

## OFFICIAL RECORD

Lockport, New York  
March 20, 2018

A public hearing was held pursuant to resolution IL-010-18, adopted by the Legislature on February 20, 2018, to hear public comments on a Local Law of the Legislature of the County of Niagara Declaring the Opioid Epidemic and its effect a Public Nuisance. Legislator Nemi opened the hearing at 6:30 p.m. and closed it at approximately 6:46 p.m.

A public hearing was held pursuant to resolution ED-002-18, adopted by the Legislature on February 20, 2018, to hear public comments on the Renewal of Niagara County Agricultural District #6, Towns of Cambria, Lockport, Pendleton, Wheatfield and Wilson. Legislator Syracuse opened the hearing at 6:49 p.m. and closed it at approximately 6:51 p.m.

The meeting was called to order by Chairman McNall at 7:06 p.m.

Clerk Tamburlin called the roll. All Legislators were present.

Moment of Silence was held for Commissioner of Economic and IDA Samuel M. Ferraro and Congresswoman Louise Slaughter.

Chairman McNall announced that tonight's meeting will be dedicated in memory of Samuel M. Ferraro.

Chairman McNall called Legislator Lance and the family of Samuel M. Ferraro to the podium to read a Proclamation in honor of him. Many shared their stories of Sam, he will be remembered for his dedication to Niagara County and he will be greatly missed.

Recess

### **CORRESPONDENCE & RECOGNITION:**

A motion was made by Legislator Burmaster, seconded by Legislator Nemi to appoint Gary D. Strassburg as the 1<sup>st</sup> District Coroner effective March 20, 2018 through December 31, 2018.

Chairman McNall announced Director of Office for the Aging will be resigning and taking a new position, Chairman McNall thanked Ken for making Office for the Aging as great as it is today.

### **PRESENTATIONS:**

1. Legislator Andres called Sue Capell, Executive Director of Youth Mentoring Services, their mission is to make a difference in the lives of children so they can achieve their highest potential as grow to become productive reasonable and caring citizens, she explained the different mentoring programs they offer in Niagara County and are kicking off their Volunteer Mentoring Campaign/
2. Legislator Syracuse called Commissioner of Public Works, Garrett Meal and T.R. Casamento, Account Executive – Energy Solutions, John W. Danforth Company to discuss the evaluation Danforth conducted on many of our county buildings for the Energy Performance Contract. Many of Buildings are in need of updates, which will help lower our energy usage and save on cost for the County.

0 citizens spoke at this time.

Moved by Bradt, seconded by Virtuoso to accept the preferred agenda.  
Carried.

**Resolution No. AD-004-18**

From: Administration Committee

Dated: March 20, 2018

**CONTRACT WITH INOVA EMPLOYEE ASSISTANCE PROGRAM (EAP)**

WHEREAS, Niagara County has had a contractual agreement with Northpointe Council, Inc., to provide professional EAP services for the County of Niagara, and

WHEREAS, the contract with Northpointe Council, Inc. has expired, and

WHEREAS, the County of Niagara has selected the most competitive bid for professional services as a result of the RFP process, and would like to grant the contract to INOVA Employee Assistance, located at 3949 Pender Drive #310, Fairfax, Virginia 22030, for employee assistance program services for the time period of April 1, 2018 through March 31, 2021, and

WHEREAS, all county employees and their dependents will be covered by the EAP service, and

WHEREAS, prior to the execution of the contract, the County Attorney will review the contract 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 said contract on behalf of Niagara County.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. AD-005-18**

From: Administration Committee

Dated: March 20, 2018

**BUDGET MODIFICATION – LAKE ONTARIO REGIONAL DREDGING PROGRAM**

WHEREAS, the County of Niagara, the County of Orleans, the County of Cayuga, and the County of Wayne desire to enter into a memorandum of Understanding for the Lake Ontario Regional Dredging Program, and

WHEREAS, the Niagara County Legislature approved the Memorandum of Understanding between the Counties, at a cost of \$5,000, to aid in accomplishing the first steps of implementation of a Regional Dredging Management Plan for the Harbors serving along the south shore of Lake Ontario on February 20, 2018 by resolution CS-015-18, now, therefore, be it

RESOLVED, that following budget modification be effectuated:

**INCREASE APPROPRIATION:**

A.28.8020.000 74500.01	Contractual	\$5,000
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**DECREASE APPROPRIATION:**

A.08.1990.000 74500.01	Contingency Fund	\$5,000
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent



**Resolution No. AD-006-18**

From: Administration Committee

Dated: March 20, 2018

**NIAGARA COUNTY TREASURER'S OFFICE  
BUDGET MODIFICATION - RETIREE HEALTHCARE COSTS**

WHEREAS, the County Treasurer consulted with the County's external audit firm and determined that positive action is necessary to align historical transactions with Generally Accepted Accounting Principles, and

WHEREAS, in calendar year 2009 the County determined that retiree healthcare costs for calendar years 2008 and thereafter should be allocated in the appropriate year to the funds from which the employees retired, and

WHEREAS, in calendar year 2008 and prior, allocations for retiree healthcare had been delayed one year due to numerous manual calculations required, and

WHEREAS, some of the funds did not have sufficient appropriations remaining to cover the allocation of the 2008 retiree healthcare costs, and

WHEREAS, the additional revenue source of Medicare Part D reimbursements, which would be allocated out to the funds based on retiree count, was determined by leadership at the time as the source to offset these costs, and

WHEREAS, revenue from the allocated Medicare Part D reimbursements has not fully covered these 2008 costs and the revenue from Medicare Part D reimbursements has been replaced with higher amounts of savings under the County's Employer Group Waiver Plan (EGWP), and

WHEREAS, the County Treasurer as Chief Fiscal Officer for the County deems it appropriate to record these prior year retiree healthcare costs to the operating funds prior to closing out all financial transactions for the calendar year 2017 to properly reflect the interfund balances on the County's financial records, and

WHEREAS, budget modifications for the 2017 fiscal year can continue to be made into the first quarter of 2018, now, therefore, be it

RESOLVED, that the following budget modification be effectuated to the 2017 County budget:

**INCREASE APPROPRIATED FUND BALANCE:**

EL 40599.00	Appropriated Fund Balance	\$10,614.29
FX 40599.00	Appropriated Fund Balance	\$99,184.35
G 40599.00	Appropriated Fund Balance	\$66,823.60

**DECREASE APPROPRIATIONS:**

ER.26.7140.000 71011.00	Seasonal Help Expense	\$ 4,498.18
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**INCREASE APPROPRIATIONS:**

ER.26.7140.000 74500.98	Contractual Expenses – Year End Adjustment	\$ 4,498.18
EL.30.8160.807 74500.98	Contractual Expenses – Year End Adjustment	\$10,614.29
FX.31.8310.000 74500.98	Contractual Expenses – Year End Adjustment	\$99,184.35
G.32.8110.000 74500.98	Contractual Expenses – Year End Adjustment	\$66,823.60

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CS-011-18**

From: Community Service and Administration Committees

Dated: March 20, 2018

**ABOLISH AND CREATE POSITION – SOCIAL SERVICES**

WHEREAS, the Niagara Falls office of the Department of Social Services has three clerical units in its Program Eligibility division, and

WHEREAS, one of these units is the Department’s Call Center which is responsible for answering client calls regarding the status of their public assistance, SNAP, and HEAP cases which resulted in 182,192 calls that were received and handled, and

WHEREAS, the Call Center has been the entry point into the Department and as a result as people gain experience they move to other areas of the department which leads to the supervisor having to oversee and provide training to new hires, and

WHEREAS, after carefully reviewing the supervisory capabilities required to oversee the Call Center it has been determined that a Clerical III position, Job Group VI, at \$18.50 per hour be created, and

WHEREAS, the Clerical III would provide general supervision to the other two clerical units in the Program Eligibility division, now, therefore, be it

RESOLVED, that a Clerical II position #10782, Job Group IV at \$19.22 per hour be abolished effective April 9, 2018, and be it further

RESOLVED, that a Clerical III position, Job Group VI at 18.50 per hour be created and filled effective April 9, 2018, and be it further

RESOLVED, that the following line item transfer be effectuated April 9, 2018:

**FROM:**

A.22.6010.000 71010.10782	Clerical II	\$ 23,000
A.22.6010.000 71010.1173	Account Clerical IV	\$ 1,735

**TO:**

A.22.6010.000 71010.xxxx	Clerical III	\$ 24,735
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CS-012-18**

From: Community Service and Administration Committees

Dated: March 20, 2018

**BUDGET MODIFICATION  
CHILD CARE AND DEVELOPMENT FUND**

WHEREAS, Executive Budget did make Federal funds available to local districts for the provision of early childhood development and before-and-after school child care services and of quality improvement activities under the Federal Child Care and Development Block Grant Program, and



WHEREAS, these funds enable Niagara County to direct resources to satisfy federal requirements, as they relate to the registration and inspection of Child Care Centers, as well as the corresponding reporting requirements, and

WHEREAS, Niagara County did receive a renewed allocation which is 100% federally funded, effective January 1, 2018, now, therefore, be it

RESOLVED, that Niagara County Department of Social Services will continue to contract with Niagara Community Action Program, Inc. to carry out the required roles and responsibilities under the Child Care and Development Program, and be it further

RESOLVED, that the following budget modification be effectuated to the Social Services 2018 budget:

INCREASE REVENUE:

A.22.6010.000 44610.00	DSS Admin Revenue	\$174,084
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INCREASE APPROPRIATION:

A.22.6010.000 74500.01	Contractual Exp – Contractual	\$174,084
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CS-013-18**

From: Community Service and Administration Committees

Dated: March 20, 2018

**BUDGET MODIFICATION  
FLEXIBLE FUND FOR FAMILY SERVICES**

WHEREAS, the Executive Budget did make federal funds available to local districts to provide a comprehensive array of services to meet the needs of eligible Temporary Assistance for Needy Families (TANF) and individuals, and

WHEREAS, these funds enable Niagara County to direct resources toward a number of areas of program needs, including, but not limited to Employment related activities, Child Welfare Services, PINS Detention Diversion Services, Substance Abuse Assessments, Domestic Violence Screenings & Non-residential Domestic Violence services, Title XX Services, JD/PINS Fostercare Costs, Child Care & Development, and

WHEREAS, Niagara County did receive a 100 % federally funded allocation, effective July 2017 – June 2018, not all of which has been expended, now, therefore, be it

RESOLVED, that Niagara County Department of Social Services will continue to contract with various agencies that will provide the necessary services in accordance with the Niagara County Flexible Fund for Family Services Plan submitted to NYS Office of Temporary and Disability Assistance (OTDA) and NYS Office of Children and Family Services (OCFS) at no additional cost to the County, and be it further

RESOLVED, that the following budget modification be effectuated to the Social Services 2018 budget:

INCREASE REVENUE:

A.22.6010.000 44610.00	DSS Admin Revenue	\$225,000
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INCREASE APPROPRIATION:

A.22.6010.000 74500.01	Contractual Exp-Contractual	\$225,000
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Moved by Bradt, seconded by Virtuoso.  
Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CS-013-18**

From: Community Service and Administration Committees

Dated: March 20, 2018

**BUDGET MODIFICATION  
HEALTHY FAMILIES NEW YORK PROGRAM**

WHEREAS, the New York State Office Of Children & Family Services, in conjunction with the New York State Department of Health, did make state-wide funds available for the provision and expansion of Healthy Families New York Home Visiting Programs, and

WHEREAS, these resources are directed toward expectant and new parents in an effort to promote positive growth and development to improve health and social outcomes for families at high risk of abuse and neglect, and

WHEREAS, effective July 1 2017, Niagara County did receive a revised 100% State funded allocation of \$481,710, not all of which has been fully expended, now, therefore, be it

RESOLVED, that Niagara County Department of Social Services will continue to contract with Family & Children's Services of Niagara, Inc. to provide the necessary services as outlined in the Healthy Families New York Program requirements, and be it further

RESOLVED, that the following budget modification be effectuated to the Social Services 2018 budget:

**INCREASE REVENUE:**

A.22.6010.000 43610.01	DSS Admin General	\$ 180,650
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**INCREASE APPROPRIATION:**

A.22.6010.000 74500.01	Contractual Exp-Contractual	\$ 180,650
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CSS-022-18**

From: Community Safety & Security and Administration Committees

Dated: March 20, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE  
ACCEPT MOTOR VEHICLE THEFT AND INSURANCE FRAUD PREVENTION GRANT**

WHEREAS, the Niagara County Sheriff's Office been notified by the New York State Department of Criminal Justice Services that a grant award in the amount of \$20,000.00 is being granted to the Sheriff's Office through the Motor Vehicle Theft and Insurance Fraud Prevention Program for the period January 1, 2018 through December 31, 2018, and

WHEREAS, the Motor Vehicle Theft and Insurance Fraud Prevention Program utilizes a partnership in Niagara County of law enforcement agencies that includes the Niagara County District Attorney's Office, the Niagara Intelligence and Crime Analysis Center, the Niagara Falls Police Department and the Niagara County Sheriff's Officer to coordinate efforts to reduce incidents of motor vehicle theft and motor vehicle insurance fraud throughout Niagara County, and



WHEREAS, the funds allow the Niagara County Sheriff's Office to dedicate manpower to this objective through the use of overtime and training, and

WHEREAS, the revenue and equal expense are in the 2018 budget, now, therefore, be it

RESOLVED, that prior to the execution of the grant, the County Attorney will review the grant for approval to legal form, language and compliance, 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 grant.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CSS-023-18**

From: Community Safety & Security and Administration Committees

Dated: March 20, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE  
ACCEPT PUBLIC SAFETY ANSWERING POINTS GRANT**

WHEREAS, the Niagara County Sheriff's Office been notified by the New York State Department of Homeland and Security Services that a grant in the amount of \$172,664 is being awarded to the Sheriff's Office through the Public Safety Answering Points Grant for the period January 1, 2018 through December 31, 2018, and

WHEREAS, the Public Safety Answering Points Grant assists with personnel operating costs in the Niagara County Communications Center, and

WHEREAS, the revenue and equal expense are in the 2018 budget, now, therefore, be it

RESOLVED, that prior to the execution of the grant, the County Attorney will review the grant for approval to legal form, language and compliance, 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 grant.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CSS-024-18**

From: Community Safety & Security and Administration Committees

Dated: March 20, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE BUDGET MODIFICATION -  
U.S. DEPARTMENT OF HOMELAND SECURITY FOR CANINE PURCHASE**

WHEREAS, the Niagara County Sheriff's Office has been notified that the U.S. Department of Homeland Security would like to offer funding in the amount of \$7,000 to the Sheriff's Office toward the purchase of a canine for the Sheriff's Office K-9 Division following the death of K-9 EJ, and

WHEREAS, the K-9 division of the Sheriff's Office plays a critical role in crime prevention and detection of crime through tracking, narcotics and explosives detection, and searches, and

WHEREAS, the 2018 budget will need to be modified to allow for these funds to be used, now, therefore, be it

RESOLVED that the following line item transfers be effectuated:

**INCREASE REVENUE:**

A.17.3645.000.44305.02	Civil Defense Homeland Security	\$7,000
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**INCREASE APPROPRIATIONS:**

A.17.3645.000.72100.21	Machinery and Equipment	\$7,000
	Law Enforcement Equipment	

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CSS-025-18**

From: Community Safety & Security and Administration Committees

Dated: March 20, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE BUDGET MODIFICATION –  
STATEWIDE INTEROPERABLE COMMUNICATIONS FORMULA GRANT**

WHEREAS, the Niagara County Sheriff's Office was notified in writing that the New York State Division of Homeland Security and Emergency Services has awarded \$711,170 to the Niagara County Sheriff's Office for the grant period of January 1, 2018 through December 31, 2019, and

WHEREAS, this grant will allow the Sheriff's Office to continue the improvement of the interoperable communications network which will have the benefit to the residents of Niagara County of improved reliability of communication for their safety and protection, and

WHEREAS, an improved interoperable communications network will also enhance interoperable communications with other counties and agencies when participating in Mutual Aid emergencies, and

WHEREAS, the 2018 budget will need to be modified to allow for the spending of this grant, 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 agreement for the grant period of January 1, 2018 through December 31, 2019 and be it further

RESOLVED that the following line item transfers be effectuated:

**INCREASE REVENUE:**

A.17.3645.000.43305.02	State Aid, Civil Defense Homeland Security	\$711,170
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**INCREASE APPROPRIATIONS:**

A.17.3645.000.72100.15	Machinery and Equipment Communications Equipment	\$711,170
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CSS-026-18**

From: Community Safety & Security and Administration Committees



Dated: March 20, 2018

**NIAGARA COUNTY SHERIFF'S OFFICE  
BUDGET MODIFICATION – STATE AND MUNICIPAL FACILITIES PROGRAM GRANT**

WHEREAS, the Niagara County Sheriff's Office was notified in writing that the Dormitory Authority of the State of New York ("DASNY") has awarded \$50,000 under the State and Municipal Facilities Program ("SAM") to the Niagara County Sheriff's Office for the grant period of February 20, 2018 through February 19, 2021, and

WHEREAS, this grant is dedicated to the construction of the Backup Emergency Dispatch Center for the Niagara County Sheriff's Office which the Sheriff's Office is required to maintain for public safety purposes in the event of an emergency, and

WHEREAS, the 2018 budget will need to be modified to allow for the spending of this grant, 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 agreement for the grant period of February 20, 2018 through February 19, 2021 and be it further

RESOLVED that the following line item transfers be effectuated:

**INCREASE REVENUE:**

A.17.3645.000.44305.02	Civil Defense Homeland Security	\$50,000
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**INCREASE APPROPRIATIONS:**

A.17.3645.000.72200.01	Building Improvements	\$50,000
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CSS-027-18**

