

OFFICIAL RECORD

Lockport, New York
May 5, 2015

A public hearing was held pursuant CSS-027-15, adopted by the Legislature on April 21, 2015, on a proposed Local Law Establishing the Niagara County Sheriff's Office Tow List & Procedures. Legislator Godfrey opened the hearing at 6:32 p.m. and closed it at approximately 6:39 p.m.

A public hearing was held pursuant ED-008-15, adopted by the Legislature on April 21, 2015, on a proposed Local Law Imposing a Tax on the Occupancy of Hotel Rooms Pursuant to Tax Law § 1202-t Hotel or Motel Taxes in Niagara County. Legislator Updegrave opened the hearing at 6:45 p.m. and closed it at approximately 6:47 p.m.

The meeting was called to order by Chairman Ross at 7:03 p.m.

Clerk Tamburlin called the roll. All Legislators were present.

CORRESPONDENCE:

Clerk Tamburlin read a statement that the Niagara County's Municipal Separate Storm Sewer Systems (MS4) Draft Annual Report, March 2014 – March 2015 is available for Public Review and Comment until May 26, 2015 at the Niagara County Department of Public Works, Administrative Office, 2nd Floor, 59 Park Avenue, Lockport, NY 14094 or on the county's website under County Information, Stormwater.

PRESENTATIONS:

1. Economic Development Committee Chair, Richard Updegrave presented the William G. Mayne Jr. Business Community Enhancement Program Awards. Legislator Updegrave thanked Niagara Falls Bridge Commission members in attendance; Kathleen Neville Chairwoman and Frank Soda Commissioner. Chairwoman Neville discussed how the Niagara Falls Bridge Commission is committed to the beautification and economic incentives that it provides to both sides of the local bridges. Commissioner Soda spoke about the late William Mayne and his positive impact on the community. Legislator Updegrave stated that this is the seventeenth year of the Program Awards.

Five citizens spoke at this time.

Recess.

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

RESOLUTIONS:

Resolution No. AD-006-15

From: Administration Committee

Dated: May 5, 2015

RESOLUTION CONCERNING IN REM TAX FORECLOSURE

PARCEL NUMBER 2012-064 (SBL 94.00-1-13.1)
NIAGARA COUNTY TAX FORECLOSURE CASE
UNDER NIAGARA COUNTY SUPREME COURT INDEX NO. 148448

WHEREAS, under Niagara County Tax Foreclosure case for the year 2012 filed in the Niagara County Clerk's Office under Niagara County Supreme Court Index No. 148448, the County of Niagara acquired title to property commonly known as 5674 Stone Road, in the Town of Lockport, New York, assessed under SBL #94.00-1-13.1 and identified as in rem serial number 2012-064 (the "Property") against in rem Respondent/owner Scott Baron, and

WHEREAS, at the time of the commencement of said tax foreclosure case, the Property was the subject of a mortgage foreclosure action commenced by the Estate of Chester Baron, deceased, ("Plaintiff") against said former owner, Scott Baron ("Defendant"), and

WHEREAS, an issue has arisen as to whether the mortgage foreclosing plaintiff was properly notified of the County's tax foreclosure case and, accordingly, the Niagara County Treasurer and the Niagara County Attorney's Office have recommended that the Property be conveyed back to the former owner, Scott Baron, now, therefore, be it

RESOLVED, that Chairman of the Niagara County Legislature be, and hereby is, authorized and directed to execute a deed from the County of Niagara to either the Estate of Chester Baron, deceased or the former owner, Scott Baron, or to both as determined by respective counsel of said Estate and Scott Baron. Moved by Updegrave, seconded by Virtuoso.
Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. AD-007-15

From: Administration Committee

Dated: May 5, 2015

DISTRIBUTION OF MORTGAGE TAX

WHEREAS, Niagara County has received mortgage tax monies for the period October, 2014 through March, 2015 in the amount of \$2,102,446.15, and

WHEREAS, the Recording Officer has previously distributed \$470,563.60 to the Niagara Frontier Transportation Authority, \$468,241.63 to the State Mortgage Tax Agency, and retained \$132,150.96 for approved county administrative expenses, and

WHEREAS, that Recording Officer has remitted the remaining monies collected to the County Treasurer for distribution to various Niagara County towns, villages and cities, now, therefore, be it

RESOLVED, that the sum of **\$1,031,489.96** reflects mortgage tax monies for the period October 1, 2014 through March 31, 2015 to be distributed, and the same be and hereby is, apportioned as follows among the various towns, villages and cities of the County of Niagara:

TOWNS	Cambria	\$ 38,810.87
	Hartland	13,245.83
	Lewiston	95,277.70
	Lockport	141,383.14

	Newfane	35,615.77
	Niagara	38,284.72
	Pendleton	72,096.48
	Porter	44,253.66
	Royalton	39,301.72
	Somerset	16,002.28
	Wheatfield	146,719.22
	Wilson	29,761.26
VILLAGES	Middleport (Hartland)	\$ 209.13
	Middleport (Royalton)	3,137.41
	Lewiston	11,464.97
	Youngstown	8,501.97
	Barker	1,326.29
	Wilson	3,275.22
CITIES	Lockport	\$ 64,617.10
	Niagara Falls	85,292.08
	North Tonawanda	142,913.14
	TOTAL:	\$1,031,489.96

and be it further

RESOLVED, that the County Treasurer be, and hereby is, directed to pay the Supervisors of the various towns, village treasurers, and city treasurers the amounts recorded above and that this document shall be sufficient authorization to the County Treasurer to make the payments in accordance with the above direction.

