

**ERIE COUNTY LEGISLATURE
MEETING NO. 20
OCTOBER 22, 2009**

The Legislature was called to order by Chair Marinelli.

All members present.

An Invocation was held, led by Ms. Grant, who requested a moment of silence.

The Pledge of Allegiance was led by Mr. Mazur.

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 19 from 2009. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 4 – No Public Hearings.

MISCELLANEOUS RESOLUTIONS

Item 5 – CHAIR MARINELLI presented a resolution Congratulating ECC Board of Trustees' Officers of the Year 2009/2010 Academic Year – Patricia A. Krzesinski, Chair; Patricia H. Mertz, Vice Chair; and Paul Stasiak, Secretary.

Item 6 – MS. IANNELLO presented a resolution Recognizing October 24, 2009 as International Day of Climate Action in Erie County.

Item 7 – MS. IANNELLO & CHAIR MARINELLI presented a resolution Congratulating the Village of Kenmore on Being Named One of the Top 10 Great Neighborhoods in the United States.

Item 8 – MS. WHYTE presented a resolution Recognizing October 25 - 31, 2009 as Childhood Lead Poisoning Prevention Week.

Item 9 – MR. REYNOLDS presented a resolution Honoring Five Generations of the Lawton Family who have Proudly Served as Firefighters in the Town of North Collins.

Item 10 – MR. RATH presented a resolution Recognizing Kyle Flierl for His Hard Work, Dedication and Service to the Boy Scouts of America in Achieving the Rank of Eagle Scout.

Item 11 – MR. RATH presented a resolution Recognizing and Congratulating Gene Vukelic on Being Honored as the Recipient of the 2009 National Beer Wholesalers Association Lifetime Service Award.

Item 12 – MS. IANNELLO presented a Memorial Resolution for James Sheridan Harmon.

MS. WHYTE moved for consideration of the above eight items. MS. IANNELLO seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to amend the above eight items by adding one for MR. MAZUR, adding one for MR. REYNOLDS, and also by including Et Al Sponsorship. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved for approval of the above ten items as amended. MR. WROBLEWSKI seconded.

CARRIED UNANIMOUSLY.

LOCAL LAWS

Item 13 – CHAIR MARINELLI directed that Local Law No. 2 (Print #1) 2008 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

Item 14 – CHAIR MARINELLI directed that Local Law No. 4 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 15 – CHAIR MARINELLI directed that Local Law No. 5 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 16 – CHAIR MARINELLI directed that Local Law No. 6 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 17 – CHAIR MARINELLI directed that Local Law No. 7 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 18 – CHAIR MARINELLI directed that Local Law No. 9 (Print #1) 2009 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

Item 19 – MR. WROBLEWSKI moved to remove Local Law No. 10 (Print #1) 2009 from the table. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

COUNTY OF ERIE

LOCAL LAW INTRO. NO. 10-1 2009

LOCAL LAW NO. _____-2009

A LOCAL LAW prohibiting the use of wireless handsets to compose, read or send text messages, e-mails or Twitter while operating a motor vehicle in Erie County.

BE IT ENACTED BY THE COUNTY OF ERIE AS FOLLOWS:

SECTION 1. Title. This law shall be known as the “Anti-Texting and/or Twittering While Driving Law”

SECTION 2. Intent. The quantity of in-vehicle communication devices continues to grow and numerous studies and reports point out the relationship and dangerous effects of driver distraction and motor vehicle accidents, the Erie County Legislature recognizes a need to protect citizens from accidents and serious physical injuries caused by driver distraction from use of in-vehicle communication devices. The purpose of the Local Law is to protect the public interest, welfare, health and safety within the County of Erie by reducing the incidence of distracted driving and improving the safety on our roadways. Specifically, the law would ban motorists from using wireless handsets to compose, read, or send text messages, e-mails or twitter while operating a motor vehicle on any public street or public highway in Erie County. The Erie County Legislature notes that according to studies conducted by the American Automobile Association (AAA), any activity that takes a driver’s attention off the road for more than two seconds can double a driver’s risk of a crash. The United States government estimates that 30% of all crashes in the United States result from driver distraction. Statistics from the New York State Department of Motor Vehicles, in 2006, also indicate that nearly 30% of accidents in the State involve driver distraction or inattention. The Erie County Legislature further recognizes that in response to the growing danger of distracted driving and the increasing number of accidents involving cell phone usage while driving, the New York State Legislature passed a state-wide ban on the use of hand-held cell phones while driving. However, the Erie County Legislature also recognizes that when New York banned motorists from talking on hand-held cellular phones in 2001, text messaging was fairly uncommon. However, since that time, text messaging has become an increasingly popular form of communication. In fact, the Cellular Telecommunications and Internet Association (“The Wireless Association”) reported that there were 251.45 million U.S. wireless subscribers in 2006 that sent 158 billion text messages, an increase of 95% from 2005, translating into approximately 300,000 text messages per minute. The

Erie County Legislature further notes that text messaging is now one of the latest electronic fads and driving dangers and a recent national survey found that 19% of motorists between the ages of 18 and 60 admitted to text messaging while driving, while 37% of drivers between the ages 18 and 27 indicated that they do so. The Erie County Legislature has concluded based upon all available information and data that text messaging, e-mailing and/or tweeting are especially dangerous since these practices require drivers to take their eyes and mind off the road, as well as their hands off the steering wheel. In response to this threat to the public safety, the Erie County Legislature believes it is necessary and appropriate to provide law enforcement with yet another tool to combat this dangerous practice.

