

OFFICIAL RECORD

Lockport, New York
April 21, 2015

The meeting was called to order by Chairman Ross at 7:01 p.m.

Clerk Tamburlin called the roll. All Legislators were present with the exception of Legislators Bradt, Hill and Virtuoso.

PRESENTATIONS:

1. Legislator Godfrey went to the lectern and introduced Orleans County Chairman David Callard and Vice Chair Lynne Johnson to discuss the Niagara Orleans Regional Alliance's (NORA) progress regarding the E-Waste resolution on tonight's agenda. Chairman Callard discussed the benefit of NORA. Chairman Callard read and presented a Special Recognition Award from the Orleans Co. Legislature to Chairman Ross for all of his dedication to the citizens of Niagara County and his efforts with NORA.

2. Legislator Steed went to the lectern and invited Gerald Gormin Director of the Emergency Department at NFMCMC, Linda Curtis, NFMCMC Manager of Cardiac Services and Patrick Bradley, Director of Marketing and Community Relations to the lectern. They discussed the cardiac catheterization lab being proposed at NFMCMC and asked for support on the resolution on the agenda related to this lab.

3. Legislator McNall went to the lectern and invited DSS Commissioner Restaino to the lectern. Legislator McNall read a proclamation declaring April 2015 as Child Abuse Prevention Month in Niagara County.

Moved by McNall, seconded by Lance.

Carried.

Commissioner Restaino introduced DSS Director of Services Burt Marshall along with John Gilbert CPS Caseworker, Jan Faery, CPS Supervisor, Pam Stevenson, CPS Caseworker and Ann Marie Tucker, Executive Director of the Child Advocacy Center of Niagara. He thanked all of them for their efforts to reduce the incidence of child abuse and neglect in Niagara County.

Commissioner Restaino said reports of abuse or neglect are 987 for the first quarter of the year. Projected 3900 for the year, which would be an increase over 2014. Mr. Restaino said that programs that are being offered in four schools throughout the county, as well as the Healthy Families Program are creating a savings for county taxpayers.

4. Legislator Updegrove, Chairman of the Economic Development Committee went to the lectern to present the 2015 Niagara County Economic Development Address. He recognized IDA Chairman Henry Sloma and thanked him for his service. Legislator Updegrove highlighted the Brownsfield Revolving Loan Program. He thanked the State Legislature for supporting local IDAs during the State Budget Process. Legislator Updegrove highlighted the 2014 accomplishments and discussed the goals for 2015. Legislator Updegrove thanked Sam Ferraro and his staff for all of their efforts to assist Niagara County. IDA Chairman Sloma discussed hotel development in Niagara Falls as a large economic development driver. Working with other agencies such as; USA Niagara and the City of Niagara Falls are important aspects for the overall success. Mr. Sloma said the recently announced upcoming distribution center being built in the Inducon Corporate Park will benefit other businesses as well.

One citizen spoke at this time.

Legislator Godfrey invited Chief Beatty to the lectern who gave a brief overview of the April 17th incident on Errick Rd. regarding Niagara County Sheriff Deputy Joe Tortorella and an armed gunman.

Recess.

Chairman Ross announced that the next Legislature Meeting is scheduled for May 5th and the William G. Mayne Jr. Community Enhancement Program Awards will be given out during the meeting.

Moved by Updegrove, seconded by Zona to accept the preferred agenda.
Carried.

RESOLUTIONS:

Resolution No. CS-006-15

From: Community Services & Administration Committees

Dated: April 21, 2015

RESIDENCY WAIVER FOR NURSING EMPLOYMENT - DEPARTMENT OF HEALTH

WHEREAS, it is the policy of the Niagara County Legislature to hire only Niagara County residents to fill vacancies or fill new positions as established by Resolution Number 243-80, and

WHEREAS, the Department of Health continues to experience difficulty in recruiting highly qualified nurses with satisfactory work experience and background to fill its nursing positions; The Niagara County Board of Health is aware of the lack of qualified nurse applications and has proposed that the Public Health Director request a residency waiver, now, therefore, be it

RESOLVED, that the Department of Health be granted a residency waiver to fill its nursing positions when the most qualified applicant resides outside Niagara County.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CS-007-15

From: Community Services & Administration Committees

Dated: April 21, 2015

BUDGET MODIFICATION – APPROVE OFFICE FOR THE AGING BALANCE INCENTIVE PROGRAM (BIP) GRANT

WHEREAS, the Niagara County Office for the Aging (OFA) provides services to older adults, families, caregivers and people with disabilities of all ages living in Niagara County, and

WHEREAS, Niagara County OFA has been awarded funding as part of a larger New York State award to participate in the Balance Incentive Program (BIP), and

WHEREAS, one of the requirements of BIP is the implementation of a statewide No Wrong Door/Single Entry Point for information and assistance with aging and disability services, and

WHEREAS, to accomplish this, New York State is building upon the existing NY Connects system, and working with local Offices for the Aging to implement needed enhancements, and

WHEREAS, as the lead "Hub" in this structure, Niagara County OFA will serve as a comprehensive resource for all LTSS population, while partnering with other local agencies who will act as population-specific No Wrong Doors, such as; the Department of Social Services, Office of Mental Health, and Independent Living Center of Niagara County, in order to work closely together to serve individuals, families, and caregivers in a person centered manner, while conducting screening and assistance with applying for eligible public programs, including Medicaid, and

WHEREAS, this funding will allow the Niagara County OFA to enhance its staff's capacity through redirecting funding to our NY Connects program and training, improve our ability to train our staff and interact with the community through enhanced technology, and increase public outreach and communication, particularly to hard to reach individuals, through advertising and partnership with local agencies, now, therefore, be it

RESOLVED, that the department is given authorization to accept the grant increase in the 2015 budget with the effectuation of the following budget modification:

INCREASE REVENUE:

CM.24.6772.603.44089.03	Federal Aid, Other Aging Grant	\$345,651
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DECREASE APPROPRIATIONS:

A.24.6772.000.71010.00	Positions Expense	10,348
A.24.6772.000.71030.00	Part Time Expense	13,056
A.24.7610.702.71010.00	Positions Expense	2,089
A.24.7610.702.71030.00	Part Time Expense	2,034
A.24.6772.000.78100.00	Retirement	262
A.24.6772.000.78200.00	FICA	151
A.24.6772.000.78300.00	Workers Compensation	54
A.24.6772.000.78400.00	Insurance, Health Active Hospital/Medical Ins.	141
A.24.6772.000.78700.00	NYS Disability Insurance	1
A.24.7610.702.78100.00	Retirement	31
A.24.7610.702.78200.00	FICA	17
A.24.7610.702.78300.00	Workers Compensation	6
A.24.7610.702.78400.00	Insurance, Health Active Hospital/Medical Ins.	61
A.24.7610.702.78700.00	NYS Disability Insurance	1

INCREASE APPROPRIATIONS:

A.24.6772.000.72100.01	Machinery and Equipment Furniture and Fixtures	1,500
A.24.6772.000.72100.05	Machinery and Equipment Computer Equipment	3,000
A.24.6772.000.74250.01	Office Expenses Office Supplies	513
A.24.6772.000.74300.01	Travel, Conferences	2,000
A.24.6772.000.74500.01	Contractual Expenses	10,000
A.24.6772.000.74600.03	Professional Development Training and Education	3,000
A.24.6772.000.74750.21	Supplies, General Gas and Oil	4,000
A.24.7610.702.74750.06	Supplies, General Food and Kitchen Supplies	4,239
CM.24.6772.603.71010.00	Positions Expense	12,436
CM.24.6772.603.71030.00	Part Time Expense	15,090
CM.24.6772.603.72100.01	Machinery and Equipment Furniture and Fixtures	16,800
CM.24.6772.603.72100.05	Machinery and Equipment Computer Equipment	159,734
CM.24.6772.603.74250.01	Office Supplies	1,000

CM.24.6772.603.74250.03	Office Expenses Printing/Duplicating	500
CM.24.6772.603.74300.01	Reimbursement Travel, Conference	12,000
CM.24.6772.603.74375.01	Communications Advertising & Promotion	35,000
CM.24.6772.603.47600.03	Professional Development Training and Education	16,550
CM.24.6772.603.74600.04	Professional Development Dues and Memberships	1,100
CM.24.6772.603.74500.01	Contractual Expense	73,500
CM.24.6772.603.74675.01	Services, Central Postage	500
CM.24.6772.603.78100.00	Retirement Expense	293
CM.24.6772.603.78200.00	FICA	167
CM.24.6772.603.78300.00	Workers Compensation	59
CM.24.6772.603.78400.01	Insurance, Health Active Hospital/Med Ins.	202
CM.24.6772.603.78700.00	NYS Disability	720

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-019-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

CONTINUATION OF NIAGARA UNIVERSITY AGREEMENT FOR BORDER COMMUNITY SERVICE (BCS)

WHEREAS, Niagara County wishes to continue its commitment to Niagara University's Community Preparedness and Participation initiatives as outlined in Resolution #CSS-030-07 and continued in CSS-038-08, and

WHEREAS, Niagara County utilized the RFP City of Buffalo Department of Police RFP for Citizen Preparedness and Education issued August 27, 2014, for the selection process, and

WHEREAS, the new contract period will commence on April 1, 2015 and applies to services rendered by the University through August 31, 2015, and

WHEREAS, the County wishes to continue with the contracted service agreement with Niagara University in an amount of \$40,000 funded by Homeland Security SHSP-13 grant funds to provide professional and technical services to assist the County in completing intended community preparedness initiatives, and

WHEREAS, prior to the execution of the Niagara University Agreement, the County Attorney will review the Niagara University Agreement for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the Niagara University Agreement.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-020-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

**ACCEPTANCE OF INTERGOVERNMENTAL AGREEMENT
FOR USE OF MUTUALINK EDGE SUBSCRIPTION SERVICE**

WHEREAS, NYS DHSES (Department of Homeland Security and Emergency Services) is providing Niagara County equipment and software for use in the Mutualink Edge Subscription Services which will allow communication with surrounding counties on a common platform for emergency management and public safety planning and response purposes, and

WHEREAS, these resources are being provided on a loan basis at no cost to the County, and

WHEREAS, the County shall be permitted to use such Interoperable Communications Resources for all other official public safety and emergency management communications on a day-to-day basis, and

WHEREAS, the County agrees to test the entire system on no less than a monthly basis and to participate upon reasonable advance notice in drills, exercises or other events sponsored by the State, and

WHEREAS, the County shall be responsible to return all equipment in the same condition as it was issued less and except ordinary wear and tear, now therefore be it

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the Intergovernmental Memorandum of Agreement with the NYS Division of Homeland Security and Emergency Services.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-021-15

From: Community Safety & Security Committee

Dated: April 21, 2015

NIAGARA REGIONAL TRAFFIC SAFETY PROGRAM

WHEREAS, the Niagara Regional Traffic Safety Program will be held in the month of May 2015, and

WHEREAS, young men and women need to know that the choices they make every day affect their lives and the lives of the people around them, and

WHEREAS, high school junior and seniors from Niagara County schools will participate in the above at the Cornell Cooperative Extension, and

WHEREAS, Erie County will be invited to send students during this time, along with Orleans, Cattaraugus and Alleghany Counties, and

WHEREAS, each County will be responsible for their own expenses incurred throughout the program, now, therefore, be it

RESOLVED, that the twentieth annual Niagara Regional Traffic Safety Program will be held in May 2015.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-022-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

**NIAGARA COUNTY SHERIFF'S OFFICE
ABOLISH DEPUTY SHERIFF-CREATE DEPUTY SHERIFF LIEUTENANT**

WHEREAS, the Sheriff continuously conducts a review of staffing levels and rank structure within the Sheriff's Office, and

WHEREAS, it is in the best interest of the Sheriff's Office, as well as the County, to realign the personnel to better fit the needs of the Office, and

WHEREAS, the Sheriff's Office currently has a Deputy Sheriff position that oversees the STOP DWI program, the DARE program and the Community Service function, and

WHEREAS, the duties of this officer include overseeing the entire DWI operation including funding and coordination of ten (10) police agencies within Niagara County; this position also oversees the DARE program which has ten (10) departmental instructors assigned to teach throughout Niagara County and in addition, the position also coordinates, schedules and supervises numerous officers assigned to present and speak at various functions/organizations in support of the Sheriff's Office Community Policing mission, and

WHEREAS, a Deputy who is charged with the supervision of other Deputies and programs should have a higher rank than those under his command, and

WHEREAS, the additional funds needed for the creation of the Lieutenant position will be funded by a previously vacant Deputy Sheriff position, now, therefore, be it

RESOLVED, that a Deputy Sheriff position number 6020, Grade SB, step 5 at a rate of \$29.33 be abolished effective April 25, 2015, and be it further

RESOLVED, that a Deputy Sheriff Lieutenant, position number xxxx, Grade SC, step 1 at a rate of \$32.00 be created and filled effective April 26, 2015, and be it further

RESOLVED, that the 2015 Sheriff's Office budget be modified to effectuate this change

FROM:

