

**ERIE COUNTY LEGISLATURE  
SPECIAL MEETING  
MEETING NO. 15  
JULY 24, 2009**

The Legislature was called to order by Chair Marinelli.

All members present, except Legislator Mills.

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

The Pledge of Allegiance was led by Mr. Walter.

**COMMUNICATIONS DISCHARGED FROM COMMITTEE**

Item 1 – MS. WHYTE moved to discharge the ECONOMIC DEVELOPMENT COMMITTEE of further consideration of COMM. 14E-2 (2009). MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 218

RE: Authorization for the Buffalo & EC  
Industrial Land Development Corp. to  
Issue Bonds  
(COMM. 14E-2, 2009)

WHEREAS, it is the policy of the State to promote the economic welfare and prosperity of its inhabitants and to actively promote, attract, encourage, and develop economically sound commerce and industry; and

WHEREAS, Erie County is tasked with the responsibility and burden to promote the health, safety, and general welfare of its residents by, among other things, preventing unemployment and economic deterioration including by increasing and maintaining employment opportunities and attracting and sustaining economically sound commerce; and

WHEREAS, the number of facilities located within the County that are operated by not-for-profit corporations has increased and will continue to increase the employment opportunities for County residents; and

WHEREAS, the ability to provide financing through the issuance of tax exempt and taxable bonds to projects of not-for-profit corporations is essential to the continued development, construction, improvement, and operation of these facilities; and

WHEREAS, in furtherance of its public purposes, the County has supported the provision of tax-exempt financing by the Erie County Industrial Development Agency (ECIDA) and of certain other financial incentives to not-for-profit corporations to promote the creation and preservation of employment opportunities for Erie County residents and to develop economically sound commerce consistent with the County's burdens and responsibilities as expressed above; and

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (ILDC), a local development corporation formed on January 13, 1982, under Sections 402 and 1411 of the Not-For-Profit Corporation Law, was established and is operated pursuant to its Certificate of Incorporation (a copy of which is on file with the County Clerk); and

WHEREAS, the exclusive public purpose of the ILDC is to relieve and reduce unemployment, promote and provide for additional and maximum employment, improve and maintain job opportunities, and lessen the burdens of government; and

WHEREAS, the ILDC, acting in the public interest, has the powers, among other things, to construct, to acquire, to rehabilitate, and to improve for use by others industrial or manufacturing plants and to assist financially in such construction, acquisition, rehabilitation, and improvement, to acquire real or personal property, and to issue bonds, notes, and other obligations thereof; and

WHEREAS, to accomplish its job creation and other economic development responsibilities and to relieve the burdens related to same and to facilitate the ability of not-for-profit corporations to access capital for projects that enhance, create, and preserve employment opportunities for County residents, the County desires to charge the ILDC with such burdens and responsibilities and to authorize the ILDC to issue bonds on behalf of the County for such purposes and to work with the ECIDA to achieve such public purposes.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Executive is authorized to charge the ILDC with the responsibility of issuing bonds on behalf of the County for the purpose of job creation and economic development; and be it further

RESOLVED, that the Erie County Executive hereby designates the ILDC to act on behalf of the County for the purpose of issuing bonds with the authority to exercise on the County's behalf all lawful powers as may be deemed necessary to accomplish its public purposes including to enhance, create, and preserve employment opportunities for residents of the County; and be it further

RESOLVED, that such powers shall include, but not be limited to, those powers described in Section 1411 of the New York Not-For-Profit Corporation Law and its Certificate of Incorporation, with the power to issue tax exempt and taxable bonds, notes, or other obligations on behalf of the County in furtherance of its purposes; and be it further

RESOLVED, that any obligations issued by the ILDC shall never be a debt of the State of New York, the County of Erie, or any political subdivision thereof (other than the ILDC), and neither the State of New York, the County of Erie, or any political subdivision thereof (other than the ILDC) shall be liable thereon; and be it further

RESOLVED, that the County is hereby authorized to covenant and agree with the ILDC in a transaction contemplated by this resolution for the benefit of the ILDC and the holders from time to time of any bonds, notes, or other obligations or other securities (hereinafter collectively, the "Securities") issued by the ILDC; and be it further

RESOLVED, that the County will not limit or alter the rights of the ILDC to fulfill the terms of its agreements with the holders of the Securities or in any way impair the rights and remedies of such holders of the security for the Securities until the Securities, together with the interest due thereon or payable in respect thereof and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged; and be it further

RESOLVED, that authorized representatives of the County are hereby granted the power to make such a covenant to and agreement with the ILDC and to take any and all actions necessary or desirable to cause such covenant and agreement to be made or enforced; and be it further

RESOLVED, that the ILDC is hereby authorized to assign to or for the benefit of the holders of its Securities any covenant or agreement made by the County pursuant to the foregoing provisions; and be it further

RESOLVED, that these resolutions shall take effect immediately; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the County Attorney; the Director of Budget and Management; the Commissioner of Environment and Planning; Daniel D. Barry, Deputy Commissioner of the Department of Environment and Planning; and the County Comptroller.

MS. WHYTE moved to amend the item. MR. KENNEDY seconded. MR. RATH, MR. WALTER and MS. KONST voted in the negative.