SECTION 3. Definitions.

Whenever used in this Local Law, the following terms shall be defined as follows unless the context or subject matter otherwise requires:

1. "Hands Free" shall mean the manner in which a wireless handset is operated for the purpose of composing, reading or sending text messages, by using an internal feature or function, or through an attachment or addition, including but not limited to an ear piece, head set, remote microphone or short range wireless connection, thereby allowing the user to operate said device without the use of hands.
2. "Inoperability" shall mean a motor vehicle that is incapable of being operated or being operated in a safe and prudent manner due to mechanical failure, including but not limited to engine overheating or tire failure.
3. "Motor Vehicle" shall mean any vehicle that is self-propelled by a motor, including but not limited to, automobiles, trucks, vans, construction vehicles, etc.
4. "Person" shall mean any natural person, corporation, unincorporated association, firm, partnership, joint venture, joint stock association or other entity or business organization of any kind.
5. "Stopped" shall mean not in motion.
6. "Text Message", also referred to as short messaging service (SMS), shall mean the process by which users send, read, or receive messages on a wireless handset, including but not limited to, text messages, instant messages, electronic messages or e-mails, in order to communicate with any person or device.
7. "Use" shall mean to hold a wireless handset in one's hands.
8. "Wireless Handset" shall mean a portable electronic or computing device, including cellular telephones and digital personal assistants (PDAs), capable of transmitting data in the form of a text message.

SECTION 4. Prohibited Uses of Electronic Devices While Operating A Motor Vehicle.

1. No person shall use a wireless handset to compose, read or send text messages while operating a motor vehicle on any public street or public highway within the County of Erie.
2. Notwithstanding subsection 1., this law shall not be construed to prohibit the use of any wireless handset by:

- (a) Any law enforcement, public safety or police officers, emergency services officials, first aid, emergency medical technicians and personnel, and fire safety officials in the performance of duties arising out of and in the course of their employment as such;
 - (b) A person using a wireless handset to contact an individual listed in subsection (a);
or
 - (c) A person using a wireless handset inside a motor vehicle while such motor vehicle is parked, standing or stopped and is removed from the flow of traffic in accordance with applicable laws, rules or ordinances, or is stopped due to inoperability of such motor vehicle.
3. Notwithstanding subsection 1., this local law shall not be construed to prohibit a person operating a motor vehicle from utilizing a hands-free wireless handset.

SECTION 5. Enforcement and Penalties.

1. A violation of any provisions of this local law shall constitute an offense and be punishable by a fine of an amount of \$150.00 for each single violation. Each such violation shall constitute a separate and distinct offense.
2. This local law shall be enforced by the Erie County Sheriff's Department and may be enforced by any other law enforcement agency having jurisdiction within the County of Erie.

SECTION 6. Reverse Preemption.

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Erie. The Erie County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been acted for the purposes of triggering the provisions of this section.

SECTION 7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 8. Effective Date.

This Local Law shall take effect immediately.

SPONSORED BY

**LEGISLATOR TIMOTHY M. WROBLEWSKI
LEGISLATOR TIMOTHY M. KENNEDY**

MR. WROBLEWSKI moved to approve Local Law No. 10 (Print #1) 2009. MR. KENNEDY seconded.

CHAIR MARINELLI directed that a roll-call be taken.

AYES: MR. MILLS, MR. RATH, MR. WALTER, MS. GRANT, MS. IANNELLO, MR. KENNEDY, MR. KOZUB, MR. LOUGHRAN, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. TERRANOVA, MS. WHYTE and MR. WROBLEWSKI. NOES: None. (AYES: 15; NOES: 0)

CARRIED UNANIMOUSLY.

COMMITTEE REPORTS

Item 20 – MR. REYNOLDS presented the following report, moved to separate item Number 2, and moved to approve the balance of the report. MS. WHYTE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 266

October 13, 2009	FINANCE & MANAGEMENT COMMITTEE REPORT NO. 11
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ALL MEMBERS PRESENT.

CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 18E-2 (2009)
COMPTROLLER: “July 2009 Sales Tax”
(6-0)
 - b. COMM. 18D-1 (2009)
DIRECTOR OF BUDGET & MANAGEMENT: “BMR Report - Period Ending 7/31/09”
(6-0)
 - c. COMM. 18D-3 (2009)
DEPUTY COMPTROLLER: “EC Comptroller Audit - EC Industrial Development Agency-
Related Payments in Lieu of Taxes to the County of Erie”
(6-0)
 - d. COMM. 19E-1 (2009)

MARINELLI: "Copy of Letter to County Executive Concerning 2010 Budget Concerns
Voiced by District 11 Constituents"
(6-0)

- e. COMM. 19E-6 (2009)
COMPTROLLER: "Copy of Letter to EC Legislature Regarding 2010 Revenue &
Expenditure Estimates and 2010 Budget"
(6-0)
- f. COMM. 19M-4 (2009)
ECFSA: "Copy of Resolution - Commenting on and Approving the Issuance of Revenue
Anticipation Notes by ECFSA"
(6-0)
- g. COMM. 19M-10 (2009)
NYS BOARD OF REAL PROPERTY SERVICES: "Final Certificate of County
Equalization Rates for 2009 Assessment Rolls for Municipalities in EC"
(6-0)
- h. COMM. 19M-11 (2009)
NYS BOARD OF REAL PROPERTY SERVICES: "List of Certified 2009 Class
Equalization Rates"
(6-0)

2. INTRO 19-6 (2009)
TERRANOVA, MARINELLI,
WHYTE, GRANT & REYNOLDS AS AMENDED
WHEREAS, once retired, seniors face the challenge of making their lifelong savings last
their entire retirement, and are particularly vulnerable to fraudulent schemes; and

WHEREAS, in Western New York, an estimated 40,000 seniors have been exploited by
investment fraud, and have lost more than \$15 million in savings; and

WHEREAS, research demonstrates that senior citizens face serious risks from fraudulent
salesmen and seniors account for more than half of all investor complaints; and

WHEREAS, seniors are often offered complicated investment products, including reverse
mortgages and annuities, by corrupt and dishonest would-be criminals; and

WHEREAS, in response to this urgent situation, U.S. Senator Kirsten Gillebrand has
unveiled legislation to combat fraud and protect seniors; and

WHEREAS, this legislation, the *Senior Investor Protections Enhancement Act*, would
increase penalties on those who scam seniors, would increase awareness of financial criminal tactics
and would hold workshops on financial literacy to empower seniors to protect their life savings.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature convey its full support for the *Senior Investor Protections Enhancement Act*, United States Senate Bill 1661 sponsored by Senator Kirsten Gillibrand; and be it further

RESOLVED, that this Honorable Body inform the public of this important pending federal legislation and encourage citizen advocacy to ensure that this measure is approved and signed into law; and be it further

RESOLVED, that copies of this resolution be conveyed to President Barack Obama, U.S. Senators Gillibrand and Schumer, the WNY Delegation to the House of Representatives and all others deemed necessary and proper.

(6-0)

3. COMM. 19E-9 (2009)
COUNTY EXECUTIVE

WHEREAS, Erie County has applied for an Efficiency Grant from the Erie County Fiscal Stability Authority (ECFSA) to support a Tax Map Conversion project which will change the County's tax mapping process into a GIS environment; and

WHEREAS, the ECFSA in Resolution 09-58, September 21, 2009, approved funding of this initiative in an amount not to exceed \$174,932.

NOW, THEREFORE, BE IT

RESOLVED, that the County is hereby authorized to accept Efficiency Grants from the ECFSA to support a Tax Map Conversion project, in an amount not to exceed \$174,932; and be it further

RESOLVED, that the County will issue a Request for Proposals, do an analysis of responses, and recommend a consultant to conduct the tax map conversion project; and be it further

RESOLVED, that the Director of Budget and Management and Erie County Comptroller are hereby authorized to make any budget and accounting adjustments required to accept efficiency grant funds as outlined above and; be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the County Comptroller; the Commissioner of Environment and Planning; the Director of Real Property Tax Services; the Director of the Division of Budget and Management; and the County Attorney.

(6-0)

ROBERT B. REYNOLDS JR.
CHAIR

MR. REYNOLDS moved to approve item Number 2. MS. TERRANOVA seconded.

CARRIED UNANIMOUSLY.

Item 21 – MR. MAZUR presented the following report and moved for immediate consideration and approval. MS. MILLER-WILLIAMS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 267

October 15, 2009	HEALTH & HUMAN SERVICES COMMITTEE REPORT NO. 13
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ALL MEMBERS PRESENT.

CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 14E-10 (2009)
COMPTROLLER: “Letter to County Attorney Concerning ECMCC”
(5-0) Chair Marinelli not present for vote.
 - b. COMM. 17E-4 (2009)
COMPTROLLER: “Additional Intergovernmental Transfer/Disproportionate Share Payment to NYS”
(5-0) Chair Marinelli not present for vote.
 - c. COMM. 17D-23 (2009)
HEALTH COMMISSIONER: “Dept. of Health Special Needs Division - Petty Cash Fund”
(5-0) Chair Marinelli not present for vote.
 - d. COMM. 19E-18 (2009)
COMPTROLLER: “Federal Financial Assistance Audit Report for the Year Ended 12/31/08”
(5-0) Chair Marinelli not present for vote.
 - e. COMM. 19D-4 (2009)
VETERANS' SERVICE AGENCY DIRECTOR: “Copy of Statement on the Value of Establishing Veterans' Courts”
(5-0) Chair Marinelli not present for vote.
 - f. COMM. 19M-6 (2009)
NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC): “2009 WIC Locations Erie County”
(5-0) Chair Marinelli not present for vote.
2. RESOLVED, the following items are hereby received and filed and referred to the FINANCE & MANAGEMENT COMMITTEE:
 - a. COMM. 18E-1 (2009)

COMPTROLLER: "Erie County Financial Obligations To/With Erie County Medical Center Corporation"

(5-0) Chair Marinelli not present for vote.

b. COMM. 19E-5 (2009)

COMPTROLLER: "New Intergovernmental Transfer/Disproportionate Share Payment to NYS"

(5-0) Chair Marinelli not present for vote.