From: Community Safety & Security and Administration Committees

Dated: March 20, 2018

**DISTRICT ATTORNEY BUDGET MODIFICATION - USE OF ASSETS FORFEITURE FUNDS**

WHEREAS, the Niagara County District Attorney's Office maintains its Local Asset Forfeiture Trust Account for the prosecution and reduction of targeted crimes, and

WHEREAS, the use of locally forfeited funds is restricted by the New York State Department of Criminal Justice Services to the enhancement of the prosecution of crimes and can be used to supplement but not supplant current resources, and

WHEREAS, the Niagara County District Attorney's Office will allocate \$23,498.55 for the purchase of surveillance for local law enforcement agencies to enhance public safety and the deterrence and prosecution of criminal activity, and

WHEREAS, this is an allowable use under the Guidelines, now, therefore, be it

RESOLVED, that the Niagara County Treasurer's Office is hereby authorized to disburse \$23,498.55 from the District Attorney's Local Assets Forfeiture Account A.02.1165.000.40036 into the District Attorney's operating budget, and be it further

RESOLVED, that the following budget modifications are effectuated:

INCREASE REVENUE:

A.02.1165.000.40599.02	Appropriated Fund Balance Restricted Funds	\$23,498.55
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INCREASE APPROPRIATIONS:

A.02.1165.000.72100.05	Computer Equipment	\$23,498.55
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CSS-028-18**

From: Community Safety & Security and Administration Committees

Dated: March 20, 2018

**DISTRICT ATTORNEY BUDGET MODIFICATION  
USE OF ASSETS FORFEITURE FUNDS –CRIME NIGHT OUT**

WHEREAS, the Niagara County District Attorney's Office maintains its Local Asset Forfeiture Trust Account for the prosecution and reduction of targeted drug crimes, and

WHEREAS, the use of locally forfeited funds is restricted by the New York State Department of Criminal Justice Services to the enhancement of the prosecution of related crimes and can be used to supplement but not supplant current resources, and

WHEREAS, the Niagara County District Attorney's Office will allocate \$500 to the Niagara Falls Block Club Council to fund their annual Crime Night Out, and

WHEREAS, this is an allowable use under the Guidelines, now, therefore, be it

RESOLVED, that the Niagara County Treasurer's Office is hereby authorized to disburse \$500 from the District Attorney's Local Assets Forfeiture Account A.02.1165.000.40036 into the District Attorney's operating budget, and be it further

RESOLVED, that the following budget modifications are effectuated:

INCREASE REVENUE:

A.02.1165.000.40599.02	Appropriated Fund Balance Restricted Funds	\$500
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INCREASE APPROPRIATIONS:

A.02.1165.000.74400.09	Payments to Other Agencies	\$500
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CW-002-18**

From: Community of the Whole

Dated: March 20, 2018

**CALLING FOR STATE LEGISLATION TO ALLOW NIAGARA COUNTY**



**TO INCREASE THE BED TAX AND DESIGNATE THE  
INCREASE FOR THE DISCOVER NIAGARA SHUTTLE OR OTHER TRANSPORTATION  
ENTITIES THAT SUPPORT TOURISM WITHIN NIAGARA COUNTY**

WHEREAS, Niagara County believes in Home Rule and should be able to determine the most preferable way to pay for service to promote tourism, and

WHEREAS, Niagara County sees an advantage to an additional 1% increase of the current Bed tax to aid and promote tourism in Niagara County, and

WHEREAS, the County has an opportunity to assist the Niagara Falls National Heritage Area in its operation of the Discover Niagara Shuttle or other entities for transportation or economic development purposes pursuant to New York State Tax Law Article 29 § 1201-d(a) authority to impose tax, and

WHEREAS, the Discover Niagara Shuttle service presently serves the city of Niagara Falls, and along the Niagara River Corridor to the village of Youngstown, and

WHEREAS, Niagara County anticipates several benefits to an additional 1% increase of the current Bed tax, which would include:

1. Promote Tourism by the ease of Transportation to and from all the tourist sites in the city of Niagara Falls, town of Lewiston, Village of Youngstown and in the future the city of Lockport and city of North Tonawanda;
2. Increase Shuttle connections to the city of Lockport and city of North Tonawanda;
3. Relieve congestion of tourism traffic on the roads, parking, and provide a scenic commute throughout the existing Niagara County tourist locations.

and

WHEREAS, there are several attractions in the city of Lockport; the Flight of Five Locks, Lockport Discovery Center, and the Lockport caves; and in North Tonawanda the Carousel Factory Museum, the Canal Fest, thus the shuttle service would promote these attractions, now, therefore, be it

RESOLVED, that the Niagara County Legislature requests the State of New York Legislature to draft companion bills for the purposes of increasing the existing bed tax by 1% designated specifically to the Discover Niagara Shuttle, and be it further

RESOLVED, that the drafting of this legislation on the state level would provide Niagara County the option of passing a Home Rule Message in support of such legislation, and be it further

RESOLVED, that subsequent to the State's adoption, Niagara County would have an opportunity to present a local law which would call for action to allow Niagara County residents , and visitors easy comfortable transportation between Niagara County attractions, and be it further

RESOLVED, that the Niagara County Legislature respectfully requests the New York State Senate and Assembly to submit companion bill that would pave the way for the County's Local Law and Public Hearing and that copies of this resolution be sent immediately to Niagara county's state representatives.

Chairman McNall declared Rule 28 is in effect for this resolution and turned the floor over to Legislator Lance.