Approved for submission.

Moved by Lance, seconded by Nemi .

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. CS-008-15

From: Community Services & Administration Committees

Dated: May 5, 2015

PUBLIC HEARING FOR NCCC FY 2015-2016 MAINTENANCE AND OPERATING BUDGET

WHEREAS, the County Manager and Budget Director have filed with the Legislative Clerk the tentative budget for the Niagara County Community College for their fiscal year commencing September 1, 2015 and ending August 31, 2016, and

WHEREAS, pursuant to Section 359 of the County Law, a public hearing must be held, now, therefore, be it

RESOLVED, that a public hearing be held in the Legislative Chambers, Courthouse, Lockport, New York at 6:45 p.m. on the 16th day of June, 2015 to review the tentative budget, and be it further

RESOLVED, that the Clerk of the Legislature is hereby authorized and directed to publish notice of same in the Union Sun & Journal, the Tonawanda News, and the Niagara Gazette.

Moved by McNall, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. CSS-028-15

From: Community Safety & Security & Administration Committees

Dated: May 5, 2015

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

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

A Local Law establishing the Niagara County Sheriff's Office Tow List and Procedures for the County of Niagara:

WHEREAS, a public hearing was held on at 6:45 p.m. in the Legislative Chambers, Niagara County Courthouse, Lockport, New York, on said Local Law, and

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

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

RESOLVED, the County Legislature of the County of Niagara, does hereby establish the Niagara County Sheriff's Office Tow List and Procedures;

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

Section 1. Purpose:

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

Section 2. Definitions:

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

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

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

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

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

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

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

Section 3. Zones:

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

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

Section 4. Tow Lists:

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

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

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

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

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

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

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

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

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

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

Section 5. Application:

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

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

The application must also include:

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

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

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

Section 6. Regulations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 7. Removal from list:

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

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

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

Section 8. Conflict with other laws:

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

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

Section 9. Miscellaneous Provisions:

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

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

This Local Law shall become effective upon filing with the Office of the Secretary of State.
Moved by Updegrave, seconded by Virtuoso.
Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. ED-009-15

From: Economic Development & Administration Committees

Dated: May 5, 2015

**ADOPTION OF A LOCAL LAW IMPOSING A TAX ON THE OCCUPANCY
OF HOTEL ROOMS PURSUANT TO TAX LAW § 1202-T**

WHEREAS, the Economic Development and Administration Committees recommend the adoption of the following 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:

WHEREAS, a public hearing was held on May 5, 2015 at 6:45 p.m. in the Legislative Chambers, Courthouse, Lockport, New York, on said Local Law, and

WHEREAS, no 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 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 enacted by the Legislature of the County of Niagara, New York as follows:

Section 1. Short Title.

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

Section 2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

Section 3. Imposition of Tax.

On and after the 1st of May, 2015, 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 March first, two thousand fifteen, 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 fifteen. 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 fifteen. 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 actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the County Treasurer may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefore and execution thereon has been returned unsatisfied.

(c) Whenever an operator shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or his lease, license of other agreement or right to possess or operate such hotel, apartment hotel, or of the equipment, furnishings, fixtures, supplies or stock of merchandise, of the said premises or lease, license or other agreement or right to possess or operate such hotel, apartment hotel and the equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel, otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall at least ten days before taking possession of the subject of said sale, transfer or assignment, or paying therefor, notify the County Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor, has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this Local Law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Whenever the purchaser, transferee or assignee shall fail to give notice to the County Treasurer as required by the preceding paragraph or whenever the County Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or chooses 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 chooses 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.

(a) The hotel and motel tax enacted herein shall remain in effect for a three year period from May first, two thousand fifteen. Nothing contained in Chapter 243 of the Laws of 2002 of the State of New York shall prohibit the adoption and enactment of Local Laws pursuant to the provisions of this section upon the expiration and any other Local Law adopted pursuant to this section.

(b) This local law shall take effect upon filing in the office of the Secretary of State as provided by the Municipal Home Rule Law.
Moved by Updegrove, seconded by Virtuoso.
Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-062-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND
THE KAIHATSU FIELD HOCKEY CLINIC**

WHEREAS, the Kaihatsu Field Hockey Clinic has requested that the County of Niagara grant them rights to operate a Field Hockey clinic 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 Kaihatsu Field Hockey Clinic, 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 Kaihatsu Field Hockey Clinic, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Kaihatsu Field Hockey Clinic, 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 Kaihatsu Field Hockey Clinic.