A.17.3110.000.71010.00	Positions	\$45,824.00
	(\$42,000-Position No. 6020 DS)	
	(\$3,824-Position No. 355 Deputy Sheriff)	

TO:

A.17.3110.000.71010.00	Positions	\$45,824.00
	(DS LT Position No. xxxx)	

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-023-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

**BUDGET MODIFICATION
ABOLISH AND CREATE MAINTENANCE POSITION**

WHEREAS, due to a personnel vacancy, the Sheriff's Office has attempted, without success, to fill the incumbent position (Building Maintenance Mechanic), and

WHEREAS, after evaluating all options it has been determined that it would be in the best interest of the facility to restructure our Maintenance Division, and

WHEREAS, due to a resignation effective January 26, 2015, there exists a full time Building Maintenance Mechanic vacancy in the Maintenance Division at the Sheriff's Office Correctional Facility, and

WHEREAS, after a review of the existing job classifications it has been determined that it is in the best interest in the Sheriff's operation to reclassify and upgrade the current vacancy to the position of General Repair Person, and

WHEREAS, funds exist in the current position line of Building Maintenance Mechanic to fund this upgrade, now, therefore, be it

RESOLVED, that the Building Maintenance Mechanic position number 6244, grade 18, step 2 at an hourly rate of \$14.46 be abolished effective May 9, 2015 and be it further

RESOLVED, that the position of General Repair Person ,position number xxx, grade 22, step 1 at an hourly rate of \$15.05 be created and filled effective May 10, 2015, and be it further

RESOLVED, that the following budget modification be made:

FROM:

A.17.3150.000.71010.000	Positions (Position no. 6244 BMM)	\$21,903
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TO:

A.17.3150.000.71010.000	Positions	\$20,708
A.17.3150.000.78400.005	HRA	850
A.17.3150.000.78800.000	Flex 125	345

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-024-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

**BUDGET MODIFICATION-SHERIFF'S OFFICE
DOMESTIC CANNABIS ERADICATION**

WHEREAS, the Niagara County Sheriff's Office wishes to enter into an agreement with the U.S. Department of Justice, Drug Enforcement Administration for the 2015 year, and

WHEREAS, this agreement will allow the Sheriff's Office to work in conjunction with the local DEA Office to curtail illegal trafficking in eradicating illicit cannabis plants throughout Niagara County, and

WHEREAS, the DEA will reimburse Niagara County for costs incurred with this project now, therefore, be it

RESOLVED, that the County enter into an agreement with the U.S. Department of Justice, and be it further

RESOLVED, that the following budget modification be made:

INCREASE REVENUE:

A.17.3110.000.44380.04	Federal Gov't. Reimbursement	\$30,000
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INCREASE APPROPRIATION:

A.17.3110.000.71050.00	Overtime	\$18,000
A.17.3110.000.74750.05	Law Enforcement Supplies	500
A.17.3110.000.74600.03	Training/Education	1,000
A.17.3110.000.74800.11	Vehicle Maintenance (Helicopter)	6,500
A.17.3110.000.74400.09	Payments to Other Agencies	4,000

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-025-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

**NIAGARA COUNTY SHERIFF'S OFFICE-INTERGOVERNMENTAL AGREEMENT
JOINT EMERGENCY RESPONSE TEAM-CITY OF LOCKPORT**

WHEREAS, Section 119-0 of the General Municipal Law permits municipal corporations to enter into agreements for the performance amongst themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service, and

WHEREAS, the parties hereto have experienced within their jurisdictions a potential need for the joint response of both participants police Emergency Response Team (ERT) to deal with certain criminal acts or threats including, but not limited to, barricaded suspects, hostage takers, or other persons committing violent acts that may be more effectively dealt with through the use of a specially trained tactical team rather than standard police operations, and

WHEREAS, the purpose of this agreement is to establish and maintain a joint Emergency Response Team by the Niagara County Sheriff's Office and the City of Lockport Police Department, which will be available to either participating entity in the event of an emergency in accordance with the provisions of the agreement, now, therefore, be it

RESOLVED, that a joint Emergency Response Team be formally established between the City of Lockport Police Department and the Niagara County Sheriff's Office pursuant to the terms and conditions of said inter-municipal agreement, and be it further

RESOLVED, that the Chairman of the Legislature be, and hereby is, authorized to execute said agreement subject to the approval of the County Attorney.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-026-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

BUDGET MODIFICATION-DRIVING SIMULATOR

WHEREAS, the Sheriff's Office has been working over the past several years to obtain funding for a Driving Simulator, and

WHEREAS, this Driving Simulator will be used to enhance the training of all first responders on how to safely maneuver and drive defensively under stressful situations and conditions, and

WHEREAS, the Driving Simulator will be utilized by Niagara County first responders, fire personnel, law enforcement personnel and school districts, and many community events sponsored by Niagara County and the Sheriff's Office, and

WHEREAS, the Sheriff's Office has received a grant from the NYS Division of Criminal Justice Services and the Grigg-Lewis Foundation to help offset the cost of this piece of equipment, and

WHEREAS, the NYS Division of Criminal Justice Services grant and the county funds were appropriated in the 2015 budget, now, therefore, be it

RESOLVED, that the Chairman of the Legislature be authorized to sign the contract with New York State, subject to the approval of the County Attorney, and be it further

RESOLVED, that the grant funds from the Grigg-Lewis Foundation be appropriated in the 2015 budget:

INCREASE REVENUE:

A.17.3110.000.42705.00	Gifts and Donations	\$150,000
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INCREASE APPROPRIATION:

A.17.3110.000.72100.21	Law Enforcement Equipment	\$150,000
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Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CSS-027-15

From: Community Safety & Security & Administration Committees

Dated: April 21, 2015

**LOCAL LAW ESTABLISHING THE NIAGARA COUNTY SHERIFF'S OFFICE
TOW LIST AND PROCEDURES**

WHEREAS, the Community Safety & Security Committee presents in writing the following proposed Local Law:

A Local Law of the County of Niagara, New York, which establishes the Niagara County Sheriff's Office Tow List and Procedures;

Be it enacted by the County Legislature of the County of Niagara as follows:

Section 1. Purpose:

The purpose of this Local Law is to establish a system to provide for the efficient and safe removal of disabled and abandoned vehicles in and adjacent to roadways within the county. Abandoned or disabled vehicles within roadways, right of ways, parking lots, and adjacent areas present a safety hazard to motorists and cause delays in traffic. County resident and motorists on roadways within the county sometimes find themselves, whether because of accident or mechanical failure, unable to remove their vehicles safely from the roadway or right of way. The Niagara County Sheriff's Office is often the first responder to automobile accidents or instances of broken down vehicles in the roadway. The Niagara County Sheriff's Office is also responsible for dispatching emergency personnel to such incidents throughout the County. Providing for timely, efficient, and safe removal of such vehicles is of vital public importance. This law is enacted pursuant to the authority of the Municipal Home Rule law.

Section 2. Definitions:

As used in this Local Law the following terms shall have the following meanings:

2.1 **Operator** - a person, partnership, or business entity that engages in the business of towing motor vehicles from one place to another.

2.2 **Driver** - a person who operates a tow truck on a public highway.

2.3 **Vehicle Storage Facility** - an area capable of storing vehicles where reasonable measures have been taken to prevent theft and/or damage to the vehicles. Such measures may include lighting, fencing, proximity to other businesses, security, etc.

2.4 **Qualified Applicant** - an Operator who owns or controls the equipment necessary to provide towing services and has filed an application with the Niagara County Sheriff's Office that has been found by the Sheriff's Office to meet all of the requirements of this Local Law.

2.5 **Service Call** - a call from the Niagara County Sheriff's Office to an Operator to respond to the scene of an accident, disabled or abandoned vehicle for any reason.

2.6 **Sheriff** - the Sheriff of the County of Niagara or a member of his staff that he shall designate.

Section 3. Zones:

3.1 The Sheriff shall divide the County into as many zones as he shall deem necessary and efficient to effectively carry out the purposes of this law.

3.2 The Sheriff shall create a geographic description of the area contained in each zone and shall assign each zone a number. When a zone is described as being bounded by a highway or roadway, the centerline of the highway or roadway shall be the boundary.

Section 4. Tow Lists:

4.1 The Sheriff shall determine the number of tow trucks necessary to provide towing services and respond to service calls consistent with the purposes of this law within each zone established.

4.2 Active Tow List The Sheriff shall then create an Active Tow List for each zone by filling the number of spaces he has determined are necessary with qualified applicants according to the following rules:

1.) Any qualified applicant who is currently an active participant on a tow list operated by the Sheriff on the date of the passage of this law shall be "grandfathered" and included on the Active Tow List or Lists corresponding to the list or lists the Operator is currently on.

2.) Qualified applicants who have submitted a complete application on or before a date to be determined by the Sheriff, but not less than three (3) months after the passage of this law, shall be selected randomly to fill any remaining spots in each zone.

4.3 Wait List - The Sheriff shall create a wait list for each zone as follows:

1.) All qualified applicants who have submitted complete applications on or before the date established by the Sheriff who were not randomly selected for the active tow list shall be randomly assigned a place on the wait list.

2.) Thereafter, any new qualified applicant who submits a complete application to the Niagara County Sheriff's Office shall be placed in the next position on the wait list. No Operator will be placed on the wait list until a complete application has been received by the Sheriff's Office and the Operator has been deemed a qualified applicant.

4.4 Filling vacancies on the active list: whenever there shall be a vacancy on the active tow list for any zone, the Sheriff shall notify the Operator first on the wait list for that zone. That Operator shall have fourteen (14) days to provide up to date proof of eligibility, including compliance with all matters contained in Sections 5 and 6 of this Local Law, and upon doing so, shall be placed on the active tow list.

4.5 Rotation of calls for service: The Sheriff shall establish a system for rotating calls for service to Operators on the active tow list for each zone. The Sheriff shall have the discretion to rotate by call, by shift, by month, or in any other manner that equitably distributes calls for service amongst those on the active tow list.

4.6 Placement on the active tow list shall not confer any right to be called for service calls. The owner of a disabled vehicle may request a particular tow truck company or a tow truck operator who participates in a motor club service of the owner's choosing. The Niagara County sheriff's Office will make reasonable efforts to accommodate such a request unless law enforcement needs dictate otherwise.

Section 5. Application:

5.1 Every Operator who wishes to be placed on a tow list for any zone must submit an application to the Niagara County Sheriff's Office on the form prescribed by the Sheriff.

The application must indicate what zone or zones the Operator wishes to be considered for.

The application must also include:

- 1.) Proof of insurance in accordance with section 6.1;
- 2.) Copies of registration and inspection for each tow truck operated by Operator;
- 3.) The address of each vehicle storage facility to which the Operator intends to tow vehicles.

5.2 Every Operator must submit his/her own application. No Operator may transfer his/her place on an active tow list or wait list to another Operator.

5.3 An Operator may apply to provide service to as many zones as it wishes, however, no Operator may apply to provide service to the same zone under more than one name. Multiple applications by Operators who have substantially the same equipment, or who operate out of substantially the same place of business, or who are controlled by substantially the same individuals, will be considered a single application by a single Operator.

Section 6. Regulations:

6.1 Insurance-Every Operator must maintain insurance of the type and in the amounts prescribed by the Niagara county Director of Risk Management or County Attorney's Office and provide proof of the same.

6.2 Every Operator must provide a certificate of insurance, naming "The County of Niagara, its agents, officers and employees" as additional insureds, to the Sheriff's Office with its application, quarterly thereafter, and at any time upon request.

6.3 Each Operator must provide that the Niagara County Sheriff's Office be notified directly by the insurance provider of any disruption in or cancellation of insurance.

6.4 Driver's Licenses-Each Operator shall keep a file containing current copies of the driver's license for every Driver in its employ and shall provide the same upon request. Such license shall be a commercial Class A, B or C license or a non-commercial class C license with a tow-truck endorsement.

6.5 Every Operator shall keep a file containing current proof of proper registration with the Department of Motor Vehicles for each of its tow trucks and provide the same upon request.

6.6 Every Operator shall keep a file containing proof of current NYS inspection for each of its tow trucks and provide the same upon request.

6.7 Each Operator shall have a vehicle storage facility, within 10 miles from the border of each zone it applies to serve, to which it will tow vehicles. No Operator shall tow vehicles to a more distant location absent the express request of the vehicle's owner.

6.8 Every Operator on an active tow list must respond to every service call of which they are notified and must arrive at the scene of the service call within thirty (30) minutes of contact by Niagara County Sheriff's Office communications.

6.9 No Operator shall charge for services in excess of the amounts prescribed by the schedule of fees to be issued by the Sheriff's Office from time to time.

6.10 A copy of the customer's itemized bill for every service call initiated by the Niagara County Sheriff's Office shall be provided to the Niagara County Sheriff's Office upon request. Such bills shall be maintained by the Operator for one year from the date of service.

6.11 Every Operator must comply with all laws and regulations of the United States, the State of New York, or other lawful body.

6.12 Every Operator must remove glass and any other dangerous substance from the roadway at every service call in accordance with vehicle and traffic law §1219 (c).

6.13 No Operator will display on any tow truck any marking that indicates an affiliation with the Niagara County Sheriff's Office.