**THOMAS J. MAZUR
CHAIR**

Item 22 – MS. GRANT presented the following report and moved for immediate consideration and approval. MS. IANNELLO seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 268

October 15, 2009	COMMUNITY ENRICHMENT COMMITTEE REPORT NO. 13
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ALL MEMBERS PRESENT.

CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:

a. COMM. 9E-36 (2009)

MARINELLI: "Copy of Letter to Commissioner Sinnott Regarding CE Meeting - April 30, 2009"

(7-0)

b. COMM. 11E-6 (2009)

GRANT: "Copy of Letter to Commissioner of the Env. & Planning - Requesting Attendance at the Community Enrichment Committee Meeting to be Held June 18, 2009"

(7-0)

c. COMM. 19E-16 (2009)

IANNELLO: "Copy of Letter Regarding the Creation of a Regional Girls' Varsity Ice Hockey League"

(7-0)

d. COMM. 19D-5 (2009)

INTERGOVERNMENTAL AFFAIRS DIRECTOR: "County Historian's Report for September 2009"

(7-0)

- e. COMM. 19M-9 (2009)
NIAGARA ERIE REGIONAL COALITION: “Agenda Items for Meeting Held 10/2/09, and Minutes from Meeting Held 3/27/09”
(7-0)

BETTY JEAN GRANT
CHAIR

Item 23 – MR. KENNEDY presented the following report and moved for immediate consideration and approval. MS. TERRANOVA seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 269

October 15, 2009	ECONOMIC DEVELOPMENT COMMITTEE REPORT NO. 13
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ALL MEMBERS PRESENT, EXCEPT LEGISLATOR WHYTE.

- 1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 17E-2 (2009)
KOZUB: “Copy of Letter to County Executive Concerning Capital Borrowing Projects & Funding - Utilization of Local Design Professionals”
(4-0)
 - b. COMM. 19D-1 (2009)
COMPTROLLER’S OFFICE: “Letter Regarding Initiation of EC Comptroller Audit - Change Orders, Contingencies and Related Cost Factors on Road/Highway and Bridge Contracts”
(4-0)
 - c. COMM. 19M-13 (2009)
NFTA: “Agenda Items & Minutes from NFTA Board Meeting Held 8/24/09”
(4-0)
 - d. COMM. 19M-14 (2009)
MICROBIZ BUFFALO: “Copy of Letter to County Executive Requesting Funding to Benefit EC's Entrepreneurs and Microbusiness Owners”
(4-0)
 - e. COMM. 19M-15 (2009)
ERIE CANAL HARBOR DEVELOPMENT CORP.: “Draft Generic Environmental Impact Statement - Canal Side Project”
(4-0)

**TIMOTHY M. KENNEDY
CHAIR**

Item 24 – MS. MILLER-WILLIAMS presented the following report, moved to separate item Number 2, and moved to approve the balance of the report. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 270

October 15, 2009	GOVERNMENT AFFAIRS COMMITTEE REPORT NO. 12
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ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 19D-2 (2009)
COMPTROLLER’S OFFICE: “EC Dept. of Personnel Audit of Payroll Transactions - for Period 1/1/07 - 12/31/08”
(5-0)
 - b. COMM. 19D-3 (2009)
COUNTY ATTORNEY: “Transmittal of New Claims Against Erie County”
(5-0)
 - c. COMM. 19M-5 (2009)
NIAGARA COUNTY LEGISLATURE: “Copy of Resolution - Opposition to NYS Fee for License Plates & Calling on NYS Public Service Commission to Reject NYSEG Rate Increase”
(5-0)
 - d. COMM. 19M-7 (2009)
ALLEGANY COUNTY LEGISLATURE: “Copy of Resolution - Opposing Various Proposed Anti-Gun Owner Legislation in NYS”
(5-0)
2. INTRO 19-9 (2009)
MARINELLI, WHYTE & MILLER-WILLIAMS
WHEREAS, the County of Erie and the members of AFSCME Local 1095 were unable to negotiate a contract for the year 2005 and it was finally determined that their negotiations were at an impasse; and

WHEREAS, an independent Fact Finder made recommendations for resolving the impasse on September 5, 2006 and those recommendations were rejected by both parties; and