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-063-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**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 13, 2015, 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 13, 2015, 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 Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-064-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA
AND THE 5K ZOMBIE FUN RUN**

WHEREAS, the 5K Zombie Fun Run has requested that the County of Niagara grant them permission to use Krull Park, and the soccer fields, for the purpose of holding a 5K run, to be held on August 22, 2015, and

WHEREAS, the 5K Run will be successful in attracting many people from the area, and

WHEREAS, it is the wish of the organizers to hold the 5K Run on August 22, 2015, 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 5K Zombie Fun Run, and

WHEREAS, prior to the execution of the License Agreement between the County of Niagara and the 5K Zombie Fun Run, 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 5K Zombie Fun Run.

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-065-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND
THE LOCKPORT HIGH SCHOOL CROSS COUNTRY CLUB**

WHEREAS, the Lockport High School Cross Country Club has requested that the County of Niagara grant them exclusive rights to operate a Cross Country program in an area situated in the County owned property near Day Road Park, and

WHEREAS, this program benefits the residents of the Town and City of Lockport in addition to Niagara County as a whole, and

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

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

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Lockport High School Cross Country Club, and

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

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Lockport High School Cross Country 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 Legislature is hereby authorized to execute the required documents

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-066-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA
AND THE LOCKPORT RUGBY CLUB**

WHEREAS, the Lockport Rugby Club has requested that the County of Niagara grant them exclusive rights to operate a Rugby program in an area situated in the County owned property on Davison Road, and

WHEREAS, this program benefits the residents of the Town and City of Lockport in addition to Niagara County as a whole, and

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

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

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Lockport Rugby Club, now, therefore, be it

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Lockport Rugby 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 Legislature is hereby authorized to execute the agreement with the Lockport Rugby Club.

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-068-15

From: Infrastructure & Facilities & Administration Committees

Dated: May 5, 2015

**CAPITAL PROJECT CREATION
FILTER BASINS REHABILITATION - WATER DISTRICT**

WHEREAS, the Niagara County Water District desires to upgrade gravity sand filters one through six at the Williams Road Water Treatment Plant, and

WHEREAS, the existing system has reached the end of its useful life and is experiencing reduced performance, and

WHEREAS, the proposed system will upgrade the six filters with a system that utilizes an IMS Cap in lieu of support gravel and includes provisions for the use of air water backwashing in the future, and

WHEREAS, the Niagara County Water District Administrative Board authorized the Administrative Director to go to bid for the Filter Basins Rehabilitation project which is estimated to be \$2,100,000 including construction, contingency, engineering and legal costs, and

WHEREAS, there are sufficient funds in the Water District's 2015 Operating Budget to cover the cost of taking this project to bid, and

WHEREAS, the Wendel Project Number will be 3146-15-09 and the project manager will be Brian Sibiga, now, therefore, be it

RESOLVED, that the following capital project be created and partially funded from the following 2015 Water District operating budget line in the amount of \$340,000 with the remainder of the project to be funded in 2016:

DECREASE APPROPRIATION:

FX.31.8330.000.74800.06	Repairs and Maintenance	\$340,000
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INCREASE APPROPRIATION:

FX.31.9950.000.79010.00	Transfer to Capital Construction	\$340,000
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INCREASE REVENUE:

H618.31.8397.000.45031.00	Interfund Transfer, From Operating	\$340,000
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INCREASE APPROPRIATION:

H618.31.8397.000.72100.27	Water -Filter Basins #1-6 Rehabilitation	\$340,000
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Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-069-15

From: Infrastructure & Facilities & Administration Committees

Dated: May 5, 2015

**LOCKPORT ROAD BRIDGE OVER BULL CREEK
CONSULTANT AMENDMENT NO. 1**

WHEREAS, Resolution No. PW-067-14, dated May 6, 2014, authorized the contract for consultant services for the survey and hydraulics analysis of Lockport Road Bridge over Bull Creek to Bergmann Associates, Waterfront Village Center, 40 LaRiviere Drive, Suite 150, Buffalo, NY 14202, for a fee not to exceed \$29,100, and

WHEREAS, it is necessary to amend the contract to allow for consultant services for property acquisition in the amount of \$9,200, for a revised contract amount of \$38,300, and

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

RESOLVED, that the contract for consulting services be amended by \$9,200 for property acquisition to Bergmann Associates, Waterfront Village Center, 40 LaRiviere Drive, Suite 150, Buffalo, NY 14202, for a fee not to exceed \$38,300, and be it further

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

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-070-15

From: Infrastructure & Facilities & Administration Committees

Dated: May 5, 2015

**HIGHWAY DEPARTMENT OFFICES AND LOCKER ROOM
HYDRONIC HEAT RETROFIT
CHANGE ORDER NO. 1 - FINAL**

WHEREAS, by Resolution No. PW-114-14, dated September 16, 2014, the Legislature awarded the contract for the Highway Department offices and locker room hydronic heat retrofit project to Parise Mechanical, Inc., 1106 Sheridan Drive, Tonawanda, NY, in the amount of \$76,800.00, and