Moved by Bradt, seconded by Wydysh.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. CW-003-18**

From: Community of the Whole

Dated: March 20, 2018

**RESOLUTION AUTHORIZING COMMENCEMENT OF LITIGATION TO OBTAIN  
COMPENSATION FOR LEGAL FEES AND COSTS EXPENDED IN DEFENDING A LAWSUIT  
AGAINST NIAGARA COUNTY AND SHERIFF JAMES R. VOUTOUR**

WHEREAS, Niagara County and Armor Correctional Health Services of New York, Inc., entered into an agreement on November 30, 2015, commencing the 16th day of December 2012 through December 15, 2015, and under such agreement, Armor Correctional Health Services of New York, Inc., was to provide reasonably necessary health care to detainees and inmates of the Niagara County Correctional Facility who are lawfully remanded to the care and custody of the Niagara County Sheriff's Office, and

WHEREAS, Armor Correctional Health Services of New York, Inc., failed to provide the reasonable and necessary health care services to an inmate/detainee Daniel Pantera, which resulted in his wrongful death matter, and

WHEREAS, Niagara County retained the law firm of Gibson, McAskill & Crosby, LLP to represent the County in these matters, causing the County to incur legal fees and other expenses in defending the County, and

WHEREAS, the agreement between Armor Correctional Health Services of New York, Inc. and Niagara County, requires that Armor Correctional Health Services of New York, Inc., indemnify and hold the County harmless from any and all risks of any kind arising out of the work and/or services performed by Armor Correctional Health Services of New York, Inc., including but not limited to any attorneys' fees and costs incurred in these matters, and

WHEREAS, pursuant to New York State County Law, the Niagara County Legislature is authorized to direct the Niagara County Attorney to commence legal proceedings against Armor Correctional Health Services of New York, Inc., to recover those legal fees and other related expenses incurred by Niagara County as a result of Armor Correctional Health Services of New York, Inc.'s failure to perform duties under the scope of said agreement, now, therefore, be it

RESOLVED, that the Niagara County Attorney is hereby authorized and directed by the Niagara County Legislature to commence all necessary legal proceedings against Armor Correctional Health Services of New York, Inc. to recover those amounts which were incurred due to Armor Correctional Health Services of New York, Inc.'s breach of said agreement.

Moved by Syracuse, seconded by Godfrey.

Adopted. 14 Ayes, 0 Noes, 1 Absent – Zona

**Resolution No. CW-004-18**

From: Community of the Whole

Dated: March 20, 2018

**CLAIM SETTLEMENT  
ESTATE OF DANIEL PANTERA VS. COUNTY OF NIAGARA**

WHEREAS, the County of Niagara self-insures its general liability coverage, and

WHEREAS, such loss fund is fully funded and separate from the General fund, and



WHEREAS, the County Legislature is authorized under Section 6-N of the General Municipal Law to approve claim settlements in excess of \$25, 000.00, and

WHEREAS, on December 25, 2012 Daniel Pantera died while an inmate at the Niagara County Jail, premises owned by Niagara County, and

WHEREAS, the Estate of Daniel Pantera has presented his claims in a lawsuit filed with the New York State Supreme Court, and

WHEREAS, the case Daniel Pantera vs. County of Niagara now presents an opportunity for settlement thereby avoiding additional litigation, trial and adverse judicial determinations, now, therefore, be it

RESOLVED, that the authority to disburse the Estate of Daniel Pantera vs. County of Niagara litigation, in settlement, is given to the Risk & Insurance Manager in the amount of \$50,000.00 upon completion and receipt of a General Release and Stipulation of Discontinuance from plaintiff's and County's counsel, and be it further Moved by Bradt, seconded by Steed.

Adopted. 14 Ayes, 0 Noes, 1 Absent - Zona.

**Resolution No. CW-005-18**

From: Community of the Whole

Dated: March 20, 2018

**CLAIM SETTLEMENT**

**ESTATE OF DEJUAN L. HUNT, II VS. COUNTY OF NIAGARA**

WHEREAS, the County of Niagara self-insures its general liability coverage, and

WHEREAS, such loss fund is fully funded and separate from the General fund, and

WHEREAS, the County Legislature is authorized under Section 6-N of the General Municipal Law to approve claim settlements in excess of \$25, 000.00, and

WHEREAS, on August 29, 2016 DeJuan L. Hunt, II, died while an inmate at the Niagara County Jail, premises owned by Niagara County, and

WHEREAS, the Estate of DeJuan L. Hunt, II, has presented his claims in a lawsuit filed with the New York State Supreme Court, and

WHEREAS, the case the Estate of DeJuan L. Hunt, II, vs. County of Niagara now presents an opportunity for settlement thereby avoiding additional litigation, trial and adverse judicial determinations, now, therefore, be it

RESOLVED, that the authority to disburse the Estate of DeJuan L. Hunt, II, vs. County of Niagara litigation, in settlement, is given to the Risk & Insurance Manager in the amount of \$125,000.00 upon completion and receipt of a General Release and Stipulation of Discontinuance from plaintiff's and County's counsel, and be it further

Moved by Grozio, seconded by Collins

Adopted. 15 Ayes, 0 Noes, 1 Absent - Zona

**Resolution No. ED-004-18**

From: Economic Development Committee

Dated: March 20, 2018

**RESOLUTION TO AUTHORIZE THE PUBLICATION AND POSTING OF A NOTICE OF THE 30-DAY PERIOD FOR MUNICIPALITIES AND LANDOWNERS WITHIN NIAGARA COUNTY AGRICULTURAL DISTRICT #7**

WHEREAS, Niagara County Agricultural District #7 (Lewiston, Niagara, Pendleton, and Wheatfield) was first formed on November 5, 1978, and has an anniversary on November 5, 2018 and

WHEREAS, New York State Department of Agriculture and Markets Law, Art. AA, 303-a requires that a 30-day public notice be published in an area newspaper, on the home page of the county's website, provide such notice in writing by first class mail to those municipalities whose territory encompasses the district, and posted in at least 5 conspicuous places within each district notifying municipalities and landowners within the district that they may request modifications of the district, now, therefore, be it

RESOLVED, the Clerk of the Niagara County Legislature is authorized to publish the following notice in at least one newspaper with general circulation in the aforementioned agricultural district, on the home page of the county's website, posting the notice in at least 5 conspicuous places in each district, and provide such notice in writing by first class mail to those municipalities whose territory encompasses the district:

**PLEASE TAKE NOTICE that Niagara County Agricultural District #7, in the Towns of Lewiston, Niagara, Pendleton, and Wheatfield is now subject to an 8-year review for purposes of renewal, modification or termination. Maps of the district are on file and open to the public for inspection in the office of the Clerk of the Legislature. Municipalities and landowners within the district may propose modifications of a district by filing such a proposal with the Clerk of the Legislature within thirty (30) days of the publication of this notice. Questions about the District may be directed to Amanda Henning, Cornell Cooperative Extension at 716-433-8839 x231.**