WHEREAS, the Erie County Legislature is required under applicable state law to hold a public hearing regarding the report of the Fact Finder after the rejection of the recommendations by the parties and that public hearing was held on April 5, 2007 at Session No. 7 of the Erie County Legislature; and

WHEREAS, the applicable state law requires the Erie County Legislature to “take such action it deems to be in the public interest, including in the interest of the public employees involved;” and

WHEREAS, AFSCME Local 1095 represents employees employed directly with Erie County, as well as employees employed at Erie County Medical Center Corporation, the Erie County Home, Erie County Community College and the Buffalo and Erie County Library System; and

WHEREAS, the Erie County Legislature is required under applicable state law to resolve this impasse by establishing contract terms from January 1, 2005 to December 31, 2005; and

WHEREAS, the Erie County Legislature approved Intro 3-18 (2008), as amended and Intro 15-6 (2008) which directed that a one-time payment in the amount of \$600.00 be given all current active members of AFSCME Local 1095 bargaining unit who were employed by the County, the Erie County Medical Center Corporation, the Erie County Home, Erie Community College and the Buffalo and Erie County Library System on December 31, 2005; and

WHEREAS, the Erie County Fiscal Authority in Resolution No. 08-90 (2008) disapproved of the settlements for the following reasons: the county’s fiscal situation was not stable; the County Executive should be given any opportunity to enter into negotiations with the union; approval might set an undesirable precedent; and given the state of the economy, the funds allocated for the settlement do not serve the best interests of the taxpayer.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature requests that the County Executive provide an update as to the status of the AFSCME collective bargaining agreement for the 2005 year through the present to the Government Affairs Committee at its next scheduled meeting; and be it further

RESOLVED, that the Clerk of the Erie County Legislature send certified copies of this resolution to the County Executive, the Comptroller of Erie County, the President of Erie Community College, the Chief Executive Officer of the Erie County Medical Center Corporation, the Director of Buffalo and Erie County Public Library System, the Budget Director and the Commissioner of Personnel.

(4-1) Legislator Walter voted in the negative.

BARBARA MILLER-WILLIAMS
CHAIR

MS. MILLER-WILLIAMS moved to return item Number 2 to the GOVERNMENT AFFAIRS COMMITTEE for further consideration. MS. WHYTE seconded.

CARRIED UNANIMOUSLY.

LEGISLATOR RESOLUTIONS

Item 25 – MR. REYNOLDS presented the following resolution and moved for immediate consideration and approval. MS. WHYTE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 271

RE: Opposing the Onerous Burden Placed on Small Businesses by NYS through the Newly Imposed Renewal Fee for Sales Tax Certificates of Authority (INTRO 20-1)

A RESOLUTION TO BE SUBMITTED BY
LEGISLATOR REYNOLDS

WHEREAS, New York State sales tax vendors who file monthly or quarterly will now be required to renew their sales tax Certificate of Authority pursuant to new state tax legislation; and

WHEREAS, the New York State Department of Taxation and Finance will randomly select all registered sales tax vendors for renewal on a staggered schedule through 2012; and

WHEREAS, breaking from past tax policy by now requiring that businesses – who are monthly or quarterly sales tax filers – renew their certificates in conjunction with paying a new \$50 fee to do so is simply a money grab by New York State during a period of economic recession; and

WHEREAS, while businesses are already coping with the effects of a recession that include reduced sales and revenues, New York State should not impose an additional paperwork burden and punitive fee on vendors who file monthly or quarterly; and

WHEREAS, according to the new state regulations, if a vendor fails to renew and continues to collect sales tax, the collection of that tax will be considered illegal and the New York State Department of Taxation and Finance may impose a penalty of up to \$10,000 and a business owner may be charged with a misdemeanor; and

WHEREAS, “nickel and diming” small businesses will hardly make a dent in New York State coffers but adds insult to the injury of the high cost of doing business in New York State.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature go on record in opposition to the new renewal requirement for sales tax vendors who file monthly or quarterly; and be it further

RESOLVED, that this Honorable Body strongly oppose the \$50 fee attached to this new renewal requirement; and be it further

RESOLVED, that copies of this resolution be sent to Governor Paterson, the Speaker of the State Assembly, the Majority Leader of the State Senate, the WNY Delegation to the State Legislature and all others deemed necessary and proper.

Item 26 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MS. IANNELLO seconded.

MS. GRANT moved to send the resolution to committee for further consideration. MR. KOZUB seconded.

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

AYES: MS. GRANT, MR. KOZUB, MR. MAZUR, MS. MILLER-WILLIAMS and MR. REYNOLDS. NOES: MR. MILLS, MR. RATH, MR. WALTER, MR. KENNEDY, MS. IANNELLO, MR. LOUGHRAN, CHAIR MARINELLI, MS. TERRANOVA, MS. WHYTE and MR. WROBLEWSKI. (AYES: 5; NOES: 10)

FAILED.

CHAIR MARINELLI moved the previous question. MS. GRANT, MR. KOZUB, MR. MAZUR and MS. MILLER-WILLIAMS voted in the negative.