WHEREAS, it is necessary to reduce the contract in the amount of \$3,143.00, for a revised contract amount of \$73,657.00, and

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

RESOLVED, that Change Order No. 1 – Final to deduct \$3,143.00 from the contract for the Highway Department offices and locker room hydronic heat retrofit project, for a revised contract amount of \$73,657.00, to Parise Mechanical, Inc., 1106 Sheridan Drive, Tonawanda, NY, 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 Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-071-15

From: Infrastructure & Facilities & Administration Committees

Dated: May 5, 2015

**VEHICLE EVIDENCE STORAGE FACILITY - ELECTRICAL CONTRACT
NIAGARA COUNTY SHERIFF'S DEPARTMENT - FINAL PAYMENT**

WHEREAS, Resolution No. PW-051-14, dated April 8, 2014, awarded the contract for electrical work for the Sheriff's Department Vehicle Evidence Storage Facility to CIR Electrical Construction Corp., 400 Ingham Avenue, Buffalo, NY, in the amount of \$118,880, and

WHEREAS, the contract has been completed to specifications and drawings for the original contract amount of \$118,880, 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, final payment is authorized to be processed for CIR Electrical Construction Corp., 400 Ingham Avenue, Buffalo, NY, and be it further

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

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-072-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AWARD CONSULTANT SERVICES FOR NIAGARA COUNTY JAIL
BUILDING NO. 1 FRONT FACADE REPAIRS AND ROOF SAFETY RAILS**

WHEREAS, the Department of Public Works evaluated proposals from pre-qualified consulting engineering firms to assist the County with the Niagara County Jail Building No. 1 front facade repairs and roof safety rails project, and

WHEREAS, funds are available in account H607.15.3197.000 72200.01, Building Improvements, and

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

RESOLVED, that the consultant services for the Niagara County Jail Building No. 1 front facade repairs and roof safety rails project be awarded to Watts Architecture and Engineering, 95 Perry Street, Suite 300, Buffalo, NY 14203, for a contract amount not to exceed \$43,314, and be it further

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

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-073-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AWARD OF CONTRACT – LOCKPORT ROAD, WALMORE ROAD AND WARD ROAD
INTERSECTIONS RECONSTRUCTION AND RESURFACING PROJECT**

WHEREAS, the Department of Public Works, Engineering Division has prepared specifications and the Niagara County Purchasing Department has advertised for bids for the Lockport Road, Walmore Road and Ward Road Intersections, reconstruction and resurfacing project, and

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

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on March 26, 2015 as tabulated below:

- | | |
|---|----------------|
| 1. Concrete Applied Technologies Corp. (CATCO)
1266 Townline Road
Alden, NY 14004 | \$3,898,592.47 |
| 2. Accadia Site Contracting
5636 Transit Road
Depew, NY 14043 | \$4,301,975.60 |

3. Yarussi Construction, Inc.
5650 Simmons Avenue
Niagara Falls, NY 14304

\$4,583,244.43

and

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

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

RESOLVED, that the contract for the Lockport Road, Walmore Road and Ward Road Intersections, reconstruction and resurfacing project be awarded to the lowest responsible bidder, Concrete Applied Technologies Corp. (CATCO), 1266 Townline Road, Alden, NY, in the amount of \$3,898,592.47, and be it further

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

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-074-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**ABANDONMENT, PURSUANT TO NEW YORK STATE HIGHWAY LAW SECTION 118-a, OF
A PORTION OF NORTH CANAL ROAD, TOWN OF LOCKPORT, NEW YORK**

WHEREAS, the Clark family, residing at property commonly known as 7188 North Canal Road, Town of Lockport, New York, has filed an application with the Niagara County Attorney and the Clerk of the Niagara County Legislature requesting abandonment by the County of Niagara of an unused portion of lands formally known as North Canal Road in the Town of Lockport, New York and running adjacent to the Clark Lands, and

WHEREAS, the highway area in question has not been used for highway purposes for over 50 years, at which time North Canal Road was improved and the south line of the road was moved north to meet the safety standards in place at that time, and

WHEREAS, portions of the land for North Canal Road were conveyed to the County of Niagara for highway purposes by the predecessor owners of the Clark property at 7188 North Canal Road, Town of Lockport, New York, and

WHEREAS, the area that is the subject of the Bronson abandonment request bisects the Clark lands and abandonment thereof would be in the best interests of both the Clark family and the County of Niagara all pursuant to Section 118-a of the Highway Law of the State of New York, which law provides, among other things, that whenever a county shall have acquired from an adjacent owner certain lands necessary for a right-a-way and should there be sections of an old road as existed before the improvement that were of no use to the county, the legislature of a county, upon the recommendation of the county's public works department, may abandon such property to the abutting owner which are of no further use for highway purposes, and

WHEREAS, the applicant has filed the following documents with the Legislative Clerk: land survey of Wendel dated January 23, 2015 depicting property commonly known as 7188 North Canal Road, Lockport, New York, as well as the triangle piece of land they are requesting and a written request for said property, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby finds and determines that the requested abandonment by the Clark family of lands adjacent to the property commonly known as 7118 North Canal Road, Lockport, New York is in the best interest of both the County of Niagara and the owners of said property and may be abandoned under Section 118-a of the Highway Law of the State of New York, and be it further

RESOLVED, that the Chair of the Legislature has authorized and directed to execute a deed and all supporting transfer documents abandoning any and all interest of the County of Niagara in said piece of property, including, but not limited to, that triangle area depicted on the supplied survey.