6.14 Every tow truck and other equipment used by any Operator in any service call shall be kept and operated in a safe and responsible manner.

6.15 Every Operator must have a tow truck or trucks equipped with flashing lights and kept in good repair available at all times.

6.16 No Operator or driver shall respond to the scene of an accident, abandoned or disabled vehicle, nor shall any driver or Operator drive past such scene without first being called to respond by Niagara County Sheriff's Office communications.

6.17 Every Operator must provide the Niagara County Sheriff's Office with reliable phone numbers with which to contact them and must answer all calls to the number provided from Niagara County Sheriff's Office communications.

Section 7. Removal from list:

7.1 Any Operator on the active tow list for any zone may be removed by the Niagara County Sheriff or his designee from the active tow list for violating any section of this Local Law or general orders of the Sheriff's Office issued in accordance herewith. Upon removal pursuant to this section, the Operator's spot on the active tow list will be filled by the next Operator on the wait list.

7.2 If an Operator is on the active tow list for more than one zone, removal from the list pursuant to this section will result in removal from all active Tow lists.

7.3 If an Operator is removed from an active tow list pursuant to this section, the Operator shall be ineligible to re-apply for a period of six (6) months. Thereafter, the Operator may submit a new application to be considered by the Niagara County Sheriff's Office.

Section 8. Conflict with other laws:

8.1 This Local Law is not intended to supersede the authority of any city, village, or town to regulate the towing of abandoned or disabled vehicles within its territorial boundaries.

8.2 If the Niagara County Sheriff's Office is acting as an emergency responder or dispatcher within the territorial boundary of a city, village or town, which has established its own tow list, the Niagara County Sheriff's Office will make reasonable efforts to utilize the tow list of that city, village or town.

Section 9. Miscellaneous Provisions:

9.1 Nothing in this Local Law shall be construed as creating an employee/employer relationship between the County of Niagara and any Operator. Nothing in this law shall be construed as confirming an affirmative right on any person.

9.2 If any section or provision of this law should be declared invalid such shall not affect the validity of the law as a whole or any other part thereof.

9.3 This Local Law shall become effective upon filing with the Office of the Secretary of State.

RESOLVED, that the Niagara County Legislature shall conduct a public hearing upon said proposed Local Law at the Legislative Chambers Courthouse, Lockport, New York on the 5th day of May 2015 at 6:30 p.m., and be it further

RESOLVED, that the Clerk of the Legislature, at least six (6) days in advance of such hearing, shall post a notice upon the bulletin boards in the Courthouse in Lockport, the Civic Building in Niagara Falls and shall publish such notice once in the Union Sun & Journal, and the Niagara Gazette; such notice shall contain the title of the Local Law and an abstract of the text to be prepared by the Clerk of the Legislature, with the assistance of the County Attorney's Office

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CW-006-15

From: Committee of the Whole

Dated: April 21, 2015

**RATIFICATION OF AGREEMENT BETWEEN NIAGARA COUNTY AND LOCAL 182
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES**

WHEREAS, the County of Niagara and Local 182 American Federation of State, County and Municipal Employees (AFSCME) have reached a tentative agreement for the period of January 1, 2012 through December 31, 2018, and

WHEREAS, said tentative agreement was ratified by AFSCME on March 19, 2015, and

WHEREAS, the County Attorney has reviewed and approved the tentative agreement as to legal form, language, and compliance, now, therefore, be it

RESOLVED, that the Agreement be, and hereby is, ratified by the Niagara County Legislature to become effective April 26, 2015, as the Agreement between the parties for the period January 1, 2012 through December 30, 2018 ("the Agreement"), and be it further

RESOLVED, that the County Manager is authorized to direct the Departments of Human Resources, Risk Management, Budget Office, and the Treasurer's Office to implement and administer the provisions of the Agreement, and be it further

RESOLVED, that the Chairman of the Legislature be, and hereby is, authorized to execute said Agreement on behalf of the County of Niagara, subject to the approval of the County Attorney, and be it further

RESOLVED, that the following budget modification be effectuated:

INCREASE APPROPRIATED FUND BALANCE:

A 40599.00 Appropriated Fund Balance \$302,127.04

INCREASE APPROPRIATIONS:

A.07.9901.000 79010.00	Contribution to Other Funds-CM Funds	1,135.31
A.15.1620.000 71010.00	Position Expense	56,308.00
A.15.7110.000 71010.00	Position Expense	16,016.00
A.17.3150.000 71010.00	Position Expense	12,361.00
A.24.6772.000 71010.00	Position Expense	5,529.00
A.24.7610.702 71010.00	Position Expense	5,386.00
A.15.1620.000 71050.00	Overtime Expense	1,279.00
A.15.7110.000 71050.00	Overtime Expense	779.00
A.15.1620.000 71030.00	Part Time Expense	366.84
A.17.3150.000 71030.00	Part Time Expense	438.70
A.24.6772.000 71030.00	Part Time Expense	397.00
A.24.7610.702 71030.00	Part Time Expense	15,839.46
A.15.1620.000 71020.00	Contract Settlement Expense	60,408.84
A.15.7110.000 71020.00	Contract Settlement Expense	19,614.50
A.17.3150.000 71020.00	Contract Settlement Expense	12,515.13
A.24.6772.000 71020.00	Contract Settlement Expense	9,476.10
A.24.7610.702 71020.00	Contract Settlement Expense	22,614.73
A.15.1620.000 78200.00	FICA Expense	9,054.91
A.15.7110.000 78200.00	FICA Expense	2,787.50
A.17.3150.000 78200.00	FICA Expense	1,936.78
A.24.6772.000 78200.00	FICA Expense	1,174.92
A.24.7610.702 78200.00	FICA Expense	3,362.02
A.15.1620.000 78100.00	Retirement Expense	21,736.69
A.15.7110.000 78100.00	Retirement Expense	6,665.18
A.17.3150.000 78100.00	Retirement Expense	4,224.78
A.24.6772.000 78100.00	Retirement Expense	2,322.31
A.24.7610.702 78200.00	Retirement Expense	5,299.34
A.15.1620.000 78300.00	Worker's Compensation Expense	1,565.91
A.15.7110.000 78300.00	Worker's Compensation Expense	453.00
A.17.3150.000 78300.00	Worker's Compensation Expense	344.02
A.24.6772.000 78300.00	Worker's Compensation Expense	162.00
A.24.7610.702 78300.00	Worker's Compensation Expense	573.07

INCREASE ESTIMATED REVENUES:

CM.07.9901.000 45031.00	Interfund Transfers from A Fund	1,135.31
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INCREASE APPROPRIATIONS:

CM.24.7610.703 71020.00	Contract Settlement Expense	647.76
CM.24.7610.703 71030.00	Part Time Expense	397.00
CM.24.7610.703 78200.00	FICA Expense	79.55

CM.24.7610.703 78300.00	Worker's Compensation Expense	11.00
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INCREASE APPROPRIATED FUND BALANCE:

D 40599.00	Appropriated Fund Balance	85,475.13
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INCREASE APPROPRIATIONS:

D.15.5110.000 71010.00	Position Expense	32,075.00
D.15.5110.000 71050.00	Overtime Expense	1,978.00
D.15.5110.000 71020.00	Contract Settlement Expense	33,380.79
D.15.5110.000 78200.00	FICA Expense	5,158.66
D.15.5110.000 78100.00	Retirement Expense	11,963.68
D.15.5110.000 78300.00	Worker's Compensation Expense	919.00

INCREASE APPROPRIATED FUND BALANCE:

DM 40599.00	Appropriated Fund Balance	18,532.01
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INCREASE APPROPRIATIONS:

DM.15.5132.000 71010.00	Position Expense	6,905.00
DM.15.5132.000 71050.00	Overtime Expense	86.00
DM.15.5132.000 71020.00	Contract Settlement Expense	7,499.40
DM.15.5132.000 78200.00	FICA Expense	1,106.72
DM.15.5132.000 78100.00	Retirement Expense	2,745.89
DM.15.5132.000 78300.00	Worker's Compensation Expense	189.00

DECREASE APPROPRIATIONS:

EL.30.8161.806 74500.01	Contractual Expense	2,157.67
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INCREASE APPROPRIATIONS:

EL.30.8160.807 71010.00	Position Expense	420.00
EL.30.8161.803 71010.00	Position Expense	175.00
EL.30.8161.804 71010.00	Position Expense	176.00
EL.30.8160.807 71020.00	Contract Settlement Expense	501.56
EL.30.8161.803 71020.00	Contract Settlement Expense	206.90
EL.30.8161.804 71020.00	Contract Settlement Expense	207.06
EL.30.8160.807 78200.00	FICA Expense	69.36
EL.30.8161.803 78200.00	FICA Expense	29.81
EL.30.8161.804 78200.00	FICA Expense	28.87
EL.30.8160.807 78100.00	Retirement Expense	174.29
EL.30.8161.803 78100.00	Retirement Expense	74.89
EL.30.8161.804 78100.00	Retirement Expense	70.93
EL.30.8160.807 78300.00	Worker's Compensation Expense	13.00
EL.30.8161.803 78300.00	Worker's Compensation Expense	6.00
EL.30.8161.804 78300.00	Worker's Compensation Expense	4.00

DECREASE APPROPRIATIONS:

ER.26.7140.000 71011.00	Seasonal Expense	8,131.15
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INCREASE APPROPRIATIONS:

ER.26.7140.000 71010.00	Position Expense	2,885.00
ER.26.7140.000 71020.00	Contract Settlement Expense	3,220.39

ER.26.7140.000 71050.00	Overtime Expense	356.00
ER.26.7140.000 78200.00	FICA Expense	495.32
ER.26.7140.000 78100.00	Retirement Expense	1,086.44
ER.26.7140.000 78300.00	Worker's Compensation Expense	88.00

DECREASE APPROPRIATIONS:

FX.31.1990.000 74500.01	Contingency	25,577.28
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INCREASE APPROPRIATIONS:

FX.31.8330.000 71010.00	Position Expense	1,128.00
FX.31.8340.000 71010.00	Position Expense	8,018.00
FX.31.8340.000 71050.00	Overtime Expense	232.00
FX.31.8330.000 71020.00	Contract Settlement Expense	1,480.24
FX.31.8340.000 71020.00	Contract Settlement Expense	9,447.89
FX.31.8330.000 78200.00	FICA Expense	198.24
FX.31.8340.000 78200.00	FICA Expense	1,350.77
FX.31.8330.000 78100.00	Retirement Expense	493.29
FX.31.8340.000 78100.00	Retirement Expense	2,973.85
FX.31.8330.000 78300.00	Worker's Compensation Expense	31.00
FX.31.8340.000 78300.00	Worker's Compensation Expense	224.00

Chairman Ross announced that he was enacting Rule 28 for CW-006-15 and CW-008-15.

Moved by Ross, seconded by Syracuse.

County Manager discussed the highlights of the agreement.

Roll Call by District.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. CW-008-15

From: Committee of the Whole

Dated: April 21, 2015

CREATE AND FILL ONE BUILDING ATTENDANT AND THREE CLEANER POSITIONS

WHEREAS, due to the recent purchase of buildings at 111 Main Street, Lockport and 20-40 East Avenue, Lockport, it is necessary to hire additional staff for the janitorial maintenance of the building, and

WHEREAS, after studying the services we provide and evaluating all options it has been determined that it would be in the best interest of the department, as well as the taxpayers, to create one (1) Building Attendant and to create and fill three (3) Cleaner positions, and

WHEREAS, funding for this newly created position will be from the remaining balance in the Rent line item, as the County will no longer be paying rent for these facilities, A.15.1620.000.74200.01, now, therefore be it

RESOLVED, that the position of Building Attendant, AFSCME, Grade 7, Step 1, at an annual salary of \$29,623, be created, posted and filled, immediately, and be it further

RESOLVED, that the three positions of Cleaner, AFSCME, Grade 14, Step 1, at an annual salary of \$21,765, be created, posted, and filled, immediately, and be it further

RESOLVED that the following budget modification be made:

FROM:

A.15.1620.000.74200.01	Rent	\$196,875.00
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TO:

A.15.1620.000.71010 .00	Positions (Building Attendant)	\$18,861.00
A.15.1620.000.71010.00	Positions (Cleaner)	\$14,146.00
A.15.1620.000.71010.00	Positions (Cleaner)	\$14,146.00
A.15.1620.000.71010.00	Positions (Cleaner)	\$14,146.00
A.15.1620.000.71070.00	Shift Differential	\$ 710.00
A.15.1620.000.71050.00	Overtime	\$12,000.00
A.15.1620.000.78100.00	Retirement	\$11,424.00
A.15.1620.000.78200.00	FICA	\$ 4,802.00
A.15.1620.000.78300.00	Worker's Comp	\$ 1,695.00
A.15.1620.000.78400.01	Health Insurance	\$38,715.00
A.15.1620.000.78400.05	HRA	\$ 3,400.00
A.15.1620.000.78800.00	Flex	\$ 1,400.00
A.15.1620.000.72100.20	Buildings and Grounds Equipment	\$ 9,150.00
A.15.1620.000.74500.02	Service Contracts	\$ 5,630.00
A.15.1620.000.74800.02	HVAC/Electrical	\$ 7,500.00
A.15.1620.000.74800.03	Building Maintenance	\$10,000.00
A.15.1620.000.74800.06	Repairs and Maintenance	\$ 1,450.00
A.15.1620.000.74800.07	Janitorial Supplies	\$24,700.00
A.15.1620.000.74800.08	Landscape/Grounds	\$ 3,000.00

Total:	\$196,875.00
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Moved by Syracuse, seconded by Nemi.