CARRIED. (11-4)

RESOLUTION NO. 272

RE: A Resolution Calling for the Resignation
of State Senator Hiram Monserrate
(INTRO 20-2)

A RESOLUTION SUBMITTED BY
LEGISLATOR IANNELLO

WHEREAS, Domestic Violence is a widespread disease and a criminal action touched by all levels of society, in all neighborhoods across America, affecting all persons in some manner; and

WHEREAS, October is Domestic Violence Month across America aimed at bringing attention to the magnitude of this social ill; and

WHEREAS, a recent act of Domestic Violence occurred whereby New York State Senator Hiram Monserrate of Queens New York was convicted of assault upon a female acquaintance, resulting in her need for serious medical attention; and

WHEREAS, Senator Monserrate is a former police officer, one who is to enforce and uphold the law, protecting all citizens from violence and harm; and

WHEREAS, Senator Monserrate currently holds a highly esteemed elected office in the New York State Senate and serves to represent the highest of ideals, upholding the laws of our State and nation; and

WHEREAS, Senator Monserrate has been found guilty of an act of Domestic Violence by our judicial system; and

WHEREAS, this is inexcusable behavior which could lead to a sentence of one year in prison; and

WHEREAS, some Democrats have publicly called for the resignation of Senator Monserrate, specifically Senator Liz Krueger, D-Manhattan, in our local news media.

NOW, THEREFORE, BE IT

RESOLVED, that this honorable body, the Erie County Legislature, does hereby stand in concert with Senator Liz Krueger and those Democrats who have called for the resignation of Senator Monserrate; and be it further

RESOLVED, that Senator Monserrate take this request into serious and immediate consideration and act accordingly; and be it further

RESOLVED, that such action would restore the dignity and credibility to the New York State Senate that the people of New York State, and specifically the people of Queens New York, so worthily deserve; and be it further

RESOLVED, that certified copies of this resolution be sent to Governor David Patterson, Senator Liz Krueger, Attorney General Andrew Cuomo and the Western New York Delegation.

Item 27 – CHAIR MARINELLI directed that the following item be referred to the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

INTRO 20-3 from MILLER-WILLIAMS Opposing the Administration's Tentative 2010 Budget Proposal to Shut Down EC Health Clinics

COMMUNICATIONS DISCHARGED FROM COMMITTEE

None.

SUSPENSION OF THE RULES

Item 28 – MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

RESOLVED, that this Honorable Body commend the Albright-Knox Art Gallery on its many contributions to the cultural fabric and quality of place of Erie County; and be it further

RESOLVED, that certified copies of this resolution be conveyed to Louis Grachos, Executive Director, and Jennifer Bayles, Grants Manager, of the Albright-Knox Art Gallery and all others deemed necessary and proper.

Item 29 – MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 20E-27 from the COMPTROLLER Re: Comptroller's Review of Proposed 2010 Budget and Four Year Financial Plan for 2010-2013

Received and referred to the FINANCE, MANAGEMENT & BUDGET COMMITTEE.

Item 30 – MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 20E-28 from LEGISLATOR REYNOLDS Re: Letter to County Executive Inviting Him to Speak at Legislature's Budget Hearings

Received and referred to the FINANCE, MANAGEMENT & BUDGET COMMITTEE.

Item 31 – MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 20E-29 from the COUNTY CLERK

MS. WHYTE moved to approve the item. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION No. 274

RE: Resolution Authorizing the County Executive to Execute a Grant Acceptance Form

WHEREAS, The Erie County Clerk is mandated by State law to record, file and maintain records, documents and indices for use by taxpayers and the general public; and

WHEREAS, the Erie County Clerk's Office has submitted a grant application to the Local Government Records Management Improvement Fund (hereinafter "LFRMIF"); and

WHEREAS, the LGRMIF has approved a \$27,675 grant to the Erie County Clerk for the purpose of scanning oversized indices for Corporation (dated 1809 to 1994) and DBA (dated 1900 to 1994) records, which are deteriorating; and

WHEREAS, the County Clerk, as Records Management Officer, must maintain the condition and integrity of county's records, which requires funding; and

WHEREAS, the 2009 budget does not provide sufficient funding to the County Clerk for the scanning and maintenance of its records.

NOW, THEREFORE, BE IT

RESOLVED, that the County of Erie hereby adopts and accepts from the LGRMIF the \$27,675 grant that it has appropriated to the County Clerk for scanning of the county's records under such terms and conditions as stated in the grant; and be it further

RESOLVED, that the County Executive execute the Grant Acceptance Form and such other documents as may be required for the county to receive the grant; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, the County Clerk, the County Comptroller, the County Attorney and the Director of Budget, Management and Finance.

Item 32 – MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 20M-8 from the OLMSTED PARKS CONSERVANCY Re: Letter to County Executive Concerning Allocation and Matching Funds Update

Received and referred to the FINANCE, MANAGEMENT & BUDGET COMMITTEE.