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. ED-005-18**

From: Economic Development and Administration Committees

Dated: March 20, 2018

**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, AirBNB, rentals, (including through online booking sites) 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 eighteen, 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 eighteen, 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 eighteen. 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 eighteen. 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 therefore, 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, transferor, 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 seven (7) month period, from May 1, 2018. 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 17<sup>th</sup> day of April, 2018 at \_\_\_\_ 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 Buffalo News; 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 Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-032-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: March 20, 2018

**CAPITAL PROJECT H615 CLOSE OUT  
WATER DISTRICT**

WHEREAS, the following capital project has been completed and has an account balance remaining that needs to be transferred back to the original funding sources; now, therefore, be it

RESOLVED, that the following capital project be closed and the remaining account balance be returned to the Water District Operating Fund, that was the original funding source:

DECREASE ESTIMATED REVENUES:

H615.31.8397.000 45031.00	Interfund Transfers from Operating	\$63,479.47
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DECREASE APPROPRIATIONS:

H615.31.8397.000 72100.27	Chemical Containment Project (Water System Improvements)	\$63,479.47
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Moved by Bradt, seconded by Virtuoso.



Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-033-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: March 20, 2018

**ABOLISH SR. COMPUTER PROGRAMMER  
CREATE AND FILL JR. NETWORK ADMINISTRATOR**

WHEREAS, due to personnel vacancies within the Information Technology Department, the department has reviewed its operational needs for maintaining the various information technology systems and network for 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) Sr. Computer Programmer and to create and fill one (1) Jr. Network Administrator, and

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

RESOLVED, that Position No. 317, Sr. Computer Programmer, be abolished, and be it further

RESOLVED that the position of Jr. Network Administrator, CSEA, Grade 10, Step 1, at an annual salary of \$43,957.62, be created effective March 21, 2018, and be it further

RESOLVED that the following budget modification be made:

FROM:

A.16.1680.000.71010.00 317 Positions (Sr. Computer Programmer - Pos. #317) \$48,575.87

TO:

A.16.1680.000.71010.00 xxx Positions (Jr. Network Administrator) - Pos. #xxx) \$48,575.87

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-034-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: March 20, 2018

**NIAGARA COUNTY HIGHWAY MACHINERY FUND BUDGET MODIFICATION – FUNDING OF  
ANNUAL ALLOCATION OF LABOR EXPENSES FOR 2017**

WHEREAS, the Niagara County Highway Maintenance Fund, D.15.5110.000, is responsible for the initial payment of Highway forces and then the costs are allocated to the other various highway cost centers within the highway department, and

WHEREAS, funds from the IB Employee costs, account DM.15.5130.000.74675.09, was erroneously withdrawn from the account via line item transfers leaving a budget gap to cover the actual labor expense for 2017, and

WHEREAS, this annual payment for labor forces throughout 2017 needs to be paid from the 2017 budget, and

WHEREAS, budget modifications for the 2017 fiscal year can continue to be made into the first quarter of 2017, now, therefore, be it

RESOLVED, that the following budget modification be effectuated for the 2017 County budget:

DECREASE APPROPRIATIONS:

DM.15.5132.000.71010.00	Positions	\$27,055
DM.15.5132.000.74750.02	Supplies/Materials	\$ 4,358
DM.15.5132.000.74800.06	Repairs and Maintenance	\$ 4,936
DM.15.5132.000.74800.13	Repair Parts and Supplies	\$ 931

INCREASE APPROPRIATIONS:

DM.15.5130.000.74675.09	I B Employee Costs	\$37,280
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-035-18**

From: Infrastructure & Facilities and Administration Committees.

Dated: March 20, 2018

**LOCKPORT ROAD RESURFACING PROJECT, PHASE 3  
TOWNLINER ROAD TO BEAR RIDGE ROAD  
CHANGE ORDER NO. 1 - FINAL**

WHEREAS, by Resolution No. IF-002-17, dated February 21, 2017, the Legislature awarded the contract for the Lockport Road Resurfacing Project, Phase 3, Townline Road to Bear Ridge Road, to Keeler Construction Co., Inc., 13519 West Lee Road, Albion, NY 14411, for a contract amount of \$1,389,183.10, and

WHEREAS, it is necessary to decrease the contract in the amount of \$166,755.36, for a revised contract amount of \$1,222,427.74, 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 Change Order No. 1-Final to decrease the contract by \$166,755.36 for the Lockport Road Resurfacing Project, Phase 3, Townline Road to Bear Ridge Road, for a revised contract amount of \$1,222,427.74, to Keeler Construction Co., Inc., 13519 West Lee Road, Albion, NY 14411, be approved, 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 Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-036-18**

From: Infrastructure & Facilities Committee.

Dated: March 20, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA  
AND THE TOWN OF WHEATFIELD**

WHEREAS, the Town of Wheatfield has requested that the County of Niagara grant them permission to use



Oppenheim Park for the purpose of holding a July 4th fireworks display, and

WHEREAS, it is the wish of the Town of Wheatfield to hold the fireworks display on July 4, 2018, 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 Town of Wheatfield, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Town of Wheatfield, as appears on 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 County Legislature be, and hereby is, authorized to execute the agreement.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-037-18**

From: Infrastructure & Facilities Committee.

Dated: March 20, 2018

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

WHEREAS, the Newfane Soccer Club has requested that the County of Niagara grant them exclusive rights to operate a Soccer 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 Soccer Club, 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 Soccer Club, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Newfane Soccer Club, as appears on 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 County Legislature be, and hereby is, authorized to execute the license agreement between the County of Niagara and the Newfane Soccer Club.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-038-18**

From: Infrastructure & Facilities Committee.