Roll Call by District.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. ED-004-15

From: Economic Development & Administration Committees

Dated: April 21, 2015

**APPROVAL OF LOW COST POWER BENEFIT TO
RUSSELL FARMS, INC. UNDER AGREEMENT FOR THE
SALE AND PURCHASE OF NIAGARA PROJECT POWER & ENERGY (ASPNPPE)**

WHEREAS, the County of Niagara entered into the Host Community Relicensing and Settlement Agreement ("HCRSA") on June 25, 2005, and

WHEREAS, the HCRSA entitles the County of Niagara to 9 megawatts of low cost power allocation (at 70% load) from the New York Power Authority, and

WHEREAS, the County of Niagara has made the use of this low cost power allocation for economic development purposes as the top priority for that allocation, and

WHEREAS, there is presently an Agreement for the Sale and Purchase of Niagara Project Power and Energy ("ASPNPPE") that has been approved by the County of Niagara and NYPA and the Governor of the State of New York, and

WHEREAS, the ASPNPPE specifically provides that the County of Niagara, could use its low cost power allocation for economic development purposes, and

WHEREAS, the County of Niagara has taken the necessary actions to fully implement the benefits contained in the HCRSA and the ASPNPPE, and

WHEREAS, the County of Niagara established the Empower Niagara Board by resolution ED-021-07 to review applications for the use of low cost power for economic development by reviewing applications and to make recommendation to Legislature of Niagara County, and

WHEREAS, the County of Niagara has previously awarded to Russell Farms, Inc. for this same project under resolution ED-014-12, 100 Kw (at 70% load factor), which agreement will expire on April 30, 2015 and for which Russell Farms, Inc. has met or exceeded each part of the previous application including the number of jobs and capital investment, and

WHEREAS, the Empower Niagara Board has reviewed the initial application of Russell Farms, Inc. for the use of low cost power for developing and expanding its business in Niagara County, and

WHEREAS, Russell Farms, Inc. has exceeded its job and capital investment for its project for consideration and the Empower Niagara Board is recommending approval of a 6-month extension of the agreement through October 30, 2015, at which time the Empower Board will review the agreement again for consideration of another potential extension, and

WHEREAS, the approval of this extension will not only maintain economic development in Niagara County; but also assist Russell Farms, Inc. to remain competitive in a global apple industry and have a good economic effect on the agriculture community in Niagara County, and

WHEREAS, the Empower Niagara board will be recommending the low cost power allocations of 100kw be extended for a period of six (6) months, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby approves Russell Farm, Inc.'s agreement extension for 100kw (at 70% load factor) low cost power benefits from Niagara County, pursuant to low cost power allocation received through the June 25, 2005 HCRSA and ASPNPPE, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute this Empower User Agreement extension of the agreement for Low Cost Power with Russell Farms, Inc.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. ED-005-15

From: Economic Development & Administration Committees

Dated: April 21, 2015

**APPROVAL OF EXTENSION OF LOW COST POWER
BENEFIT TO VIATRAN CORPORATION UNDER THE AGREEMENT
FOR THE SALE & PURCHASE OF NIAGARA PROJECT POWER & ENERGY
(ASPNPPE)**

WHEREAS, the County of Niagara entered into the Host Community Relicensing and Settlement Agreement ("HCRSA") on June 25, 2005, and

WHEREAS, the HCRSA entitles the County of Niagara to 9 megawatts of low cost power allocation (at 70% load) from the New York Power Authority, and

WHEREAS, the County of Niagara has made the use of this low cost power allocation for economic development purposes as the top priority for that allocation, and

WHEREAS, there is presently an Agreement for the Sale and Purchase of Niagara Project Power and Energy ("ASPNPPE") that has been approved by the County of Niagara and NYPA and the Governor of the State of New York, and

WHEREAS, the ASPNPPE specifically provides that the County of Niagara could use its low cost power allocation for economic development purposes, and

WHEREAS, the County of Niagara has taken the necessary actions to fully implement the benefits contained in the HCRSA and the ASPNPPE, and

WHEREAS, the County of Niagara established the Empower Niagara Board by Resolution ED-021-07 to review applications for the use of low cost power for economic development by reviewing applications and to make recommendation to Legislature of Niagara County, and

WHEREAS, the Empower Niagara Board has reviewed the formal application of Viatran Corporation for the use of low cost power for its expansion in Niagara County, and

WHEREAS, the application of Viatran Corporation has met all the criteria qualifying its project for consideration and the Empower Niagara Board is recommending approval of this application, and

WHEREAS, the original application of Viatran was approved for 120kw (at 70% load factor) of low cost power, which created 25 new jobs in Niagara County and brought 46 existing jobs to Niagara County and now over 4 million in total wages and benefits; requiring a new load of electricity for this move, renovation and expansion with a cash influx by Viatran Corporation of more than one million dollars (\$1,000,000), and

WHEREAS, the recommendation for extension of the Viatran Corporation agreement is for 120kw (at 70% load factor) of low cost power which will not only continue to support, increase and maintain economic development in the Town of Wheatfield and Niagara County; but also assist Viatran Corporation to promote renovation and expand its current operations, and

WHEREAS, the Empower Niagara Board has recommended the low cost power agreement be extended for a period of three (3) years through September 1, 2018, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby extends Viatran Corporation's agreement for 120 kw (at 70% load factor) low cost power benefits from Niagara County for a period of three (3) years, pursuant to low cost power allocation received through the June 25, 2005 HCRSA and ASPNPPE, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute this Empower User Agreement for Low Cost Power with Viatran Corporation.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. ED-006-15

From: Economic Development & Administration Committees

Dated: April 21, 2015

**BUDGET MODIFICATION – TO COVER
EMPOWER NIAGARA ALLOCATIONS TO RUSSELL FARMS, INC.**

WHEREAS, Russell Farms, Inc. is a Niagara County business that has been approved to receive low cost hydropower allocations through the Empower Niagara Program, and

WHEREAS, these benefits will be transferred to Russell Farms, Inc. as stipulated in the Empower Niagara Program agreement, through the Niagara County Economic Development 2015 budget, now, therefore, be it

RESOLVED, that the following budget modifications be effectuated to the Niagara County Economic Development 2015 through 2018 budget, and annually thereafter until 2018 as set forth below:

		<u>2015</u>
INCREASE REVENUE:		
A.15.1620.108 42655.03	Sale of Excess Power	\$15,600
INCREASE APPROPRIATION:		
A.15.1620.108 74500.01	Contractual	\$15,600
INCREASE REVENUE:		
A.28.8020.813 42189.01	Activities – Eco Dev	\$15,600
INCREASE APPROPRIATION:		
A.28.8020.813 74550.30	Empower Niagara	\$15,600

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. ED-007-15

From: Economic Development & Administration Committees

Dated: April 21, 2015

**BUDGET MODIFICATION TO COVER EMPOWER NIAGARA ALLOCATIONS
TO VIATRAN CORPORATION**

WHEREAS, Viatran Corporation is a Niagara County business that has been approved to receive low cost hydropower allocations through the Empower Niagara Program, and

WHEREAS, these benefits will be transferred to Viatran Corporation as stipulated in the Empower Niagara Program agreement, through the Niagara County Economic Development 2015 through 2018 budget, now, therefore, be it

RESOLVED, that the following budget modifications be effectuated to the Niagara County Economic Development 2015 through 2018 budget:

		<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
INCREASE REVENUE:					
A.15.1620.108 42655.03	Sale of Excess Power	\$12,500	Value of 120 kw	Value of 120 kw	Value of 80 kw for 8 months
INCREASE APPROPRIATION:					
A.15.1620.108 74500.01	Contractual	\$12,500	Value of 120 kw	Value of 120 kw	Value of 80 kw for 8 months
INCREASE REVENUE:					
A.28.8020.813 42189.01	Activities – Eco Dev	\$12,500	Value of 120 kw	Value of 120 kw	Value of 80 kw for 8 months
INCREASE APPROPRIATION:					
A.28.8020.813 74550.30	Empower Niagara	\$12,500	Value of 120 kw	Value of 120 kw	Value of 80 kw for 8 months

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. ED-008-15

From: Economic Development & Administration Committees

Dated: April 21, 2015

**A LOCAL LAW IMPOSING A TAX ON THE OCCUPANCY OF HOTEL ROOMS
PURSUANT TO TAX LAW § 1202-t HOTEL OR MOTEL TAXES IN NIAGARA COUNTY**

WHEREAS, the Economic Development and Administration Committees present in writing the following proposed Local Law:

A Local Law Imposing a Tax on the Occupancy of Hotel Rooms Pursuant to Tax Law §1202-t Hotel or Motel Taxes in Niagara County:

Be it enacted by the Legislature of the County of Niagara as follows:

Section 1. Short Title.

This Local Law shall be known as the Niagara County Hotel Room Occupancy Tax Law.

Section 2. Definitions.

When used in this Local Law, the following terms shall mean:

(a) Person. An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Operator. Any person operating a hotel in the County of Niagara, including but not limited to, the owner or proprietor of such premises, lessee, sub-lessee, mortgagee in possession, licensee or any other person otherwise operating such hotel.

(c) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests on an overnight basis. The term "hotel" includes a motel, motor court, motor lodge or inn, bed and breakfast and tourist homes, or similar hotel or motel type of accommodations by whatever name designated.

(d) Occupancy. The use or possession, or the right to use or possession of any room in a hotel.

(e) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(f) Permanent Resident. A person occupying any room or rooms in a hotel for at least thirty consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(g) Rent or Charge. The consideration received for occupancy valued in money, whether received in money or otherwise.

(h) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(i) Return. Any return filed or required to be filed as herein provided.

(j) County Treasurer. The Treasurer of the County of Niagara, New York.

Section 3. Imposition of Tax.

On and after the 1st day of May, two thousand twelve, there is imposed and there shall be paid a tax of four percent (4%) per day upon the rent for every occupancy of a room or rooms in a hotel in the County of Niagara except that the tax shall not be imposed upon a permanent resident of a hotel or exempt organizations as hereinafter set forth.

Section 4. Exempt Organizations.

(a) Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this Local Law:

(1) The State of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada) improvement district or political subdivision of the state;

(2) The United States of America, insofar as it is immune from taxation; and

(3) Any corporation, or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

Section 5. Territorial Limitations.

The tax imposed by this Local Law shall apply only within the territorial limits of the County of Niagara except for within the limits of any city of the County of Niagara imposing a hotel or motel tax pursuant to authority granted by the State of New York at any prior time. In the event that any city within the County of Niagara not currently imposing such a hotel and motel bed tax shall obtain authorization from the State of New York to impose such a tax; said city shall have the right to impose such tax up to the maximum rate of the tax authorized for such city by the State of New York. In the event that the imposition of the new tax by any such city would require a reduction in the County tax rate imposed pursuant to this section and to this Local Law, then said tax shall not become effective before the commencement of the County's next succeeding fiscal year and then only if such city shall have given notice to such County of its imposition of such a tax at least six (6) months prior to the commencement of such fiscal year. The County of Niagara waives the right of said notice and the postponement of the effective date of such a hotel occupancy tax. Cities within the County of Niagara who currently are authorized to and who collect a hotel occupancy tax shall continue to maintain a prior right to collect such hotel and motel bed tax.

Section 6. Registration.

Within ten days after the effective date of this local law, or in the case of operators commencing business after such effective date, within three days after such commencement or opening, every operator shall file with the County Treasurer a certificate of registration in a form prescribed by the County Treasurer. The County Treasurer shall, within five days after such registration, issue without charge to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the County Treasurer upon the cessation of business at the hotel named or upon its sale or transfer.

Section 7. Administration and Collection.

(a) The tax imposed by this Local Law shall be administered and collected by the County Treasurer.

(b) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said

occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this Local Law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the County Treasurer shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

(c) Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this Local Law, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the County Treasurer, and it shall be the duty of the occupant to file a return thereof with the County Treasurer and to pay the tax imposed thereon to the County Treasurer within fifteen days after such tax was due.

(d) The County Treasurer may, wherever he deems it necessary for the proper enforcement of this Local Law, provide by regulation that the occupant shall file returns and pay directly to the County Treasurer the tax herein imposed, at such times as returns are required to be filed and payment over made by the operator.

(e) The tax imposed by this Local Law shall be paid upon any occupancy on and after May first, two thousand twelve, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after May first, two thousand twelve. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the County Treasurer may by regulation provide for credit and/or refund of the amount of such tax application therefore as provided in section twelve of this Local Law.