Moved by Updegrove, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-075-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND
THE NIAGARA FRONTIER CROSS COUNTRY CLUB**

WHEREAS, the Niagara Frontier Cross Country Club has requested that the County of Niagara grant them exclusive rights to operate a Cross Country program in an area situated in the County owned property at Bond Lake Park, and

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

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

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

WHEREAS, it is the desire of Niagara County to enter into a formal agreement with the Niagara Frontier Cross Country Club, and

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

RESOLVED, that the terms and conditions of the agreement between the County of Niagara and the Niagara Frontier Cross Country 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 Legislature be, and hereby is, authorized to execute the required documents

Moved by Updegrove, seconded by Virtuoso.
Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IF-076-15

From: Infrastructure & Facilities Committee

Dated: May 5, 2015

**AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND
THE LOCKPORT EXCHANGE CLUB**

WHEREAS, the Lockport Exchange Club have requested that the County of Niagara grant them permission to use a portion of the Davison Road Campus for the purpose of holding a Beef on Weck Sale, and

WHEREAS, it is the wish of the Lockport Exchange Club to hold the Beef on Weck Sale on June 4, 2015, 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 Lockport Exchange Club, and

WHEREAS, prior to the execution of the License Agreement between the County of Niagara and Lockport Exchange 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 Chair of the County Legislature be, and hereby is, authorized to execute the License Agreement between the County of Niagara and Lockport Exchange Club.

Moved by Updegrove, seconded by Virtuoso.
Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IL-030-15

From: Legislators John Syracuse, Richard E. Updegrove & Anthony J. Nemi

Dated: May 5, 2015

**ADOPTION OF A LOCAL LAW OF THE COUNTY OF NIAGARA COUNTY, NEW YORK,
ALLOWING FOR COMMON, SAFE ITEMS TO BE EXCLUDED FROM THE
DANGEROUS FIREWORKS DEFINITION AS PERMITTED BY
NEW YORK STATE PENAL LAW SECTION 405 (b)**

WHEREAS, the County Legislature of the County of Niagara recommends the Adoption of the following local law 2015:

A local law of the County of Niagara County, New York, Allowing for Common, Safe Items to be Excluded from The Dangerous Fireworks Definition as Permitted by New York State Penal Law Section 405 (B), and

WHEREAS, a public hearing was held on February 17, 2015 at 6:45 p.m. in the Legislative Chambers, Niagara County Courthouse, Lockport, New York, on said Local Law, and

WHEREAS, five 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 a Local Law Allowing for Common, Safe Items to be excluded from The Dangerous Fireworks Definition as Permitted by New York State Penal Law Section 405 (B), as follows:

Section 1. Legislative Intent:

- A. Whereas, on November 21, 2014 Governor Cuomo signed into law Chapter 477 of the Laws of 2014 (S.7888/A10141).
- B. Whereas, this state law amended the State Penal Law, the Executive Law and the General Business Law placing further restrictions on dangerous fireworks while at the same time recognizing that certain fireworks should not be labeled dangerous when they pose little to no danger to the public and by labeling them dangerous only restricts business and personal enjoyment.
- C. Whereas, the Governor signed this version of the bill into law in part due to its strong home rule authority, only allowing for certain fireworks to be sold and used in municipalities that affirmatively enact a local law authorizing such action.
- D. In keeping with Chapter 477 of the Laws of 2014, and Penal Code Section 405 this Board further finds and determines that "sparkler devices" may be sold and enjoyed, only in the manner described below, within Niagara County.
- E. This Board finds that allowing our residents the use of safe "sparkler devices" will benefit them and our local businesses.
- F. The National Fire Protection Association adopted a recommended safety code (NFPA 1124) for the manufacture, transportation, storage and retail sales of fireworks.
- G. Whereas, this local law and State Chapter 477 of the Laws of 2014 are compliant with the safety standards established in NFPA 1124.
- H. This Board further finds that the sale and use of "sparkler devices" is permitted with the following restrictions:
 - 1) Sales will only be permitted on or between June 1st through July 5th and December 26th and January 2nd of each calendar year.
 - 2) All distributors manufacturers and retailers must be licensed though the New York Department of State.
 - 3) Only those 18 years of age or older may purchase said products.