Dated: March 20, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND  
THE NIAGARA CELTIC HERITAGE SOCIETY, INC.**

WHEREAS, the Niagara Celtic Heritage Society, Inc. has requested that the County of Niagara grant them permission to use the north section of Krull Park for the purpose of holding a Celtic Festival, and

WHEREAS, this Festival has been successful for the past several years in attracting thousands of visitors from across Niagara County and Greater Western New York, and

WHEREAS, it is the wish of the local community to hold the Celtic Festival on September 14 - 16, 2018, 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 Niagara Celtic Heritage Society, Inc., and

WHEREAS, prior to the execution of the license agreement between the County of Niagara and the Niagara Celtic Heritage Society, Inc., the County Attorney will review said Agreement for approval as to legal form, language and compliance, now, therefore, be it

RESOLVED, that, following the County Attorney's review, the Chair of the County Legislature be, and hereby is, authorized to execute the license agreement between the County of Niagara and the Niagara Celtic Heritage Society, Inc.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-039-18**

From: Infrastructure & Facilities Committee.

Dated: March 20, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND THE TOWN OF NEWFANE**

WHEREAS, the Town of Newfane has requested that the County of Niagara grant them permission to use Krull Park for the purpose of hosting the Olcott Beach Jazz Trail Jazz Concert, and

WHEREAS, it is the wish of the Town of Newfane to hold the Olcott Beach Jazz Trail Jazz Concert on July 22, 2018, and

WHEREAS, the Town 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 Town of Newfane, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Town of Newfane, as appears on 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 County Legislature be, and



hereby is, authorized to execute the agreement.  
Moved by Bradt, seconded by Virtuoso.  
Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-040-18**

From: Infrastructure & Facilities Committee.

Dated: March 20, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA  
AND THE LIGHTHOUSE OPTIMIST CLUB OF BARKER**

WHEREAS, the Lighthouse Optimist Club of Barker has requested that the County of Niagara grant them permission to use Krull Park, and the field East of the Softball diamonds, for the purpose of holding a Kite Flying Event, to be held on June 16, 2018, and

WHEREAS, the kite event will be successful in attracting many children from the area, and

WHEREAS, it is the wish of the organizers to hold the kite event on June 16, 2018, 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 Lighthouse Optimist Club of Barker, and

WHEREAS, prior to the execution of the license agreement between the County of Niagara and the Lighthouse Optimist Club of Barker, the County Attorney will review said 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 County Legislature be, and hereby is authorized to execute the license agreement between the County of Niagara and the Lighthouse Optimist Club of Barker.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IF-041-18**

From: Infrastructure & Facilities Committee.

Dated: March 20, 2018

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND THE BOND LAKE ATHLETIC  
CLUB**

WHEREAS, the Bond Lake Athletic Club has requested that the County of Niagara grant them permission to use the north section of Bond Lake and the Warming House for the purpose of holding a "Rut Race", and

WHEREAS, this race has been successful for the past several years in attracting hundreds of visitors from across Greater Western New York and southern Canada, and

WHEREAS, it is the wish of the organizers to hold the Bond Lake Rut Race on August 13, 2018, 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 Bond Lake Athletic Club, and

WHEREAS, prior to the execution of the license agreement between the County of Niagara and the Bond Lake Athletic Club, the County Attorney will review said 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 County Legislature be, and hereby is, authorized to execute the license agreement between the County of Niagara and the Bond Lake Athletic Club.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IL-004-18**

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

Dated: March 20, 2018

**RESOLUTION IN SUPPORT OF TONAWANDAS GATEWAY HARBOR, INC.  
THROUGH THE USE OF CASINO FUNDING**

WHEREAS, the Tonawandas Gateway Harbor Inc. is a 501(C)3 not-for-profit corporation whose mission is to promote economic growth, tourism, recreation and cultural and historic heritage through the utilization of the Tonawandas Gateway Harbor Park, and

WHEREAS, numerous events are organized from the spring through fall season including the Wednesday Canal Concert Series, Annual Taste of the Tonawandas and Pizza Fest, just to name a few, and

WHEREAS, the Tonawandas Gateway Harbor Inc. is interested in providing improved seating and activities for the visitors to Gateway Harbor Park, and

WHEREAS, through these improvements Gateway Harbor Park will continue to have an increase in the number of visitors and tourists frequenting Gateway Harbor during the boating season, and

WHEREAS, Gateway Harbor Park will continue to draw tens of thousands of visitors and tourists into the downtown North Tonawanda area, which will increase foot traffic to local businesses and restaurants and bring in greater sale tax revenue, now, therefore, be it

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2018 budget:

**INCREASE APPROPRIATED FUND BALANCE:**

A.28.8020.812 40599.01	Appropriated Fund Balance - Committed Funds	\$1,800.00
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**INCREASE APPROPRIATIONS:**

A.28.8020.812 74400.15	Seneca Niagara Community Development Fund	\$1,800.00
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Moved by Andres, seconded by Lance.

Adopted. 15 Ayes, 0 Noes, 0 Absent

**Resolution No. IL-014-18**

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



Dated: March 20, 2018

## **RESOLUTION SUPPORTING STATE FUNDED SCHOOL RESOURCE OFFICERS**

WHEREAS, the safety of all our students is of the utmost propriety, and

WHEREAS, there have been many instances where students have been killed and wounded in attacks in their schools, and

WHEREAS, we owe it to our children and their parents, to provide a safe environment for education to take place, and

WHEREAS, the New York State Sheriff Association has called upon the New York State Legislature to include sufficient funding in the 2018 state budget to provide at least one armed School Resource Officer in every school in New York State, and

WHEREAS, School Resource Officers would provide an armed police presence in our schools, they also would provide a relationship of trust with the students, and

WHEREAS, many school districts cannot afford to fund School Resource Officers because of budget concerns, and

WHEREAS, it is incumbent upon us to protect our most defenseless people, our children that we send off to school each day, now, therefore, be it

RESOLVED, that the Niagara County Legislature go on record in support of the New York State Sheriff Association calling upon the New York State Legislature to provide funding for at least one school resource officer in each school in New York State, and be it further

RESOLVED, that the County of Niagara shall forward copies of this Resolution to Governor Andrew M. Cuomo, Commissioner of New York State Education MaryEllen Elia, Senate Temporary President and Majority Leader John Flanagan; Senator Robert G. Ortt; Speaker of the Assembly Carl Heastie; Assembly Majority Leader Joseph D. Morelle; Assembly Minority Leader Brian M. Kolb; Member of the Assembly Michael J. Norris; Member of the Assembly Angelo Morinello and all others deemed necessary and proper.