Item 33 – MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 20E-30 from LEGISLATOR KOZUB Re: Letter to Erie Canal Harbor Development Corp Concerning Marine Drive Parking Ramp

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM LEGISLATOR LOUGHRAN

Item 34 – (COMM. 20E-1) Letter Requesting Public Hearing for LL INTRO 9-1 (2009)

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE COMPTROLLER

Item 35 – (COMM. 20E-2) Lockbox Services for EC Real Property Tax Collection

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM LEGISLATOR MILLER-WILLIAMS

Item 36 – (COMM. 20E-3) Copy of Letter Concerning the Jesse Nash Women's Health Clinic Being Cut from the Tentative 2010 Budget

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 37 – MS. WHYTE presented the following item and moved for immediate consideration and approval. MR. WROBLEWSKI seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 275

RE: Fire Training Facilities - 2009 - New
Live Burn Buildings - Amherst and
Chestnut Ridge Park
(COMM. 20E-4)

WHEREAS, in 2006 the Erie County Legislature passed a resolution to provide \$5 million of phased improvements to the Fire Training Facilities located in Erie County; and

WHEREAS, the Department of Public Works, Division of Real Estate and Asset Management received bids on September 3, 2009 for construction of new live burn buildings to be located at the Fire Training Facilities in Amherst and Chestnut Ridge Park and is recommending award, along with the Engineer, to the lowest responsible bidders.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to enter into contracts for the Fire Training Facilities – 2009 – New Live Burn Buildings at Amherst and Chestnut Ridge Park with the following:

GENERAL CONSTRUCTION WORK

Mark Cerrone	Base Bid	<u>\$1,294,468.00</u>
TOTAL AWARD OF GENERAL CONSTRUCTION CONTRACT		\$1,294,468.00

ELECTRICAL WORK

DeLorenzo Electric, Inc.	Base Bid	\$ <u>147,510.00</u>
TOTAL AWARD OF ELECTRICAL CONTRACT		\$ <u>147,510.00</u>
TOTAL AWARD OF ALL CONTRACTS NOT TO EXCEED		\$1,441,978.00

and be it further

RESOLVED, that the sum of \$150,022.00 be allocated to a construction contingency fund with authorization for the County Executive to approve change orders in an amount not to exceed the contingency; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from SAP Projects as follows:

A.00321	2008 – Renovations to Training Center Complex	\$ 799,333.74
A.20908	2009 – Renovations to Training Center Complex	\$ <u>792,666.26</u>
TOTAL PAYMENTS NOT TO EXCEED		\$1,592,000.00

and be it further

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

Item 38 – (COMM. 20E-5) Amend WRAP-SOFA Grant Budget

Item 39 – (COMM. 20E-6) Amend Senior Aides and Senior Employment Programs Grant Budgets

Item 40 – (COMM. 20E-7) Establish the n4a Generational Communication Campaign and the Performance Outcomes Measures Project Grant Budgets

The above three items were received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 41 – (COMM. 20E-8) Payment of Local Match for EC/Niagara County Shared Municipal Services Incentive Grant Project

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 42 – (COMM. 20E-9) Traffic Safety Grant 2009-2010

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 43 – (COMM. 20E-10) ECSD No. 3 - Authorization of Fee Taking and Easement Acquisition

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 44 – (COMM. 20E-11) Transfer of Big Tree Rd. Highway Segments - Reverted to County of Erie from NYS DOT - Transfer of Jurisdiction to Town of Hamburg

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 45 – (COMM. 20E-12) Funding for the August Storm Damage

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 46 – (COMM. 20E-13) Child Passenger Safety Program 2009-10

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 47 – (COMM. 20E-14) Roof Repair - Emergency Response Services - All County-owned Buildings, Contract Allowance Increase

Item 48 – (COMM. 20E-15) Acceptance of Safety Training Grant Funds and Authorization to Contract

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

Item 49 – (COMM. 20E-16) Juvenile Accountability Block Grant Award (JABG) - From NYS Dept. of Criminal Justice Services - Amendment to COMM. 21E-24 (2008)

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 50 – (COMM. 20E-17) Amend Title VII and LTCOP Grant Budgets and Amend Related Contracts

Item 51 – (COMM. 20E-18) Amend III-C-2, SNAP and CIL Grant Budgets

Item 52– (COMM. 20E-19) EC Public Health Laboratories - Laboratory Response Network (LRN) Grant - Personnel Adjustment

The above three items were received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 53 – (COMM. 20E-20) Transfer of Funds for Parks Truck Purchase

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 54 – (COMM. 20E-21) Appointments to the Youth Services Board

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 55 – (COMM. 20E-22) Appointments to the EC Environmental Management Council

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE DISTRICT ATTORNEY

Item 56 – MS. WHYTE presented the following item and moved for immediate consideration and approval. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 276

RE: Drug Offender Diversion Grant
(COMM. 20E-23)

WHEREAS, funds for the Drug Offender Diversion Program are available from the New York State Division of Criminal Justice Services in the amount of \$100,000; and