Section 2. Definitions:

"Sparkling Devices" are defined as follows:

"Sparkling Devices" which are ground-based or hand-held devices that produce a shower of white, gold, or colored sparks as their primary pyrotechnic effect. Additional effects may include a colored flame, an audible crackling effect, an audible whistle effect, and smoke. These devices do not rise into the air, do not fire inserts or projectiles into the air, and do not explode or produce a report (an audible crackling-type effect is not considered to be a report). Ground-based or hand-held devices that produce a

cloud of smoke as their sole pyrotechnic effect are also included in this category. Types of devices in this category include:

- (1) cylindrical fountain: cylindrical tube containing not more than seventy-five grams of pyrotechnic composition that may be contained in a different shaped exterior such as a square, rectangle, cylinder or other shape but the interior tubes are cylindrical in shape. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle to be hand held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, and when tubes are securely attached to a base and the tubes are separated from each other on the base by a distance of at least half an inch (12.7 millimeters), a maximum total weight of five hundred grams of pyrotechnic composition shall be allowed.
- (2) cone fountain: cardboard or heavy paper cone containing not more than fifty grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, as is outlined in this subparagraph.
- (3) wooden sparkler/dipped stick: these devices consist of a wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to one hundred grams of pyrotechnic composition per item.
- (4) novelties which do not require approval from the United States department of transportation and are not regulated as explosives, provided that they are manufactured and packaged as described below:

A) party popper: small devices with paper or plastic exteriors that are actuated by means of friction (a string or trigger is typically pulled to actuate the device). They frequently resemble champagne bottles or toy pistols in shape. Upon activation, the device expels flame-resistant paper streamers, confetti, or other novelties and produces a small report. Devices may contain no more than sixteen milligrams (0.25 grains) of explosive composition, which is limited to potassium chlorate and red phosphorus. These devices must be packaged in an inner packaging which contains a maximum of seventy-two devices.

(B) snapper: small, paper-wrapped devices containing not more than one milligram of silver fulminate coated on small bits of sand or gravel. When dropped, the device explodes, producing a small report. Snappers must be in inner packages not to exceed fifty devices each, and the inner packages must contain sawdust or a similar, impact-absorbing material.

Section 3. Separability

If any part of or provisions of this law, or the application thereof to any person or circumstance, shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of or provision of, or application directly involved in the controversy in which such the remainder of this law, or the application thereof to other persons or circumstances.

Section 4. Effective Date.

This law shall take effect immediately upon filing with the Secretary of State.

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

11 Ayes, 4 Noes - Grozio, Steed, Virtuoso, Zona, 0 Absent

Carried.

Moved by Syracuse, seconded by Updegrave.

Adopted. 9 Ayes, 6 Noes – Grozio, Hill Ross, Steed, Virtuoso & Zona, 0 Absent

Resolution No. IL-060-15

From: Legislator Kathryn L. Lance

Dated: May 5, 2015

**RESOLUTION SUPPORTING
PRODUCT STEWARDSHIP PROGRAM FOR PAINT**

WHEREAS, it is estimated that roughly 3.1 million gallons of leftover paint are generated in New York each year, and

WHEREAS, management of leftover paint in New York results in a cost that typically represents 50% of municipal household hazardous waste budgets, and

WHEREAS, a statewide paint stewardship program would mean that the paint industry would be responsible for collecting and managing leftover paint in New York, and

WHEREAS, the American Coatings Association, a trade association representing paint manufacturers from across the United States has created PaintCare, a non-profit program to manage the reuse, recycling and disposal of leftover paint, and

WHEREAS, eight other states, including Rhode Island, Connecticut, Minnesota, California, Vermont, Maine, Colorado and Oregon have passed legislation implementing paint recovery programs managed by PaintCare, saving local municipalities tens of thousands of dollars to manage the paint as part of household hazardous waste collection programs, and

WHEREAS, in addition to reducing government costs, a paint stewardship program would create green sector jobs, reduce waste and encourage the public to purchase the right amount of paint for a job, and

WHEREAS, the Niagara County Legislature therefore wishes to express its support for an industry-sponsored statewide paint collection system, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby urges the New York State Legislature to enact paint recycling legislation which would require the paint industry to be responsible for collecting and managing leftover paint in New York funded by a consumer fee of no more than \$0.75/gallon, and be it further

RESOLVED, that the County of Niagara shall forward copies of this Resolution to Governor Cuomo, Senator Robert G. Ort, Senate President Dean G. Skelos, Senate Deputy Majority Leader Thomas W. Libous, Member of the Assembly Jane L. Corwin, Member of the Assembly John D. Ceretto, Member of the Assembly Ray Walter, Member of the Assembly Robin Schimminger, Speaker of the Assembly Carl

E. Heastie, Assembly Majority Leader Joseph D. Morelle, Assembly Minority Leader Brian M. Kolb, and all others deemed necessary and proper.

