

A public hearing was held pursuant to IL-010-20, adopted by the Legislature on February 18, 2020, for the purpose of hearing public comments on Opting Out of Exemptions for any Solar or Wind Energy System Pursuant to Section 487 of the New York Real Property Tax Law. Legislator Syracuse opened the hearing at 6:16 p.m. and closed it at approximately 7:03 p.m.

A public hearing was held pursuant to CW-002-20, adopted by the Legislature on February 18, 2020, for the purpose of hearing public comments on a Local Law to Amend the Tax Law , in Relation to Imposing an Additional One Percent Occupancy Tax in County of Niagara to Benefit the Discover Niagara Shuttle. Legislator Nemi opened the hearing at 7:06 p.m. and closed it at approximately 7:07 p.m.

A public hearing was held pursuant to CSS-008-20, adopted by the Legislature on February 18, 2020 for the purpose of hearing public comments on Community Development Block Grant (CDBG). Legislator Andres opened the hearing at 7:08 p.m. and closed it at approximately 7:10 p.m.

OFFICIAL RECORD

Lockport, New York
March 10, 2020

The meeting was called to order by Chairman Wydysh at 7:21 p.m.

Clerk Tamburlin called the roll. All Legislators were present.

PRESENTATIONS:

Legislator Mullane, Collins and Nemi called Bernadette Smith, Principal and Michael Pickreign, Vice Principal of North Park School in Lockport to the lectern to read a proclamation honoring the schools 80th Anniversary.

Legislator Godfrey called Acting Sheriff Michael Filliceti and his staff to the lectern to read a proclamation declaring the week of April 12-18, 2020 “National Public Safety Telecommunications Week” in Niagara County.

Legislator Andres called George Fox, National Sales at RDS Services, to give an overview on what their company does and how the county has optimized their retiree drug plan.

Chairman Wydysh called Dan Stapleton Director of Public Health to the lectern to give an update on the Coronavirus.

Chairman Wydysh called County Manager Richard Updegrove to the lectern to give an update on the New York State Budget in regards to Medicaid.

Chairman Wydysh called John Shoemaker, Director of Real Property to give an overview on what his department does and they many towns and cities, and departments he works with.

0 Citizens spoke

Recess.

Moved by Bradt, second by Virtuoso to removed CSS-016-20 from the Preferred Agenda and Regular Agenda.

Moved by Bradt, second by Virtuoso to accept Preferred Agenda.

Resolution No. AD-007-20

From: Administration Committee.

Dated: March 10, 2020

**REAL PROPERTY TAX CORRECTIONS/CANCELLATIONS
NO. COE-2020 B**

WHEREAS, the Director of Real Property Tax Services has received applications for refunds and/or corrections applicable to various outstanding Niagara County tax liens, or has been made aware that unenforceable tax liens exist upon certain real property owned by the State of New York and/or the United States, and

WHEREAS, the Director has investigated the claimed erroneous assessments and/or unenforceable liens in accordance with sections 554, 556, and 558 of the New York State Real Property Tax Law, now, therefore, be it

RESOLVED, that the applications and/or lien cancellations be approved and/or denied as set forth in the attached Exhibit No. COE-2020 B, which is made a part hereof, and subsequently be charged back to the applicable town, city, special district and school district within the County of Niagara.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. CSS-012-20

From: Community Safety & Security and Administration Committees.

Dated: March 10, 2020

**NIAGARA COUNTY SHERIFF'S OFFICE
BUDGET MODIFICATION - EXPENDITURE OF CELLULAR E911 REVENUE
FOR 911 BATTERY BACKUP SYSTEM**

WHEREAS, the Niagara County Legislature passed a Local Law on November 5, 2017 which established an E911 surcharge for cellular phones to establish a dedicated revenue to be used for future payments for system costs, eligible wireless 911 service costs, or other costs associated with the administration, design, enhanced wireless 911 service costs serving Niagara County, and

WHEREAS, such expenditures require the authorization of the Niagara County Legislature, and

WHEREAS, the County's 911 Communication Center is in need of replacement batteries and repair for the County's 911 Center's Uninterrupted Power Supply (UPS) as detailed in the 2019 annual service visit, and

WHEREAS, the County's 911 Center's UPS is important as it provides uninterrupted power supply during a power outage to the Niagara County P25 Trunked Radio System CORE and Master Site, the Niagara County Sheriff's Office Communications VESTA 911 Phone System, the Niagara County Sheriff's Office Communications NICE phone system and radio system digital recorder, and all of the dispatcher workstations; having uninterrupted power to all of these facets of the 911 Center during any type of power outage is essential for the public safety of the residents of Niagara County, and

WHEREAS, the purchase will be made using Niagara County Purchasing Guidelines, now, therefore, be it

RESOLVED, that the following line item transfers be effectuated:

INCREASE APPROPRIATED FUND BALANCE:

A.19.3020.000 40599.01 Appropriated Fund Balance – Committed Funds \$ 17,100

INCREASE APPROPRIATIONS:

A.19.3020.000 74500.01 Contractual Expenses \$ 17,100

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. CSS-013-20

From: Community Safety & Security and Administration Committees.