CARRIED. (11-3)

Delete the Resolution in the Entirety and Insert the Following:

WHEREAS, it is the policy of the State to promote the economic welfare and prosperity of its inhabitants and to actively promote, attract, encourage, and develop economically sound commerce and industry; and

WHEREAS, it is in the interest of the County that the ILDC should support responsible businesses that will deliver on their promises to provide good jobs and services to the residents of Erie County and enhance local workforce development, and since the ILDC will provide not-for-profits significant local tax breaks, and local communities should get the promised benefits in exchange for sacrificing this much needed revenue; and

WHEREAS, Erie County is tasked with the responsibility and burden to promote the health, safety, and general welfare of its residents by, among other things, preventing unemployment and economic deterioration including by increasing and maintaining employment opportunities and attracting and sustaining economically sound commerce; and

WHEREAS, the number of facilities located within the County that are operated by not-for-profit corporations has increased and will continue to increase the employment opportunities for County residents; and

WHEREAS, the ability to provide financing through the issuance of tax exempt and taxable bonds to projects of not-for-profit corporations is essential to the continued development, construction, improvement, and operation of these facilities; and

WHEREAS, in furtherance of its public purposes, the County has traditionally supported the provision of tax-exempt financing by the Erie County Industrial Development Agency (ECIDA) and of certain other financial incentives to not-for-profit corporations to promote the creation and preservation of employment opportunities for Erie County residents and to develop economically sound commerce consistent with the County's burdens and responsibilities as expressed above; and

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (ILDC), a local development corporation formed on January 13, 1982, under Sections 402 and 1411 of the Not-For-Profit Corporation Law, was established and is operated pursuant to its Certificate of Incorporation (a copy of which is on file with the County Clerk); and

WHEREAS, the exclusive public purpose of the ILDC is to relieve and reduce unemployment, promote and provide for additional and maximum employment, improve and maintain job opportunities, and lessen the burdens of government; and

WHEREAS, the ILDC, acting in the public interest, has the powers, among other things, to construct, to acquire, to rehabilitate, and to improve for use by others industrial or manufacturing plants and to assist financially in such construction, acquisition, rehabilitation, and improvement, to acquire real or personal property, and to issue bonds, notes, and other obligations thereof; and

WHEREAS, to accomplish its job creation and other economic development responsibilities and to relieve the burdens related to same and to facilitate the ability of not-for-profit corporations to access capital for projects that enhance, create, and preserve employment opportunities for County residents, the County desires to charge the ILDC with such burdens and responsibilities and to authorize the ILDC to issue bonds on behalf of the County for such purposes only and to work with the ECIDA to achieve such public purposes without in any way infringing on the powers of the Erie County Comptroller and Erie County Legislature to conduct, authorize or sell bonds or notes for County purposes.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County hereby authorizes the ILDC to issue bonds on behalf of the County, subject to the third RESOLVED below for the sole purpose of issuing debt for the benefit of tax-exempt not-for-profit corporations and private entities who otherwise would seek assistance from the Erie County Industrial Development Agency in order to further job creation and economic development; and be it further

RESOLVED, that such powers shall include those powers described in Section 1411 of the New York Not-For-Profit Corporation Law and its Certificate of Incorporation, with the power to issue tax exempt and taxable bonds, notes, or other obligations on behalf of the County in furtherance of its purposes; and be it further

RESOLVED, that any obligations issued by the ILDC shall never be a debt of the State of New York, the County of Erie, or any political subdivision thereof, and neither the State of New

York, the County of Erie, nor any political subdivision thereof shall be liable thereon; and be it further

RESOLVED, that the County is hereby authorized to covenant and agree with the ILDC in a transaction contemplated by this resolution for the benefit of the ILDC and the holders from time to time of any bonds, notes, or other obligations or other securities (hereinafter collectively, the "Securities") issued by the ILDC; and be it further

RESOLVED, that whenever a recipient of financial assistance from the ILDC enters into any contract, subcontract, lease, grant, bond, covenant or other agreement for or in connection with any construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement work on a project, such project shall be deemed to be a public work for the purposes of Article Eight of the New York State Labor Law and all the provisions of such Article shall apply. An employer shall pay employees no less than the prevailing rate of wage and supplements under Article Eight of the New York State Labor Law; and be it further

RESOLVED, that the County will not limit or alter the rights of the ILDC to fulfill the terms of its agreements with the holders of the Securities or in any way impair the rights and remedies of such holders of the security for the Securities until the Securities, together with the interest due thereon or payable in respect thereof and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged; and be it further

RESOLVED, that authorized representatives of the County are hereby granted the power to make such a covenant to and agreement with the ILDC and to take any and all actions necessary or desirable to cause such covenant and agreement to be made or enforced; and be it further