(f) For the purpose of the proper administration of this Local Law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or the occupant. Where an occupant claims exemptions from the tax under the provisions of section four hereof, the rent shall, be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a copy of a certificate issued by the County Treasurer certifying that the corporation or association therein named is exempt from the tax under section four hereof, together with a certificate duly executed by the corporation or association named in the certificate of the County Treasurer certifying that the occupant is its agent, representative or employee and that his occupancy is paid or to be paid by, and is necessary or required in the course of or in connection with the affairs of said corporation or association.

Section 8. Records to be Kept.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the County Treasurer may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the County Treasurer or his duly authorized agent or employee and shall be preserved for a period of three years,

except that the County Treasurer may consent to their destruction within that period or may require that they be kept longer.

Section 9. Returns.

(a) Every operator shall file with the County Treasurer a return of occupancy and of rents, and of the taxes payable thereon for the periods ending March thirty-first, June thirtieth, September thirtieth and December thirty-first of each year, on and after May first, two thousand twelve. Such returns shall be filed within twenty days from the expiration of the period covered thereby. The County Treasurer may permit or require returns to be made by other periods and upon such dates as he may specify. If the County Treasurer deems it necessary in order to insure the payment of the tax imposed by this Local Law, he may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he may specify.

(b) The forms of returns shall be prescribed by the County Treasurer and shall contain such information as he may deem necessary for the proper administration of this Local Law. The County Treasurer may require amended returns to be filed within twenty days after notice and to contain the information specified in the notice.

(c) If a return required by this Local Law is not filed, or if a return when filed is incorrect or insufficient on its face, the County Treasurer shall take the necessary steps to enforce the filing of such a return or of a corrected return.

Section 10. Payment of Tax.

At the time of filing a return of occupancy and of rents each operator shall pay to the County Treasurer the taxes imposed by this Local Law upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions in this Local Law. Even though it be judicially determined that the tax collected is invalidly required to be filed, it shall be due from the operator and payable to the County Treasurer on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon. Where the County Treasurer, in his discretion, deems it necessary to protect revenues to be obtained under this Local Law he may require any operator required to collect the tax imposed by this local law to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the County Treasurer may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the County Treasurer determines that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required. The operator shall file such bond within five days after the giving of such notice unless within such five days the operator shall request in writing a hearing before the County Treasurer at which the necessity, propriety and amount of the bond shall be determined by the County Treasurer. Such determination shall be final and shall be complied with within fifteen days after the giving of notices thereof. In lieu of such bond, securities approved by the County Treasurer or cash in such amount as he may prescribe, may be deposited which shall be kept in the custody of the County Treasurer who may at any time without notice to the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

Section 11. Determination of Tax.

If a return required by this Local Law is not filed, or if a return when filed is incorrect or insufficient the amount of tax due shall be determined by the County Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty days after giving of notice of such determination, shall apply to the County Treasurer for a hearing, or unless the County Treasurer of his own motion shall re-determine the same. After such hearing, the County Treasurer shall give notice of his determination to the person against whom the tax is assessed. The determination of the County Treasurer shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article seventy-eight of the Civil Practice Law and Rules, provided however, that such proceeding is instituted in the Supreme Court within thirty days after the giving of the notice of such determination. A proceeding under Article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless

(a) the amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or (b) at the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, penalties and interest as a condition precedent to the application.

Section 12. Refunds.

(a) In the manner provided in this section, the County Treasurer shall refund or credit without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the County Treasurer for such refund shall be made within one year from the payment thereof. Whenever a refund is made by the County Treasurer, he shall state his reason therefore in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application when made by an operator who has collected and paid over such tax to the County Treasurer, provided that the application is made within one year of the payment by the occupant to the operators shall be acted upon and refunded any moneys, due, only after such operator shall first establish to the satisfaction of the County Treasurer, under such regulations as the County Treasurer may prescribe, that he has repaid or will simultaneously repay to the occupant the amount for which the application for refund is made. The County Treasurer may, in lieu of any refund required to be made, allow credit therefore on payments due from the petitioner.

(b) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the County Treasurer, and such County Treasurer shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article seventy-eight of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking be filed with the County Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve

to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(c) A person shall not be entitled to a revision, refund or credit under this section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of section twelve of this Local Law where he has had a hearing or an opportunity for a hearing, as provided in said section, or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the County Treasurer made pursuant to section twelve of this Local Law unless it be found that such determination was erroneous, illegal or unconstitutional or otherwise improper by the County Treasurer after a hearing or of his own motion or in a proceeding under Article seventy-eight of the Civil Practice Law and Rules, pursuant to the provisions of said section, in which event refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

Section 13. Disposition of Revenues.

All revenues resulting from the imposition of this tax under this Local Law shall be paid into the treasury of the County of Niagara and shall be credited to and deposited in the General Fund account of the County of Niagara. Thereafter, said funds are to be allocated and paid to a not-for-profit corporation under contract with the County for the promotion of tourism in the County. The County Treasurer is authorized to retain up to a maximum of five percent (5%) of such revenue to defer the necessary expenses of the County in administering such tax.

Section 14. Reserves.

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under Article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to him on his application for refund, the County Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

Section 15. Remedies Exclusive.

The remedies provided by sections eleven and twelve of this Local Law shall be exclusive remedies available to any person for the review of tax liability imposed by this Local Law and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in a nature of a certiorari proceeding under Article seventy-eight of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he institutes suit within thirty days after a deficiency assessment is made and pays the amount of the deficiency assessment to the County Treasurer prior to the institution of such suit and posts a bond for costs as provided in section eleven of this Local Law.

Section 16. Proceedings to Recover Tax.

(a) Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this Local Law as therein provided, the Niagara County Attorney shall, upon the request of the County Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Niagara in any court of the State of New York or of any other state or of United States. If,

however, the County Treasurer, in his discretion, believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

(b) As an additional or alternate remedy, the County Treasurer may issue a warrant, directed to the sheriff commanding him to levy upon and sell the real and personal property of the operator or officer of a corporate operator or of the occupant or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the County Treasurer and to pay to him the money collected by virtue thereof within sixty days after the receipt of such warrant. The sheriff shall, within five days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon any interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in citing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the County Treasurer, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the County Treasurer and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the County Treasurer may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefore and execution thereon has been returned unsatisfied.

(c) Whenever an operator shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or his lease, license of other agreement or right to possess or operate such hotel, apartment hotel, or of the equipment, furnishings, fixtures, supplies or stock of merchandise, of the said premises or lease, license or other agreement or right to possess or operate such hotel, apartment hotel and the equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel, otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall at least ten days before taking possession of the subject of said sale, transfer or assignment, or paying therefor, notify the County Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor, has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this Local Law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Whenever the purchaser, transferee or assignee shall fail to give notice to the County Treasurer as required by the preceding paragraph or whenever the County Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or choses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of section 6-101 through 6-111 of the Uniform Commercial Code, shall be personally liable for the payment to the County of any such taxes theretofore

or thereafter determined to be due to the County from the seller, transferrer, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this Local Law.

Section 17. General Powers of the County Treasurer.

In addition to the powers granted to the County Treasurer in this Local Law, he is hereby authorized and empowered:

(a) To make, adopt and amend rules and regulations appropriate to the carrying out of this Local Law and the purposes thereof;

(b) To extend for cause shown, the time of filing any return for a period not exceeding thirty days; and for cause shown, to waive penalties but not interest computed at the rate of six percent per annum; and to compromise disputed claims in connection with the taxes hereby imposed;

(c) To request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such tax commission or such treasury department relative to any person, any other provision of this Local Law to the contrary notwithstanding;

(d) To delegate his functions hereunder to a Deputy County Treasurer or any employee or employees of the office of County Treasurer;

(e) To prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;

(f) To require any operator within the County to keep detailed records of the nature and type of hotel maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this Local Law, and to furnish such information upon request to the County Treasurer.

(g) To assess, determine, revise and readjust the taxes imposed under this Local Law.

Section 18. Administration of Oaths and Compelling Testimony.

(a) The County Treasurer or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this Local Law. The County Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this Local Law and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or excused from attendance.

(b) A Justice of the Supreme Court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the County Treasurer under this Local Law.

(c) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material manner pending before the County Treasurer under this Local Law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

(d) The officers who serve the summons or subpoena of the County Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his daily appointed deputies or any officers or employees of the County Treasurer, designated to serve such process.

Section 19. Reference to Tax.

Wherever reference is made in placards or advertisements or in any other publications to this tax, such reference shall be substantially in the following form: "Tax on occupancy of hotel rooms," except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the words "occupancy tax" will suffice.

Section 20. Penalties and Interest.

(a) Any person failing to file a return or to pay or pay over any tax to the County Treasurer within the time required by this Local Law shall be subject to a penalty, of five percent of the amount of tax due; plus interest at the rate of one percent of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due; but the County Treasurer, if satisfied that the delay was excusable, may waive all or any part of such penalty, but not interest at the rate of six percent per year. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this Local Law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this Local Law.

(b) Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this Local Law, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information testimony or statement required or authorized by this Local Law, which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to section eleven of this Local Law, or failing to file a registration certificate and such data in connection therewith as the County Treasurer may be regulation or otherwise require or to display or surrender the certificate of authority as required by this Local Law or assigning or transferring such certificate or authority and any operator and any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill of statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant, and any operator and any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this Local Law, and any operator failing to keep the records required by section eight of this Local Law, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars, or imprisonment for not more than one year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this Local Law, and subject to the penalties herein above imposed.

(c) The certificate of the County Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this Local Law, shall be presumptive evidence thereof.

Section 21. Returns to be Secret.

(a) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the County Treasurer or any officer or employee of the office of County Treasurer to divulge or make known in any manner the rents or either information relating to the business of a taxpayer contained in any return required under this Local Law. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County Treasurer in an action or proceeding under the provisions of this Local Law, or on behalf of any party to any action or proceeding under the provisions of this Local Law when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the Niagara County Attorney or other legal representatives of the County or by the District Attorney of Niagara County, of the return of any taxpayer who shall bring action to set

aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three years and thereafter until the County Treasurer permits them to be destroyed.

(b) Any violation of subdivision (a) of this section shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender be an officer or employee of the County he shall be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

Section 22. Notices and Limitations of Time.

(a) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Local Law, or in any application made by him or, if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Local Law by the giving of notice shall commence to run from the date of mailing of such notice.

(b) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the County to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this Local Law. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(c) Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

Section 23. Separability.

If any provision of this Local Law, or the application thereof to any person or circumstance shall be held invalid, the remainder of this Local Law, and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 24. Effective Date.

This local law shall take effect upon filing in the office of the Secretary of State as provided by the Municipal Home Rule Law. The Hotel and Motel tax enacted herein shall remain in effect for a three (3) year period from May 1, 2015. Nothing contained in Tax Law § 1202-t Hotel or Motel Taxes in Niagara County shall prohibit the adoption and enactment of Local Laws pursuant to provisions of this section upon the expiration and any other Local Law adopted pursuant to this section.

RESOLVED, that the Niagara County Legislature shall conduct a public hearing upon said proposed Local Law at the Legislative Chambers, Courthouse, Lockport, New York, on the 5th day of May, 2015 at 6:45 p.m., and be it further

RESOLVED, that the Clerk of the Legislature, at least six (6) days in advance of such hearing, shall post a notice upon the bulletin boards in the Courthouse at Lockport and the Civic Building in Niagara Falls, and shall publish such notice once in the Union-Sun & Journal and the Niagara Gazette; such notice shall contain the title of the Local Law and an abstract of the text to be prepared by the Clerk of the Legislature with the assistance of the County Attorney's Office.