Moved by Virtuoso, 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 Virtuoso, seconded by Zona.

Adopted. 15 Ayes, 0 Noes, 0 Absent

### **Resolution No. IL-015-18**

From: Legislators Rebecca J. Wydysh, Randy R. Bradt and Administration Committee

Dated: March 20, 2018

## **ADOPTION OF A LOCAL LAW OF THE LEGISLATURE OF THE COUNTY OF NIAGARA DECLARING THE OPIOID EPIDEMIC AND ITS EFFECT ON NIAGARA COUNTY A PUBLIC NUISANCE**

Whereas, the County Legislature recommends the adoption of the following Local Law:

A Local Law for the County of Niagara declaring the opioid epidemic and its effects on the County a public nuisance, and

WHEREAS, a public hearing was held on March 20, 2018 at 6:30 p.m. in the Legislative Chambers, Niagara County Courthouse, Lockport, New York, on said Local Law, and

WHEREAS, two people appeared to speak on said Local Law, and

WHEREAS, no amendment(s) was (were) made to said Local Law, now, therefore, be it

RESOLVED, that the County of Niagara adopts of the following Local Law:

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

#### I. Purpose and intent.

The opioid epidemic is sweeping the country. Indeed, addiction to and abuse of opioids is one of the greatest challenges facing Niagara County, New York (the "County"). A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioids were sold, distributed, and prescribed in the County over the past several years, a practice that continues today. The selling, distributing, and prescribing of large amounts of opioids in our community has created a public health and safety hazard affecting the residents of the County. This crisis has devastated families, wreaked havoc on our economy, and produced a generation of narcotic dependence. As a result of the opioid epidemic, costs related to healthcare, family and social services, criminal justice, addiction and rehabilitation, and many other areas have significantly increased. Many of these costs are paid by the County.

The purpose and intent of this legislation is to allow the County to recover these costs, despite the existence of the common-law municipal cost recovery rule (a.k.a. free public services doctrine) and declare the opioid epidemic and its effects on the County a public nuisance. Specifically, the County provides services related to the opioid epidemic, which are funded by tax revenues. This statute clarifies that reimbursement may be sought for the costs of providing such services, whenever practicable, from the responsible party. To accomplish this, the County establishes this cost recovery procedure and declares the opioid epidemic and its effects on the County a public nuisance.

#### II. Definitions.

"Costs" means all expenditures related to the opioid epidemic that directly or indirectly arise from the County's response to a responsible party's action or inaction.

"Responsible party" means any person or corporation whose negligent, intentional, or otherwise wrongful conduct causes the incident resulting in the County incurring costs or who is found liable or made responsible by a court for the costs incurred by the County in the form of damages, regardless of the cause of action.

#### III. Governmental function cost recovery.

The County may recover the costs of governmental functions related to opioids marketed, sold, manufactured, dispensed, prescribed, and/or distributed by the responsible party. If a responsible party fails to pay the costs demanded, the County may initiate and recover costs through administrative, civil, and/or criminal action against the responsible party. In that case, the County may also recover attorney's fees, interest, and any other payment or type of damages the court deems proper.

#### IV. Effect of criminal or civil proceedings on governmental function cost recovery.



The initiation of administrative or civil proceedings for governmental function cost recovery does not bar the criminal prosecution of a responsible party for any associated violation. Similarly, criminal prosecution does not bar civil collection of costs for the violation giving rise to the criminal prosecution.

V. Public nuisance.

The County hereby finds and declares the following:

- 1) That addiction to and abuse of opioids is one of the greatest challenges facing the County;
- 2) A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioid pain pills were sold, distributed and prescribed in the County over the past several years which practice continues today;
- 3) There is evidence showing that approximately four in five heroin users began their addiction by first using and then misusing prescription pain medications containing opioids;
- 4) The selling, distributing, and prescribing of large amounts of opioid pain pills in the County has created a public health and safety hazard affecting the residents of the County, resulting in devastation to County families, a negative effect on the County economy, wasted public resources, and a generation of narcotic dependence;
- 5) That selling, distributing, and prescribing of prescription opioid pain pills is a hazard to public health and safety, which has created a public nuisance to the citizens of the County, and said nuisance remains unabated;
- 6) That, in addition to all other powers and duties now conferred by law upon the County, the County is authorized to enact ordinances, issue orders, and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance;
- 7) That during the process of manufacturing and distribution of opioids, in some cases, there have been a breakdown of responsibility that some have taken advantage of and the negligence and intentional wrongful conduct of those manufacturers and distributors causing harm to our citizens; and
- 8) That it is the duty of the County to protect and enforce the rights of the citizens of the County and take action to abate this public nuisance.
- 9) That opioid addiction has been declared a disease and those responsible parties who have benefited should also bear the costs and expenses created.

VI. Retroactive application.

This legislation applies retroactively.  
Moved by Wydysh, seconded by Bradt.  
Adopted. 15 Ayes, 0 Noes, 0 Absent

APPOINTMENTS:

	<u>Appt.</u>	<u>Expires</u>
<u>BOARD OF HEALTH:</u>		
Patrick R. McQuade. (Replaces John Gotowko)	03/20/18	12/31/23

188 Linwood Ave., North Tonawanda, 14120

Moved by Wydy, seconded by Bradt.

Adopted. 15 Ayes, 0 Noes.

Moved by Steed, seconded by Nemi to enter into Executive Session at 8:47 p.m. re: litigation.  
Carried.

Moved by Andres, seconded by Hill to adjourn Executive Session at 9:20 p.m.  
Carried.

**Resolution No. CW-003-18 was read at this time. (Appears in numerical order)**


**Resolution No. CW-004-18 was read at this time. (Appears in numerical order)**

**Resolution No. CW-005-18 was read at this time. (Appears in numerical order)**

Moved by Syracuse, seconded by Hill that the Board adjourn.

The Chairman declared the Board adjourned at 9:24 p.m., subject to the call of the Clerk.

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

  
Mary Jo Tamburlin, Clerk