 – (COMM. 4E-12) Issuance of Executive Order No. 6

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE EC COMMUNITY CORRECTIONS ADVISORY BOARD

Item 38 – (COMM. 4D-1) Letter to Legislature Concerning Recommendations for Improvements at the EC Holding Center & Correctional Facility

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM THE COUNTY ATTORNEY

Item 39 – (COMM. 4D-2) Transmittal of New Claims Against EC

Item 40 – (COMM. 4D-3) Transmittal of New Claims Against EC

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

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM SQUEAKY WHEEL

Item 41 – (COMM. 4M-1) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE WNY ARTISTS GROUP INC.

Item 42 – (COMM. 4M-2) 2012 Cultural Organization Data Response Sheet

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE NEW PHOENIX THEATRE

Item 43 – (COMM. 4M-3) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE IRISH CLASSICAL THEATRE COMPANY

Item 44 – (COMM. 4M-4) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE NEGLIA BALLET ARTISTS

Item 45 – (COMM. 4M-5) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE LANCASTER OPERA HOUSE THEATRE

Item 46 – (COMM. 4M-6) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE BUFFALO PHILHARMONIC CHORUS

Item 47 – (COMM. 4M-7) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM ECMCC

Item 48 – (COMM. 4M-8) Copy of Materials Distributed at Meeting Held 2/7/2012

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE EDEN TOWN CLERK

Item 49 – (COMM. 4M-9) Copies of Resolutions Concerning Highway Signage & Mandate Relief

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM AN ASSOCIATE PROFESSOR OF
ACCOUNTING, IONA COLLEGE

Item 50 – (COMM. 4M-10) Letter to Legislator Dixon Concerning Vacancy in the Office of EC Comptroller

Received and Filed.

FROM THE POLISH ARTS CLUB OF BUFFALO, INC.

Item 51 – (COMM. 4M-11) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM HALLWALLS

Item 52 – (COMM. 4M-12) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM SQUEAKY WHEEL

Item 53 – (COMM. 4M-13) 2012 Cultural Organization Data Response Sheet

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM BIG ORBIT GALLERY

Item 54 – (COMM. 4M-14) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE NYSDEC

Item 55 – (COMM. 4M-15) Fact Sheet: Draft Investigation Work Plan for Brownfield Available for Public Comment - 285-295 Niagara Street Site

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE BUFFALO & EC HISTORICAL SOCIETY

Item 56 – (COMM. 4M-16) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE NYSDEC

Item 57 – (COMM. 4M-17) Public Notice: Brownfield Cleanup Program Application from Harbour District Associates, LLC for a Site Known as 125 Main Street

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE NYSDOT

Item 58 – (COMM. 4M-18) Copy of Resolution Concerning Discontinuance of Maintenance of a Portion of Kinsley Road in the Town of Elma

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE THEATRE OF YOUTH

Item 59 – (COMM. 4M-19) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE MARTIN HOUSE RESTORATION CORPORATION

Item 60 – (COMM. 4M-20) 2012 Cultural Organization Data Response Sheet

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE LANGSTON HUGHES INSTITUTE, INC.

Item 61 – (COMM. 4M-21) 2012 Budget Accountability Act Submission

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

ANNOUNCEMENTS

Item 62 – CHAIR GRANT announced that the schedule of upcoming committee meetings has been distributed. She also noted that the first meeting of the Minority & Women Business Enterprise Committee will be held on Tuesday, February 28, 2012 at 1:00 P.M., in the Legislature Chambers.

MEMORIAL RESOLUTIONS

Item 63 – Legislator Hardwick requested that when the Legislature adjourns, it do so in memory of James H. Pax, former Supervisor of Grand Island. Legislator Hardwick also requested that the Legislature adjourn in memory of Daniel P. Rivers II, Lucille J. Waterhouse, Michael R. Reinhardt, Richard E. Dutton, Mildred M. Baker, Gary K. Shubbuck, James E. Ritzenthaler, Michael J. Fahey and Joan M. Dekdebrun.

Item 64 – Legislator Marinelli requested that when the Legislature adjourns, it do so in memory of Neil E. Garvey.

Item 65 – Legislator Dixon requested that when the Legislature adjourns, it do so in memory of Anna Rose Leavoy.

Item 66 – Legislator Rath requested that when the Legislature adjourns, it do so in memory of Charles H. Barney.

ADJOURNMENT

Item 67 - At this time, there being no further business to transact, CHAIR GRANT announced that the Chair would entertain a Motion to Adjourn.

MR. MAZUR moved that the Legislature adjourn until Thursday, March 15, 2012 at 2:00 p.m. Eastern Standard Time. MR. McCracken seconded.

CARRIED UNANIMOUSLY.

CHAIR GRANT declared the Legislature adjourned until Thursday, March 15, 2012 at 2:00 p.m. Eastern Standard Time.

ROBERT M. GRABER
CLERK OF THE LEGISLATURE