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. IL-039-15

From: Legislators Richard L. Andres, Randy R. Bradt, Kathryn L. Lance & Economic Development Committee

Dated: April 21, 2015

**IN SUPPORT OF THE NORTH TONAWANDA FOOTBALL HALL OF FAME
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, Niagara County is in receipt of funds generated from the Seneca Niagara Casino as per New York State statute, and

WHEREAS, the North Tonawanda Football Hall of Fame is committed to supporting the youth involved in North Tonawanda Football and also to the preservation and promotion of the esteemed history of North Tonawanda Football which includes the Class AA Championship Team of 2009, and

WHEREAS, the North Tonawanda Football Hall of Fame contains inductees dating back to 1967 and is a testament to the talented athletes that played for North Tonawanda, and

WHEREAS, the North Tonawanda Football Hall of Fame is committed to assisting the North Tonawanda Football Team and has supported former athletes by providing uniforms and creating a scholarship, and

WHEREAS, the North Tonawanda Football Hall of Fame Facility is in need of a front porch rehabilitation to ensure the safety of staff, volunteers and visitors, now, therefore, be it

RESOLVED, that Niagara County supports the North Tonawanda Football Hall of Fame as follows:

North Tonawanda Football Hall of Fame	\$2,000.00
and be it further	

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2015 budget:

INCREASE APPROPRIATED FUND BALANCE:

A.28.8020.812 40599.01 Appropriated Fund Balance - Committed Funds	\$2,000.00
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INCREASE APPROPRIATIONS:

A.28.8020.812 74400.15 Seneca Niagara Community Development Fund	\$2,000.00
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Moved by Andres, seconded by Lance.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. IL-043-15

From: Legislator William L. Ross & Economic Development Committee

Dated: April 21, 2015

**RESOLUTION IN SUPPORT OF ARTPARK FAMILY AND CHILDREN'S
PROGRAMMING THROUGH THE USE OF CASINO FUNDING**

WHEREAS, Artpark, located in the Village of Lewiston, has over 225,000 visitors from the United States and Canada attend the four month schedule of events and programs, and

WHEREAS, Artpark generates an \$11.5 million economic impact to the Niagara Region by providing a summer schedule of exciting Main Stage Theatre shows and a diverse offering of family and children's programs, and

WHEREAS, funding support, corporate sponsorships and donations are a key to the continuation of Artpark programs, and

WHEREAS, Artpark's popular free and low cost family and children's events are a Western New York tradition, but recent funding cuts resulted in the loss of some of Artpark's family programs, now, therefore, be it

RESOLVED, that Niagara County Casino Funds help support some of the lost family and children's programs, and be it further

RESOLVED, that Niagara County supports Artpark as follows:

Artpark	\$2,500.00
and be it further	

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2015 budget:

INCREASE APPROPRIATED FUND BALANCE:

A.28.8020.812 40599.01 Appropriated Fund Balance - Committed Funds	\$2,500.00
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INCREASE APPROPRIATIONS:

A.28.8020.812 74400.15 Seneca Niagara Community Development Fund	\$2,500.00
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Moved by Ross, seconded by Burmaster.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. IL-044-15

From: Legislator William L. Ross & Economic Development Committee

Dated: April 21, 2015

**RESOLUTION IN SUPPORT OF THE PEACH FESTIVAL
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the Village of Lewiston is blessed with great natural beauty and its local organizations sponsor a multitude of extremely exciting events which draw thousands of people from all over Western New York, Southern Ontario and beyond, and

WHEREAS, these festival events generate a positive economic impact on the businesses which include first class restaurants and interesting shops, and

WHEREAS, the Peach Festival, which is sponsored by the Lewiston Kiwanis Club, is Niagara County's premier family event which has been held for over 50 years, and

WHEREAS, the Lewiston Kiwanis Club will use the casino funds for marketing the 2015 Peach Festival, now, therefore, be it

RESOLVED, that Niagara County supports the economic initiatives of the Peach Festival as follows:

Peach Festival Marketing and Promotion	\$1,500.00
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and be it further

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2015 budget:

INCREASE APPROPRIATED FUND BALANCE:

A.28.8020.812 40599.01 Appropriated Fund Balance - Committed Funds	\$1,500.00
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INCREASE APPROPRIATIONS:

A.28.8020.812 74400.15 Seneca Niagara Community Development Fund	\$1,500.00
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Moved by Ross, seconded by Burmaster.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. IL-047-15

From: Legislator William L. Ross & Economic Development Committee

Dated: April 21, 2015

**RESOLUTION IN SUPPORT OF THE HISTORIC LEWISTON JAZZ FESTIVAL
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the Village of Lewiston is blessed with great natural beauty and its local organizations sponsor a multitude of extremely exciting events which draw thousands of people from all over Western New York, Southern Ontario and beyond, and

WHEREAS, these festival events generate a positive economic impact on the businesses which include first class restaurants and interesting shops, and

WHEREAS, the Historic Lewiston Jazz Festival is the premier Jazz Festival in Western New York and has the total support of the residents and companies for funding this regional music jewel, and

WHEREAS, the Niagara County Legislature casino fund contribution will support the marketing effort of the Lewiston Jazz Festival Board of Directors, now, therefore, be it

RESOLVED, that the Niagara County Legislature support this outstanding musical event as follows:

Historic Lewiston Jazz Festival	\$1,500.00
and be it further	

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2015 budget:

INCREASE APPROPRIATED FUND BALANCE:

A.28.8020.812 40599.01 Appropriated Fund Balance - Committed Funds	\$1,500.00
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INCREASE APPROPRIATIONS:

A.28.8020.812 74400.15 Seneca Niagara Community Development Fund	\$1,500.00
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Moved by Ross, seconded by Burmaster .

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. IL-055-15

From: Legislators Owen T. Steed, Dennis F. Virtuoso, Jason A. Zona & Mark J. Grozio

Dated: April 21, 2015

**SUPPORT OF CERTIFICATION OF NEED APPLICATIONS BY KALEIDA HEALTH AND
NIAGARA FALLS MEMORIAL MEDICAL CENTER FOR THE OPERATION OF A CARDIAC
CATHETERIZATION LABORATORY**

WHEREAS, the need for a cardiac catheterization service in Niagara County is demonstrated by the high incidence of heart disease as compared to Western New York and New York State, and

WHEREAS, one out of every three people in Niagara County dies from cardiovascular disease, and

WHEREAS, Niagara County's cardiovascular mortality rate (336.4) is the second highest among the eight counties of Western New York and is significantly higher than the WNY rate (286.5) and the statewide rate of 230.1, and

WHEREAS, the rate of cardiac catheterization care for the adult white population in Niagara County is twice that of the African-American rate even though African-Americans are at greater risk of heart disease, and

WHEREAS, for Medicaid beneficiaries in Niagara County the disparity issue is similar: in 2013 only 119 or less than one-half of one percent (0.42%) of the county's 28,387 adult Medicaid beneficiaries received a cardiac catheterization service, resulting in a service utilization rate that is just one-third of the rate for white adults, and

WHEREAS, the provision of cardiac catheterization services at NFMCC will improve the community's health through the early detection of heart disease, leading to a reduction in the number of untimely deaths and in the number of more costly invasive procedures that are required at more advanced stages of cardiac disease, and

WHEREAS, Niagara Falls Memorial Medical Center (NFMCC), Kaleida Health and Erie County Medical Center Corporation (ECMCC) are working collaboratively to bring cardiac catheterization laboratory services to Niagara County, and

WHEREAS, under this three-way partnership, ECMCC will relinquish its license to operate one of its three existing cardiac catheterization laboratories and will transfer the laboratory license to Kaleida Health, and

WHEREAS, Kaleida Health will seek approval to utilize the transferred cardiac catheterization license to establish a Cardiac Catheterization= Percutaneous Coronary Care (PCI) laboratory extension clinic at the ER1/Heart Center building located at NFMCC's campus, and

WHEREAS, in February of this year, NFMCC filed a Certificate of Need (CON) application with the New York State Department of Health to accommodate the establishment of a cardiac catheterization laboratory on the second floor of Memorial's Heart Center, and

WHEREAS, at the same time, Kaleida health will file a CON to establish a satellite cardiac catheterization laboratory on the second floor of the ER1/Heart Center in space which is located directly above the Emergency Department and is situated adjacent to Memorial's cardiac diagnostic testing services and cardiologist offices, and

WHEREAS, NFMCC and Kaleida will enter into an operating agreement which will designate Kaleida Health as the entity responsible for operating and managing all elements of the cardiac catheterization laboratory and for billing for services rendered, and

WHEREAS, by utilizing existing space at Memorial, this project produces maximum benefits for Niagara County residents without imposing unnecessary costs on the healthcare system, and

WHEREAS, the Kaleida/NFMCC cardiac catheterization project is genuinely cost-effective: the combined project cost totals approximately \$2.1 million, and

WHEREAS, the combined expertise, experience and commitment of NFMCC and Kaleida Health will assure the success of this project, and

WHEREAS, the NFMMC-based catheterization laboratory will be connected to Kaleida's innovative Gates Vascular Institute – a Top 15 program in the nation – and its team of experts with their proven track record in the provision of high quality cardiac catheterization services and the delivery of a wide-range of other top-notch cardiac services, and

WHEREAS, as a New York State Designated Stroke Center, a recipient of the American Heart Associations' Gold Level performance award and as an institution which has a long history of addressing the disproportionate cardiac death rates in Niagara County, Niagara Falls Memorial has the commitment and ability to connect all segments of the Niagara community to the proposed cardiac catheterization laboratory, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby supports the approval of Certification of Need applications by Kaleida and NFMMC to the New York State Department of Health for the operation of a cardiac catheterization laboratory at the ER1/Heart Center building of Niagara Falls Memorial Medical Center.

Moved by Steed, seconded by Zona, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

Carried.

Moved by Steed, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. IL-056-15

From: Legislator William L. Ross

Dated: April 21, 2015

**IN SUPPORT OF THE LEWISTON ART FESTIVAL
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the Village of Lewiston is blessed with great natural beauty and its local organizations sponsor a multitude of extremely exciting events which draw thousands of people from all over Western New York, Southern Ontario and beyond, and

WHEREAS, the Lewiston Art Festival has become a highlight of the summer season in Niagara County, and

WHEREAS, the Lewiston Art Festival attracts artists and vendors from across the country, and

WHEREAS, the Lewiston Art Festival is an economic driver that supports jobs, generates government revenue and is a cornerstone of local tourism, and

WHEREAS, the Niagara County Legislature casino fund contribution will support the continuous marketing effort of the Lewiston Art Festival Board, now, therefore, be it

RESOLVED, that Niagara County supports this outstanding Art event as follows:

Lewiston Art Festival	\$1,500.00
and be it further	

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2015 budget:

INCREASE APPROPRIATED FUND BALANCE:

A.28.8020.812 40599.01 Appropriated Fund Balance - Committed Funds \$1,500.00

INCREASE APPROPRIATIONS:

A.28.8020.812 74400.15 Seneca Niagara Community Development Fund \$1,500.00
Referred to Economic Development Committee

Resolution No. IL-057-15

From: Legislator William L. Ross

Dated: April 21, 2015

**IN SUPPORT OF SANBORN AREA HISTORICAL SOCIETY
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the hamlet of Sanborn has benefited from the Sanborn Area Historical Society and the multitude of great events which have drawn many people from the Niagara Region, and

WHEREAS, these festival and show events generate a positive economic impact on the local businesses in the Sanborn area, and

WHEREAS, the outstanding Farm Museum and Old Sanborn Post 969, American Legion Building which is being renovated for visitors, are visited by a high percentage of Senior Citizens who have a deep interest in Niagara County's Agricultural history, and

WHEREAS, both of these buildings lack lifesaving defibrillators, which can be the difference between life and death for a person whose heart has stopped, now, therefore, be it

RESOLVED, that the Niagara County Legislature casino funds be used to purchase two (2) defibrillators and provide training as follows:

Sanborn Area Historical Society \$4,000.00
and be it further

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2015 budget:

INCREASE APPROPRIATED FUND BALANCE:

A.28.8020.812 40599.01 Appropriated Fund Balance - Committed Funds \$4,000.00

INCREASE APPROPRIATIONS:

A.28.8020.812 74400.15 Seneca Niagara Community Development Fund \$4,000.00
Referred to Economic Development Committee.

Resolution No. IL-058-15

From: Legislators Clyde L. Burmaster & William L. Ross

Dated: April 21, 2015

**RESOLUTION TO DISTRIBUTE 2014 CASINO REVENUE
TO THE TOWN OF LEWISTON**

WHEREAS, a Seneca Nation gambling casino governed by the Tribal-State Class III Gaming Compact and disbursing monies according to provisions of Subdivision 3-a of the Upstate New York Gaming and Economic Development Act continues to operate Class III gaming activities within the County of Niagara, and

WHEREAS, said casino is operated and owned by the Seneca Nation of Indians, a sovereign and foreign nation which is not subject to taxation by the County of Niagara, and

WHEREAS, the Tribal-State Class III Gaming Compact and its authorizing legislation, provide for compensation for the "host municipalities" of the Seneca Niagara Casino and said Compact was submitted to and approved by the Secretary of the Interior of the United States as required, and

WHEREAS, pursuant to the Upstate New York Gaming and Economic Development Act, a special separate revenue account denominated "Tribal-State Compact Revenue Account" was established in the joint custody of the State Comptroller and the State Commissioner to receive the gaming revenues payable to the State and the host municipalities, and

WHEREAS, per the provisions of Subdivision 3 of the Upstate New York Gaming and Economic Development Act, 25% of revenues arising from the Seneca Niagara Casino are disbursed to the City of Niagara Falls, and

WHEREAS, per the provisions of the Upstate New York Gaming and Economic Development Act Subdivision 3-a, "Ten percent of any of the funds actually received by the state pursuant to the tribal-state compacts and agreements described in [subdivision 2 of the Upstate New York Gaming and Economic Development Act] prior to the transfer of moneys to the general fund required by such subdivision, shall be distributed to counties in each respective exclusivity zone provided they do not otherwise receive a share of said revenues pursuant to [the Upstate New York Gaming and Economic Development Act]. Such distribution shall be made among such counties on a per capita basis, excluding the population of any municipality that receives a distribution pursuant to [subdivision 3 of the Upstate New York Gaming and Economic Development Act]", and

WHEREAS, per the Upstate New York Gaming and Economic Development Act Subdivision 3-a, revenues arising from the Seneca Niagara Casino that are disbursed to the County of Niagara are to be apportioned by population for such purposes as shall benefit residents of the Towns of Cambria, Hartland, Lewiston, Lockport, Newfane, Niagara, Pendleton, Porter, Royalton, Somerset, Wheatfield and Wilson, and the Cities of Lockport and North Tonawanda, and

WHEREAS, the Office of Niagara County Treasurer and the Niagara County Office of Management and Budget jointly established two interest-bearing revenue accounts, which shall be designated "Niagara County Community Development Fund 1" and "Niagara County Tax Relief Fund", with all revenues appropriated to the county under Upstate New York Gaming and Economic Development Act Subdivision 3-a divided and deposited into said accounts, with 25% of said monies being deposited in Niagara County Community Development Fund 1 and 75% of said monies being deposited in Niagara County Tax Relief Fund, with these percentages of distribution remaining in force until December 31, 2015, and

WHEREAS, in December of 2014, this body did vote on a resolution creating both the Niagara County Community Development Fund and the Niagara County Tax Relief Fund, and

WHEREAS, this resolution was passed by this body by a vote of 11-4, with Legislators Burmaster and Ross voting in the affirmative for the legislation, and

WHEREAS, Niagara County has received \$698,221.14 for the year 2014 and 2015 to date, and will distribute the funds to the respective municipalities per the aforementioned formula, and

WHEREAS, the Town of Lewiston is appropriated \$54,843.26 for the 2014 year based on the municipality's population, now, therefore, be it

RESOLVED, that the Niagara County Legislature does hereby approve the disbursement of \$54,843.26 to the Town of Lewiston for their planning and budgeting purposes.