WHEREAS, the District Attorney's Office will utilize the funds to designate an Assistant District Attorney to oversee this program which will provide non-violent, drug-addicted offenders an opportunity to participate in and successfully complete a program of residential and outpatient drug treatment as an alternative to incarceration as mandated by the 2009 drug law reforms enacted by New York State.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to enter into a contract with the New York State Division of Criminal Justice Services for the purpose of reducing the chances that drug addicted offenders will slip back into a criminal behavior pattern; and be it further

RESOLVED, that authorization is hereby provided to create the position of Assistant District Attorney IV, Job Grade 15, in the District Attorney's Drug Diversion Offender Program (B-100 #5116) to be effective November 1, 2009; and be it further

RESOLVED, that authorization is hereby provided to establish the District Attorney's Drug Offender Diversion Program Grant as follows:

DISTRICT ATTORNEY'S OFFICE
DRUG OFFENDER DIVERSION PROGRAM
114DRUGREFORM0910
November 1, 2009 to October 31, 2010

Revenue:
409000 State Aid

Increase
\$ 100,000

Total Revenue	<u>\$ 100,000</u>
<u>Appropriation:</u>	
500000 Personal Services	\$ 66,000
502000 Fringe Benefits	32,000
510100 Out of Area Travel	<u>2,000</u>
Total Appropriations	<u>\$100,000</u>

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Erie County Executive, Erie County District Attorney, Erie County Comptroller, Erie County Personnel and the Director of Budget and Management.

FROM LEGISLATOR MILLER-WILLIAMS

Item 57 – (COMM. 20E-24) EC Health Dept. - Clinic Statistics - 2009

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE SHERIFF

Item 58 – (COMM. 20E-25) Asset Forfeiture Funded Program SAFS

Item 59 – (COMM. 20E-26) Operation Stonegarden Program Grant

The above two items were received and referred to the PUBLIC SAFETY COMMITTEE.

COMMUNICATIONS FROM THE DEPARTMENTS

FROM THE COUNTY ATTORNEY

Item 60 – (COMM. 20D-1) Transmittal of New Claim Against Erie County

Item 61 – (COMM. 20D-2) Transmittal of New Claim Against Erie County

Item 62 – (COMM. 20D-3) Transmittal of New Claims Against Erie County

Item 63 – (COMM. 20D-4) Transmittal of New Claims Against Erie County

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

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM THE BUFFALO & EC PUBLIC LIBRARY

Item 64 – (COMM. 20M-1) Agenda Items for Meeting Held 10/15/09

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE ECFA

Item 65 – (COMM. 20M-2) Copy of Resolutions - Approving Efficiency Grants for the EC Thin Client Technology and EC Real Property Tax Map Conversion

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE BUFFALO & EC PUBLIC LIBRARY

Item 66 – (COMM. 20M-3) Memo Concerning 9/1/09 - 9/30/09 Development & Communications

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE DELAWARE COUNTY BOARD OF SUPERVISORS

Item 67 – (COMM. 20M-4) Copy of Resolution Entitled "Encouraging Immediate Relief for Dairy Farmers and Supporting Changes at the Federal Level Establishing the Price of Fluid Milk at the Farm Gate"

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE NYS BOARD OF REAL PROPERTY SERVICES

Item 68 – (COMM. 20M-5) List of Certified 2009 Class Equalization Rates

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM MUSIC IS ART

Item 69 – (COMM. 20M-6) Copy of Letter to Legislator Grant Concerning Qualifications for County Funding

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE EC BAR ASSOC. - ASSIGNED COUNSEL PROGRAM

Item 70 – (COMM. 20M-7) Quarterly Report for the 3rd Quarter of 2009

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

ANNOUNCEMENTS

Item 71 – CHAIR MARINELLI announced that the Legislature committee schedule has been distributed. Chair Marinelli also announced a reminder concerning the Legislature’s upcoming Budget Hearings, conducted by the Finance, Management & Budget Committee, for the week of Monday, October 26, 2009 through Friday, October 30, 2009.

MEMORIAL RESOLUTIONS

Item 72 – Legislator Mazur requested that when the Legislature adjourns, it do so in memory of Donald J. Rowland Jr.

Item 73 – Legislator Kennedy requested that when the Legislature adjourns, it do so in memory of Leonard S. Sas and Maureen T. McHugh.

Item 74 – Legislator Reynolds requested that when the Legislature adjourns, it do so in memory of Russell B. Emerson, William P. Fallon Sr., Kenneth A. Henry, and John H. Farrell.

Item 75– Legislator Terranova requested that when the Legislature adjourns, it do so in memory of Roger D. Grandy, Robert A. Matla, and Marie Diana.

Item 76 – Legislator Iannello requested that when the Legislature adjourns, it do so in memory of James Sheridan Harmon.

ADJOURNMENT

Item 77 - At this time, there being no further business to transact, CHAIR MARINELLI announced that the Chair would entertain a Motion to Adjourn.

MR. WALTER moved that the Legislature adjourn until Thursday, November 5, 2009 at 2:00 P.M. Eastern Standard Time. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

CHAIR MARINELLI declared the Legislature adjourned until Thursday, November 5, 2009 at 2:00 P.M. Eastern Standard Time.

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