RESOLVED, that the ILDC is required to provide to the Erie County Legislature and the Erie County Comptroller a report no later than the sixtieth day after any bond issuance which report shall include (1) a list of any Securities issued or sold during the past thirty (30) days or proposed to be issued during the next thirty (30) days, (2) the transacting parties to such issued or proposed to be issued Securities, and (3) the details of each closed transaction, including, but not limited to, the purchasers of such Securities, the interest rate for each transaction, the term of each transaction, the underwriter, if any, of each transaction, and a copy of any official statement or other offering document issued pursuant to each transaction and the ILDC is required to provide the Erie County Legislature and the Erie County Comptroller copies of any New York State PAAA reports; and be it further

RESOLVED, that the chairperson of the Legislature, chairperson of the Legislature's Economic Development Committee, and the President of the local AFL-CIO shall be appointed as members of the seven-member Board of Directors of the ILDC and in the event those appointments are not made, any County authorization shall expire immediately; and be it further

RESOLVED, that a copy of the By Laws of the ILDC shall be filed with the Erie County Legislature within five (5) days after adoption; and be it further

RESOLVED, that these resolutions shall take effect immediately; and be it further

RESOLVED, that upon the enactment of legislation by the New York State Legislature permitting Industrial Development Agencies to issue taxable and tax exempt bonds, notes or other obligations, this Resolution and the powers delegated to the ILDC hereunder shall expire immediately; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Erie County Executive; the County Attorney; the Western New York Legislative Delegation; the Director of Budget and Management; the Commissioner of Environment and Planning; Deputy Commissioner of the Department of Environment and Planning; the Board of Directors of the ILDC; Counsel for the ILDC; and the County Comptroller.

MS. WHYTE moved to approve the item as amended. MR. KENNEDY seconded.

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

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

CARRIED.

### **COMMUNICATIONS FROM ELECTED OFFICIALS**

#### **FROM CHAIR MARINELLI**

Item 2 – (COMM. 15E-1) Letter to Legislature Clerk Calling Special Meeting

Received, Filed and Printed.

July 22, 2009

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

Dear Mr. Graber:

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 FRIDAY, JULY 24, 2009 at THREE O'CLOCK in the afternoon of that day in the Erie County Legislature Chambers on the 4th Floor of Old County Hall, 92 Franklin Street, in the City of Buffalo, New York.

Items on the agenda will include consideration of a discharge from the Economic Development Committee of COMM. 14E-2 (2009), Authorization for the Buffalo & EC Industrial Land Development Corp. to Issue Bonds; as well as my letter as Legislature Chair to you directing

you to call the special meeting; and your letter as Clerk of the Legislature calling the special meeting.

Sincerely,

Lynn M. Marinelli  
Chair, Erie County Legislature

**COMMUNICATIONS FROM THE DEPARTMENTS**

**FROM THE CLERK OF THE LEGISLATURE**

Item 3 – (COMM. 15D-1) Special Meeting Notice

Received, Filed and Printed.

July 22, 2009

To: All Members of the Erie County Legislature

From: Robert M. Graber, Clerk

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 Chair Lynn M. Marinelli, there will be a Special Meeting of the Erie County Legislature on FRIDAY, JULY 24, 2009 at THREE O'CLOCK in the afternoon of that day in the Chambers of the Erie County Legislature, 4th Floor of Old County Hall, 92 Franklin Street, in the City of Buffalo, New York.

The purpose of the Special Meeting will be to consider a Discharge from the Economic Development Committee of COMM. 14E-2 (2009), Authorization for the Buffalo & EC Industrial Land Development Corp. to Issue Bonds.

The items on the agenda of the Special Meeting will include consideration of the Discharge item from the Economic Development Committee (COMM. 14E-2, 2009); Chair Marinelli's letter to me calling the Special Meeting; and my Memo as Clerk of the Legislature to Members of the Legislature calling the Special Meeting.

Thank you.

**ANNOUNCEMENTS**

Item 4 – CHAIR MARINELLI announced happy birthday wishes to Legislator Kozub for July 23<sup>rd</sup>, and Legislator Konst for July 25<sup>th</sup>.

**MEMORIAL RESOLUTIONS**

Item 5 – Legislator Miller-Williams requested that when the Legislature adjourns, it do so in memory of Buffalo Police Officer Jose A. Colon.

Item 6 – Legislator Kennedy requested that when the Legislature adjourns, it do so in memory of Mary B. Mangone, Marjorie (Coughlin) Flynn, and Mary (Hyland) Renzoni.

Item 7 – Legislator Grant requested that when the Legislature adjourns, it do so in memory of Whitey Johnson.

Item 8 – Legislator Mazur requested that when the Legislature adjourns, it do so in memory of Florence J. Ciesielski, Eugenia M. Mazromatis, and Viola V. Noga.

Item 9 – Legislator Reynolds requested that when the Legislature adjourns, it do so in memory of Roger David Goldsmith, George C. Wilson, and Grace M. Smith.

Item 10 – Legislator Konst requested that when the Legislature adjourns, it do so in memory of Amber Graf and Sarah Breslin.

**ADJOURNMENT**

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

MR. KOZUB moved that the Legislature adjourn until Thursday, September 10, 2009 at 2:00 P.M. Eastern Standard Time. MS. KONST seconded.

CARRIED UNANIMOUSLY.

CHAIR MARINELLI declared the Legislature adjourned until Thursday, September 10, 2009 at 2:00 P.M. Eastern Standard Time.

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