Moved by Burmaster, seconded by Ross, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

Carried.

Moved by Burmaster, seconded by Ross.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. IL-059-15

From: Legislators Kathryn L. Lance, David E. Godfrey, William L. Ross, John Syracuse & Michael A. Hill

Dated: April 21, 2015

**RESOLUTION URGING STATE REPRESENTATIVES TO AMEND THE NEW YORK STATE
ELECTRONIC EQUIPMENT RECYCLING AND REUSE ACT**

WHEREAS, the main reasons for the adoption of the New York State Electronic Equipment Recycling and Reuse Act (Act) was to assist local governments with managing the fast growing end-of-life electronics waste stream by relying on electronics manufacturers to fund a recycling infrastructure and relieve municipalities from the recycling and end-of-life management costs, and

WHEREAS, the Act has succeeded in significantly increasing electronics recovery and recycling in the state, but unfortunately the collection infrastructure is rapidly shrinking as governments and other collectors are faced with mounting fees in the absence of consistent manufacturer funding and limited markets for cathode ray tubes (CRTs), and

WHEREAS, the consequence, specifically following the January 2015 Disposal Ban, is significant as a growing number of municipalities such as Niagara County are faced with bearing more of the financial responsibility for continued e-scrap collection in their communities, and

WHEREAS, the Act requires, and the state relies on, electronics manufacturers to fund e-scrap recycling programs that are effective, continuous and reasonably convenient to all consumers across the state, and

WHEREAS, once manufacturers meet their performance standard (goal), which in a number of cases is midway through the year, they no longer provide financial support to continue their programs, thus shifting management costs to unexpecting and cash strapped local governments, and

WHEREAS, the issue is exasperated by the fact that electronics currently sold today are much lighter than the obsolete CRT devices that make up about 70% of the weight of e-scrap generated, which are cost intensive to responsibly manage and as a result, many local governments across the state have grappled

with the burden to fund or cease e-scrap collection, which has been particularly difficult in rural communities that do not benefit from retail collectors or economies of scale, now, therefore, be it

RESOLVED, that the Legislature of the County of Niagara does hereby call upon Governor Cuomo, the New York State Assembly, the New York State Senate and the State Department of Environmental Conservation to improve the current law intended to build toward the long-term goals of creating a more stable and comprehensive, manufacturer implemented electronics recycling infrastructure by implementing actions to strengthen communication among stakeholders, clarify key statutory provisions in their present rulemaking efforts and promote the adoption of the Proposed Statutory Changes to the Act to provide for year round, no-cost collection of electronics, consistent with convenience standards for both rural and urban populations—that help alleviate the immediate financial pressures faced by local governments, and be it further

RESOLVED, that the County of Niagara shall forward copies of this Resolution to Governor Cuomo, Environmental Conservation Committee Chairman Thomas O'Mara, State Senator Robert G. Ort; Member of the Assembly Jane L. Corwin; Member of the Assembly John D. Ceretto; Member of the Assembly Ray Walter; Member of the Assembly Stephen Hawley; Member of the Assembly Robin Schimminger; the New York State Association of Counties and its Board of Directors; the County Legislatures and Boards of Supervisors of all counties within the State of New York.

Moved by Lance, seconded by Syracuse, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.

Carried.

Moved by Lance, seconded by Syracuse.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-047-15

From: Public Works & Administration Committees

Dated: April 21, 2015

CHESTNUT STREET BRIDGE OVER EAST BRANCH OF TWELVE MILE CREEK AMENDMENT NO. 1

WHEREAS, Resolution No. PW-104-14, dated August 5, 2014, selected Hatch Mott MacDonald NY Inc., 438 Main St, Suite 700, Buffalo, NY 14202, to assist the County with surveying, mapping and hydraulic services for the Chestnut Street Bridge over the east branch of Twelve Mile Creek, in the amount of \$37,045.00, and

WHEREAS, it is necessary to approve Amendment No. 1 to increase the contract by \$222,888.38, to allow for the preliminary design and final design phases of the project, for a fee not to exceed \$259,933.38, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that Amendment No. 1, in the amount of 222,888.38 to Hatch Mott MacDonald NY Inc., 438 Main Street, Suite 700, Buffalo, NY 14202, be approved, for a revised contract price of \$259,933.38, and be it further

RESOLVED, that the Chairman of the Legislature is authorized to execute the required documents, subject to the review of the County Manager and the approval of the County Attorney.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-048-15

From: Public Works & Administration Committees

Dated: April 21, 2015

**LOCKPORT ROAD BRIDGE OVER BERGHOLZ CREEK
CHANGE ORDER NO. 1-FINAL**

WHEREAS, Resolution No. PW-022-14, dated February 18, 2014, awarded the rehabilitation of Lockport Road Bridge over Bergholz Creek, to Concrete Applied Technologies, Corp., 1266 Townline Road, NY 14004, in the amount of \$492,527.00, and

WHEREAS, it is necessary to approve Change Order No. 1-Final, to decrease the contract by \$19,279.12, for adjustments in contract quantities, for a revised contract of \$473,247.88, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that the Change Order No. 1-Final, in the amount of (\$19,279.12) to Concrete Applied Technologies, Corp., 1266 Townline Road, Alden, NY 14004, be approved, for a revised contract price of \$473,247.88, and be it further

RESOLVED, that the Chairman of the Legislature is authorized to execute the required documents, subject to the review of the County Manager and the approval of the County Attorney.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-049-15

From: Public Works & Administration Committees

Dated: April 21, 2015

**REHABILITATION OF UPPER MOUNTAIN ROAD, BETWEEN RAILROAD
TRACKS AND ROUTE 93, CHANGE ORDER NO. 1-FINAL**

WHEREAS, Resolution No. PW-090-14, dated June 17, 2014, awarded the rehabilitation of Upper Mountain Road, between the railroad tracks and Route 93, to Concrete Applied Technologies, Corp., 1266 Townline Road, NY 14004, in the amount of \$1,122,355.44, and

WHEREAS, it is necessary to approve Change Order No. 1-Final, to increase the contract by \$51,622.26, for adjustments in contract quantities, for a revised contract of \$1,173,977.70, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that the Change Order No. 1-Final, in the amount of \$51,622.26 to Concrete Applied Technologies, Corp., 1266 Townline Road, Alden, NY 14004, be approved, for a revised contract price of \$1,173,977.70, and be it further

RESOLVED, that the Chairman of the Legislature is authorized to execute the required documents, subject to the review of the County Manager and the approval of the County Attorney.

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-050-15

From: Public Works Committee

Dated: April 21, 2015

AWARD OF CONTRACT – HISTORIC COUNTY COURTHOUSE MASONRY REPAIR

WHEREAS, the Department of Public Works, Engineering Division has prepared specifications and the Niagara County Purchasing Department has advertised for bids for the Historic County Courthouse Masonry Repair project, and

WHEREAS, funds are available in the 2015 capital budget, and

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on February 19, 2015 as tabulated below:

- | | |
|--|--------------|
| 1. Horizon Masonry Restoration
40 Appenheimer Avenue
Buffalo, NY 14214 | \$ 42,500.00 |
| 2. Morris Masonry Restoration, LLC
441 Bailey Avenue
Buffalo, NY 14210 | \$ 58,286.00 |
| 3. Lupini Construction, Inc.
6081 Trenton Road
Utica, NY 13502 | \$ 58,800.00 |
| 4. Highland Masonry & Restoration, Inc.
33 Ransier Drive
West Seneca, NY 14224 | \$123,259.00 |
| 5. BVR Construction Company, Inc.
8 King Road
Churchville, NY 14428 | \$159,397.00 |

and

WHEREAS, the Public Works Committee has examined the bid, and

WHEREAS, the lowest bidder was found not to be in compliance with the requirements of the bid documents, and deemed not a responsible bid, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that the contract for the Historic County Courthouse Masonry Repair project be awarded to the lowest responsible bidder, Morris Masonry Restoration, 441 Bailey Avenue, Buffalo, NY 14210, in the amount of \$58,286, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-051-15

From: Public Works Committee

Dated: April 21, 2015

**LOCKPORT ROAD MAJOR INTERSECTION IMPROVEMENT PROJECT
WALMORE ROAD TO CAMPBELL BOULEVARD
TOWNS OF WHEATFIELD, CAMBRIA AND PENDLETON, NIAGARA COUNTY**

WHEREAS, a Project for the Lockport Road Major Intersection Improvement Project, Walmore Road to Campbell Boulevard, Towns of Wheatfield, Cambria and Pendleton, Niagara County, PIN 5757.10, the "Project", is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% federal funds and 20% non-federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Lockport Road Major Intersection Improvement Project, Walmore Road to Campbell Boulevard, Towns of Wheatfield, Cambria and Pendleton, Niagara County, Project, PIN 5757.10, now, therefore, be it

RESOLVED, that the County Legislature of the County of Niagara hereby approves the above subject project, and be it further

RESOLVED, that the County Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the Preliminary Engineering Design (I-VI), Right-of-Way Incidentals, Right-of-Way Acquisition, and Construction and Construction Inspection phases of the Project or portions thereof, and be it further

RESOLVED, that \$5,651,083 are appropriated and are made available to cover the cost of participation in the Preliminary Engineering Design (I-VI), Right-of-Way Incidentals, Right-of-Way Acquisition, and Construction and Construction Inspection phases of the Project, and be it further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated, \$5,651,083, the County of Niagara Legislature shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

RESOLVED, that the Chairman of the Legislature of the County of Niagara be, and hereby is, authorized to execute all necessary agreements, certifications or reimbursement requests for Federal-Aid on behalf of the County of Niagara with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of Federal-

Aid and State-Aid eligible Project costs and all Project costs within appropriations, therefore, that are not so eligible, and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project.

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-052-15

From: Public Works & Administration Committees

Dated: April 21, 2015

**PAVEMENT AND INTERSECTION RECONSTRUCTION IN THE CR92,
LINCOLN AVENUE CORRIDOR, FROM AKRON ROAD TO BEATTIE AVENUE,
TOWN AND CITY OF LOCKPORT - AMENDED**

WHEREAS, a Project for the Pavement and Intersection Reconstruction in the CR92, Lincoln Avenue Corridor, from Akron Road to Beattie Avenue, in the Town and City of Lockport, Niagara County, PIN 5757.13, the "Project", is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the Preliminary Engineering (Design I-VI), Right-of-Way Incidentals, Construction and Construction Inspection phases of the Project, PIN 5757.13, now, therefore, be it

RESOLVED, that the County Legislature of the County of Niagara hereby approves the above subject project, and be it further

RESOLVED, that the County Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the Preliminary Engineering (Design I-VI), Right-of-Way Incidentals, and Construction and Construction Inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the funds are appropriated in account H490, Lincoln Avenue Reconstruction and made available to cover the cost of participation in the above phases of the Project, and be it further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the federal and non-federal shares of the cost of the project's Preliminary Engineering (Design I-VI), Right-of-Way Incidental Phases, and Construction and Construction Inspection phases exceeds the amount appropriated above, \$1,168,600 and/or 100% of the full federal and non-federal shares of the cost of the Preliminary Engineering (Design I-VI), Right-of-Way Incidental, and Construction and Construction Inspection phases exceeds \$5,843,000, the County of Niagara shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof; and be it further

RESOLVED, that the Chairman of the Legislature of the County of Niagara be and is hereby authorized to execute all necessary agreements, certifications or reimbursement requests for Federal-Aid on behalf of the County of Niagara with the New York State Department of Transportation in connection with the

advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of Federal-Aid and State-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and be it further

RESOLVED, that the following budget modification be effectuated to reflect the funding levels set forth by Schedule A in the attached agreement:

DECREASE ESTIMATED REVENUE APPROPRIATIONS:

H490.15.5112.000.43501.00	Consolidated Highway Aid	\$111,394.66
H490.15.5112.000.43591.00	State Aid Capital Construction	\$218,550.00
H490.15.5112.000.44597.01	Federal Aid Capital Construction	\$1,844,200.00

DECREASE ESTIMATED EXPENSE APPROPRIATIONS:

H490.15.5112.000.72600.01	Infrastructure Roads	\$2,174,144.66
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and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-053-15

From: Public Works Committee

Dated: April 21, 2015

**NIAGARA COUNTY BRIDGE MAINTENANCE PROJECT – TWELVE BRIDGE DECK
OVERLAYS, AND ONE BRIDGE JOINT REPLACEMENT**

WHEREAS, a Project for the Niagara County Bridge Maintenance Program – twelve deck overlays, and one bridge joint replacement, various towns, Niagara County, PIN 5760.14, the "Project", is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Construction and Construction Inspection phases of the Project, PIN 5760.14, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of Niagara County Bridge Maintenance Project, Twelve Bridge Deck Overlays, and One Bridge Joint Replacement in various towns within Niagara County, now, therefore, be it

RESOLVED, that the County Legislature of the County of Niagara hereby approves the above subject project, and be it further

RESOLVED, that the County Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Construction and Construction Inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the funds are appropriated in account D.15.5120.000.74800.06, Bridge Maintenance Repairs and are made available to cover the cost of participation in the above phases of the Project, and be it further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated, the County of Niagara Legislature shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

RESOLVED, that the Chairman of the Legislature of the County of Niagara be and is hereby authorized to execute all necessary agreements, certifications or reimbursement requests for Federal-Aid on behalf of the County of Niagara with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of Federal-Aid and State-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-054-15

From: Public Works & Administration Committees

Dated: April 21, 2015

**RANSOMVILLE – BRALEY ROAD INTERSECTION IMPROVEMENT PROJECT,
TOWN OF PORTER, NIAGARA COUNTY**

WHEREAS, a Project for the Ransomville-Braley Road Intersection Improvement Project, Town of Porter, Niagara County, PIN 5759.01, the "Project", is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 90% Federal funds and 10% Non-Federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Ransomville-Braley Road Intersection Improvement Project, Town of Porter, Niagara County, Project, PIN 5759.01, now, therefore, be it

RESOLVED, that the County Legislature of the County of Niagara hereby approves the above subject project, and be it further

RESOLVED, that the County Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the Preliminary Engineering Design (I-VI), Right-of-Way Incidentals and Right-of-Way Acquisitions, and Construction and Construction Inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the following budget modification be effectuated:

INCREASE ANTICIPATED REVENUES:

H589.15.5112.000.43591.00	State Aid	\$5,600.00
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INCREASE ANTICIPATED APPROPRIATIONS:

H589.15.5112.000.72600.01 Infrastructure Roads \$5,600.00
and be it further

RESOLVED, that \$74,900 is appropriated in account H589.15.5112.000.72600.01 and is made available to cover the cost of participation in the Preliminary Engineering Design (I-VI), Right-of-Way Incidentals and Right-of-Way Acquisitions, and Construction and Construction Inspection phases of the Project, and be it further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated, \$74,900, the County of Niagara Legislature shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

RESOLVED, that the Chairman of the Legislature of the County of Niagara be and is hereby authorized to execute all necessary agreements, certifications or reimbursement requests for Federal-Aid on behalf of the County of Niagara with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of Federal-Aid and State-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-055-15

From: Public Works & Administration Committees

Dated: April 21, 2015

**YOUNGSTOWN ROAD BRIDGE REPLACEMENT OVER SIX MILE CREEK,
TOWN OF PORTER, NIAGARA COUNTY**

WHEREAS, a Project for the Youngstown Road Bridge Replacement Project over Six Mile Creek, Town of Porter, Niagara County, PIN 5760.02, the "Project", is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 90% Federal funds and 10% non-federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the Youngstown Road Bridge Replacement Project over Six Mile Creek, Town of Porter, Niagara County, Project, PIN 5760.02, now, therefore, be it

RESOLVED, that the County Legislature of the County of Niagara hereby approves the above subject project, and be it further

RESOLVED, that the County Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the

Preliminary Engineering Design (I-VI), and Construction and Construction Inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the following budget modification be effectuated:

INCREASE ANTICIPATED REVENUES:

H582.15.5197.000.43591.00	State Aid	\$174,000.00
H582.15.5197.000.44597.01	Federal Aid	18,000.00

INCREASE ANTICIPATED APPROPRIATIONS:

H582.15.5197.000.72600.02	Infrastructure Bridges	\$192,000.00
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and be it further

RESOLVED, that \$1,160,000 is appropriated in account H582.15.5197.000.72600.02 and is made available to cover the cost of participation in the Preliminary Engineering Design (I-VI), and Construction and Construction Inspection phases of the Project, and be it further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated, \$1,160,000, the County of Niagara Legislature shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

RESOLVED, that the Chairman of the Legislature of the County of Niagara be and is hereby authorized to execute all necessary agreements, certifications or reimbursement requests for Federal-Aid on behalf of the County of Niagara with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of Federal-Aid and State-Aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project.

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-056-15

From: Public Works Committee

Dated: April 21, 2015

BID AWARD FOR HIGHWAY MATERIALS

WHEREAS, specifications for the 2015 Highway Maintenance Program have been prepared by the Highways, Bridges & Structures Division of the Department of Public Works, and

WHEREAS, the Purchasing Department advertised for bids and publicly opened and read bids on March 10, 2015, and

WHEREAS, the New York State Department of Audit and Control, has, in the past, requested the Purchasing Agent to refer the results of the bid to the Niagara County Legislature for its approval, and

WHEREAS, the Public Works Committee has examined and found the bids acceptable, and

WHEREAS, the bids have traditionally been used or made available to all the Niagara County municipalities, and

WHEREAS, funds are available in the 2015 budget of the Department of Public Works, now, therefore, be it

RESOLVED, that the below bids, as outlined on the result sheets, be awarded to the respective lowest responsible bidder, and be it further

RESOLVED, that the Commissioner of Public Works is authorized to purchase the required materials from the bid awards, and be it further

RESOLVED, that copies of the bid results be distributed to the Niagara County municipalities for their use.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-057-15

From: Public Works Committee

Dated: April 21, 2015

AWARD OF CONTRACT - COUNTY ROAD PAINTING AND STRIPING

WHEREAS, the Department of Public Works, Division of Highways, Bridges & Structures has prepared specifications and the Niagara County Purchasing Department has advertised for bids for painting traffic lines on County roads, and

WHEREAS, funds are available in the 2015 budget of the Highways, Bridges & Structures Division of the Department of Public Works, and

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on March 10, 2015, and tabulated below:

	<u>Waterborne Paint Application</u>	<u>Price Per Mile Of Centerline</u>	<u>Price Per Mile Of Edge Line</u>
1.	Seneca Pavement Marking Inc. 3526 Watkins Road Horseheads, NY 14845	\$288.00	\$172.00
2.	Accent Stripe, Inc. 3275 N. Benzing Road Orchard Park, NY 14127	\$324.00	\$199.00

and

WHEREAS, the Public Works Committee has examined the bid, and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that the contract for painting traffic lines on County roadways be awarded to the lowest responsible bidder, Seneca Pavement Marking Inc., 3526 Watkins Road, Horsehead, NY 14845, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-058-15

From: Public Works Committee

Dated: April 21, 2015

AWARD OF CONTRACT FOR CONTROL OF ROADSIDE VEGETATION

WHEREAS, the Commissioner of Public Works prepared specifications and the Niagara County Purchasing Department advertised for bids for the chemical weed control of roadside vegetation on County roadways, and

WHEREAS, funds are available in the 2015 budget of the Department of Public Works, and

WHEREAS, the Purchasing Department advertised for bids and publicly opened and read bids on March 10, 2015, and

	Guide Railing Per Side Mile	Vegetation Control Per Gal. Mat. Applied
1. Allen Chase Enterprises, Inc. 24 County Route 1A Oswego, NY 13126	\$22.50	\$0.75
2. DeAngelo Brothers, Inc. 100 N. Conahan Drive Hazleton, PA 18201	\$26.76	\$3.00

and

WHEREAS, prior to the execution of the required documents, the County Attorney will review them for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that the contract for roadside vegetation control be awarded to Allen Chase Enterprises, Inc., 24 County Route 1A, Oswego, NY 13126, and be it further

RESOLVED, that the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-059-15

From: Public Works & Administration Committees
Dated: April 21, 2015

**ABOLISH BUILDING MAINTENANCE PERSON
CREATE AND FILL BUILDING MAINTENANCE MECHANIC**

WHEREAS, due to personnel vacancies within the Buildings and Grounds Division of the Public Works Department, the department has reviewed its operational needs for maintaining the various office buildings throughout Niagara County, and

WHEREAS, after studying the services we provide and evaluating all options it has been determined that it would be in the best interest of the department, as well as the taxpayers, to abolish one (1) Building Maintenance Person and to create and fill one (1) Building Maintenance Mechanic, and

WHEREAS, funding for this newly created position will be from the mentioned abolished position, now, therefore, be it

RESOLVED, that Position No. 251, Building Maintenance Person, be abolished, and be it further

RESOLVED that the position of Building Maintenance Mechanic, AFSCME, Grade 18, Step 1, at an annual salary of \$34,911, be created and filled, effective April 25, 2015, and be it further

RESOLVED that the following budget modification be made:

FROM:

A.15.1620.000.71010 .01	Positions (Building Maintenance Person-Pos. #251)	\$26,936.40
A.15.1620.000.78100.00	Retirement	2,490.00
A.15.1620.000.78200.00	FICA	2,041.00
A.15.1620.000.78300.00	Worker's Comp	721.00
A.15.1620.000.78400.01	Health Insurance	9,678.72

TO:

A.15.1620.000.71010 .01	Positions (Building Maintenance Mechanic)	\$25,736.40
A.15.1620.000.78100.00	Retirement	2,490.00
A.15.1620.000.78200.00	FICA	2,041.00
A.15.1620.000.78300.00	Worker's Comp	721.00
A.15.1620.000.78400.01	Health Insurance	9,678.72
A.15.1620.000.78400.05	HRA	850.00
A.15.1620.000.78800.00	Flex	350.00

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-060-15

From: Public Works Committee

Dated: April 21, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND
THE NEWFANE LACROSSE CLUB**

WHEREAS, the Newfane Lacrosse Club has requested that the County of Niagara grant them exclusive rights to operate a lacrosse program in an area situated in the County owned property on Lake Road, and

WHEREAS, this program benefits the youth and other residents of the Town of Newfane in addition to Niagara County as a whole, and

WHEREAS, such program is operated on a not-for-profit basis, and

WHEREAS, the event coordinator will provide all insurances required by the Risk Management Office, and agree to cover all extraordinary expenses associated with event, and

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Newfane Lacrosse Club, and

WHEREAS, prior to the execution of the agreement, the County Attorney will review the agreement for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Newfane Lacrosse Club, as appears in the proposed agreement, is hereby approved in all respects, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the required documents.

Moved by Updegrave, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso

Resolution No. PW-061-15

From: Public Works Committee

Dated: April 21, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND
THE NEWFANE YOUTH FOOTBALL LEAGUE AND CHEERLEADING**

WHEREAS, the Newfane Youth Football League and Cheerleading has requested that the County of Niagara grant them exclusive rights to operate a football program in an area situated in the County owned property on Lake Road, and

WHEREAS, this program benefits the youth and other residents of both the Town of Newfane in addition to Niagara County as a whole, and

WHEREAS, such program is operated on a not-for-profit basis, and

WHEREAS, the event coordinator will provide all insurances required by the Risk Management Office, and agree to cover all extraordinary expenses associated with event, and

WHEREAS, prior to the execution of the License Agreement between the County of Niagara and the Newfane Youth Football League and Cheerleading, the County Attorney will review said Agreement for approval as to legal form, language and compliance, and

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Newfane Youth Football League, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Newfane Youth Football League and cheerleading, as appears on the proposed agreement, is hereby approved in all respects, and be it further

RESOLVED, that the Chairman of the Legislature is authorized and directed to execute and deliver the agreement with the Newfane Youth Football League and Cheerleading.

Moved by Updegrove, seconded by Zona.

Adopted. 12 Ayes, 0 Noes, 3 Absent – Bradt, Hill & Virtuoso


APPOINTMENTS:

	<u>Appt.</u>	<u>Expires</u>
<u>EMERGENCY MEDICAL SERVICES COUNCIL</u>		
<u>Pre-Hospital Alternate</u>		
Jonathan McKnight (replaces Cooley), 4031 Lake Ave., Lockport 14094	04/21/15	12/31/15
Moved by Updegrove, seconded by Zona.		
Carried.		

Moved by Steed, seconded by Andres that the Board adjourn.

The Chairman declared the Board adjourned at 9:07 p.m., subject to the call of the Clerk.

No citizens spoke at this time on the General Welfare of the County.


Mary Jo Tamburlin, Clerk