Referred to Refuse Disposal District & Administration Committees

Resolution No. IL-061-15

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

Dated: May 5, 2015

**RESOLUTION EXPRESSING THE OPPOSITION OF THE NIAGARA COUNTY
LEGISLATURE TO THE IJC PLAN 2014 AND SUPPORTING THE EFFORTS OF
U.S. REPRESENTATIVE CHRIS COLLINS TO BLOCK ENACTMENT OF THE SAME**

WHEREAS, in June 2014, the International Joint Commission introduced Lake Ontario-St. Lawrence River Plan 2014, herein referred to as Plan 2014, and

WHEREAS, the U.S. Department of State is currently conducting an inter-agency review of Plan 2014, seeking information specifically from the Environmental Protection Agency, the Army Corps of Engineers and the Department of Transportation, and

WHEREAS, qualified observers with expertise in civil engineering have indicated Plan 2014 will have a devastating impact on the communities along the Lake's southern shoreline, and

WHEREAS, Plan 2014 will increase the frequency of raising and lowering the water levels in Lake Ontario and the fluctuations in water levels will result in increased erosion damage to the shoreline, including the properties of businesses and homeowners, and

WHEREAS, Plan 2014 would raise the current water maximum by 2.4 inches and will increase the annual cost of shoreline maintenance and protections by 13%, while offering no means of compensation to the stakeholders who will be negatively impacted by this man-made property damage, and

WHEREAS, the International Joint Commission has received more than 5,000 letters from organizations and constituents opposing the plan, yet said regulatory body has done nothing to address the negative impacts that increasing frequency of water level fluctuations will have on these communities, and

WHEREAS, the effects of Plan 2014 span six counties in Upstate New York and would cause damage to land assessed at nearly \$4 billion, and

WHEREAS, U.S. Rep. Chris Collins, who represents residents of the counties of Niagara, Orleans, and Monroe, and U.S. Rep. John Katko who represents residents of the counties of Wayne, Cayuga, and Oswego in the United States House of Representatives jointly issued a letter to the House Committee on Appropriations Subcommittee on State, Foreign, Operation and Related Programs on March 25 of this year, requesting language be included in the House Budget preventing any use of federal funding to implement IJC Plan 2014, and

WHEREAS, the recommendation by Rep. Collins and Rep. Katko to eliminate the International Joint Commission's ability to implement Plan 2014 will provide certainty to those communities that have seen repeated efforts by the IJC to disrupt the current shoreline protections, now, therefore, be it

RESOLVED, that the Legislature of the County of Niagara does wholly endorse the proposed budgetary restriction on Plan 2014 implementation as outlined by Reps. Collins and Katko and urges the House Committee on Appropriations Subcommittee on State, Foreign, Operation and Related Programs to insert the proposed language, and be it further

RESOLVED, that certified copies of this resolution be forwarded to U.S. Rep. Chris Collins; U.S. Rep. John Katko; U.S. Rep. Kay Granger, Chairwoman, the House Committee on Appropriations Subcommittee on State, Foreign, Operation and Related Programs; U.S. Rep. Nita Lowey, Ranking Member, the House Committee on Appropriations Subcommittee on State, Foreign, Operation and Related Programs; Dr. Charles A. Lawson, Secretary, the International Joint Commission; Lana Pollack, International Joint Commission U.S. Section chair; Gordon Walker, Q.C., International Joint Commission Canadian Section Chair; Rich Moy, commissioner; Dereth Glance, commissioner; the Benoît Bouchard, commissioner; Richard A. Morgan, commissioner; the New York Department of State; the New York State Department of Environmental Conservation; the New York State Environmental Facilities Corporation; U.S. Senator Charles E. Schumer; U.S. Senator Kirsten E. Gillibrand; U.S. Secretary of State John Kerry; Governor Andrew M. Cuomo, and all others deemed necessary and proper.

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

Carried.

Moved by Godfrey, seconded by Syracuse.

Adopted. 15 Ayes, 0 Noes, 0 Absent

Resolution No. IL-062-15

From: Legislators Kathryn L. Lance, John Syracuse, Richard L. Andres, et al.

Dated: May 5, 2015

RESOLUTION DIRECTING THE RENAMING OF THE NIAGARA COUNTY SOCIAL SERVICES BUILDING, LOCATED AT 20-40 EAST AVENUE IN THE CITY OF LOCKPORT, AS "THE WILLIAM L. ROSS COUNTY OFFICE BUILDING"

WHEREAS, the Honorable William L. Ross, of Wheatfield, is the longest-serving Chairman of the Niagara County Legislature, having been elected to preside over this august body a record 11 annual sessions, and

WHEREAS, the Honorable William L. Ross will have served the people of this County, and the Towns of Niagara, Wheatfield, and Lewiston, in various elected offices and capacities for 30 years at the conclusion of the 2015 session of This Legislature, and

WHEREAS, Legislator Ross has publicly declared his retirement from elected office at the conclusion of his current term on December 31, 2015, and

WHEREAS, Legislator Ross's chairmanship of This Legislature has led to many important accomplishments for the People of the County of Niagara through a commitment to fiscally-conservative budgeting priorities, and principally among those accomplishments were:

- a 12 percent reduction in the County tax rate since 2004,
- an increase in the County's bond rating from a poor Baa1 with negative outlook to a current rating of Aa3,

- the reduction of the size of the County workforce by several hundred without the loss of services for residents,
- the reduction of the Niagara County Legislature from 19 to 15 members,
- a decrease in locally-directed spending at a time that state-mandated spending continually increased, and

WHEREAS, Legislator Ross has played a critical role in aligning local, state, and federal leaders around efforts to save the Niagara Falls Air Station, most notably overturning 2005 Base Realignment and Closure Commission recommendations to cease operation of the same, and

WHEREAS, Legislator Ross has served as a driving force in the efforts to expand commercial air traffic at the Niagara Falls International Airport, and

WHEREAS, as a Trustee of the Niagara County Community College, the Honorable William L. Ross has been a vigorous supporter of the expansion of that public academic institution, leading efforts by County government to support construction of the Niagara County Community College Culinary Institute and site it in downtown Niagara Falls, and

WHEREAS, the Honorable William L. Ross, despite leaving elected office, remains a beloved fixture in his home community of Wheatfield and throughout the County of Niagara, now, therefore be it

RESOLVED, that this Legislature does direct that the Vice Chairman shall issue a proclamation upon the last day of this session declaring the week of January 3rd to 9th 2016 "William L. Ross Week" in Niagara County, and be it further

RESOLVED, that this Legislature does direct that the county-owned property at 20-40 East Avenue in the City of Lockport, which is currently operating as the Social Services Department, shall be renamed "The William L. Ross County Office Building," effective the 1st Day of January, 2016 and be it further

RESOLVED, that this Legislature does direct the County Manager to appropriate funds as shall be necessary to property signify the same on the front and back accesses to said building, denoting it "The William L. Ross County Office Building," in letters which shall be visible not less than 150 feet from said entrances, and direct the Department of Public Works to take all necessary steps to ensure such markings have been put in place no later than the 4th Day of January, 2016, and be it further

RESOLVED, that this Legislature does direct that, effective the 1st Day of January, 2016, all correspondence from this Government, all letterheads pertinent to the facility located at 20-40 East Avenue, and all official utterances relative to said facility shall utilize the name The William L. Ross County Office Building, and be it further

RESOLVED, that this Legislature does direct the Clerk of the Legislature to emplace such legal notices as shall be necessary to identify the newly-named facility in the official newspaper(s) of this body no later than the 31st day of December, 2015, and be it further

RESOLVED, that this Legislature does further direct the Clerk of the Legislature to place upon this august body's schedule a formal dedication of The William L. Ross County Office Building on Monday, January 4th, 2016.

Referred to Community Services & Administration Committees

Resolution No. IL-063-15

From: Legislators John Syracuse, Richard E. Updegrave, Michael A. Hill, Anthony J. Nemi, Wm. Keith McNall & Clyde L. Burmaster

Dated: May 5, 2015

**RESOLUTION AUTHORIZING CREATION & FILL OF
PISTOL PERMIT INVESTIGATOR II POSITION**

WHEREAS, the County of Niagara is firmly dedicated to the protection of the Second Amendment rights of its citizens, and this Legislature is committed to achieving the least time-intensive permitting process available for those wishing to exercise their Second Amendment rights while meeting its legal obligations under state law, and

WHEREAS, the County of Niagara has determined that various state regulations are impeding the expeditious flow of concealed carry pistol permit applications by the Niagara County Pistol Permit Office, and

WHEREAS, additional regulatory burdens anticipated by the County of Niagara may further impede the permitting process, thereby unreasonably delaying residents from obtaining access to pistols, revolvers, and other firearms regulated under handgun laws and the Pistol Permit system in New York State, now, therefore, be it

RESOLVED, that this Legislature does direct the Director of Human Resources and the Personnel Officer to create and fill the position of Pistol Permit Examiner/Court Liaison II, at an annual flat salary of \$36,315.00, Grade 5, Step 1 effective May 11, 2015, and be it further

RESOLVED, that this Legislature does direct the Director, Office of Management and Budget, to amend Account A.10.1410.000 to fund this additional position, Pistol Permit Examiner/Court Liaison II, with funds to be appropriated from the unappropriated fund balance, and be it further

RESOLVED, that the following budget modification be effectuated:

FROM:

A.08.1990.000.74500.01	Contingency	\$39,240
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TO:

A.10.1410.000.71010	Positions	23,519
A.10.1410.000.78100	Retirement	2,195
A.10.1410.000.78200.00	FICA	1,800
A.10.1410.000.78300.00	Workers Compensation	847
A.10.1410.000.78400.01	Insurance, Health Active Hospital/Medical	9,679
A-10-1410.000.78400.05	Insurance Health HRA Employer Contribution	850
A.10.1410.000.78800.00	Flex 125 Employer Contribution	350


Referred to Community Services & Administration Committees

Resolution No. AD-007-15 was read at this time. (Appears in numerical order)

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

The Chairman declared the Board adjourned at 9:18 p. m., subject to the call of the Clerk.

One citizen spoke at this time on the General Welfare of the County.


Mary Jo Tamburlin, Clerk