Dated: March 10, 2020

**NIAGARA COUNTY SHERIFF'S OFFICE
CLOSE OUT OF H644 JAIL WATER PROJECT AND TRANSFER OF FUNDS**

WHEREAS, Capital Project H644 Jail Water Project was created to address a serious plumbing need in the Niagara County Jail, and

WHEREAS, the plumbing issue has been addressed and the project is complete, and

WHEREAS, Capital Project H666 was created to address equipment needs in the Niagara County Jail which are exceeding original projections, now, therefore, be it

RESOLVED, that Capital Project H644 Jail Water Project be closed, and be it further

RESOLVED, that the following budget modification be effectuated to address ongoing needs in the Jail:

DECREASE ESTIMATED REVENUE:

H644.17.3197.000.45031.00 Transfer from Operating \$6,974.53

DECREASE APPROPRIATIONS:

H644.17.3197.000 72200.01 Building Improvements \$6,974.53

INCREASE ESTIMATED REVENUE:

H666.17.3197.000.45031.00 Transfer from Operating \$6,974.53

INCREASE APPROPRIATIONS:

H666.17.3197.000 72100.21 Machinery and Equipment \$6,974.53

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. CSS-014-20

From: Community Safety & Security Committee.

Dated: March 10, 2020

**NIAGARA COUNTY SHERIFF'S OFFICE
NIAGARA REGIONAL TRAFFIC SAFETY PROGRAM**

WHEREAS, the Niagara Regional Traffic Safety Program will be held on May 6th and May 7th of this year, and

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

WHEREAS, high school juniors and seniors from Niagara County schools will participate in the Niagara Regional Traffic Safety Program at the Kenan Center, 195 Beattie Avenue, Lockport, New York, and
WHEREAS, each school will be responsible for their own expenses incurred throughout the program, now, therefore, be it

RESOLVED that the twenty fifth annual Niagara Regional Traffic Safety Program will be held on May 6th and 7th, 2020 at the Kenan Center in Lockport, New York.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. CSS-015-20

From: Community Safety & Security and Administration Committees.

Dated: March 10, 2020

ACCEPTANCE OF AMENDED COUNTY MUTUAL AID PLAN 2020

WHEREAS, the Niagara County Fire Advisory Board and sub-committees have met several times to review the County Mutual Aid Plan, and

WHEREAS, the Fire Advisory Board voted unanimously on February 20, 2020 to accept the amended Mutual Aid Plan, now, therefore, be it

RESOLVED, that the County Legislature approves the amended Niagara County Mutual Aid Plan 2020.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. CW-006-20

From: Committee of the Whole.

Dated: March 10, 2020

ADOPTION OF A LOCAL LAW TO AMEND THE TAX LAW, IN RELATION TO IMPOSING AN ADDITIONAL ONE PERCENT OCCUPANCY TAX IN THE COUNTY OF NIAGARA TO BENEFIT THE DISCOVER NIAGARA SHUTTLE

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

A Local Law Imposing an Additional One Percent Occupancy Tax in the County of Niagara to benefit the Discover Niagara Shuttle, and

WHEREAS, a public hearing was held on March 10, 2020 at 6:30 p.m. in the Legislative Chambers, Courthouse, Lockport, New York, on said Local Law, and

WHEREAS, no one appeared to speak on said Local Law, and

WHEREAS, four amendment(s) was (were) made to said Local Law, now, therefore, be it

RESOLVED, that a Local Law imposing an additional one percent tax on the occupancy tax pursuant to Chapter 685 of the Laws of 2019 of the State of New York be enacted by the Legislature of the County of Niagara, as follows:

Section 1. Short Title.

This Local Law shall be known as the Local Law Imposing an Additionally One Percent Occupancy Tax by the County of Niagara.

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, sublessee, 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.

There is imposed and there shall be paid a tax of five percent (5%) 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 three, 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 March first, two thousand three. 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) The hotel and motel tax enacted herein shall remain in effect for a three (3) year period from the effective date thereof. 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.

(g) 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 February twenty-eighth, May thirty-first, August thirty-first and

November thirtieth of each year. 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 redetermine 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 the tax under this local law shall be paid into the treasury of Niagara county and shall be credited to and deposited as follows: (a) the first four percentum (4%) shall be deposited in the general fund of the county [-] thereafter to be allocated and paid to a not-for-profit corporation under contract with the county for the promotion of tourism in the county; and (b) the additional one percentum

(1%) of such revenue from this tax shall be dedicated to the operation of the Discover Niagara Shuttle. Provided, however, that the county shall be authorized to retain up to a maximum of five percent of such revenue to defer the necessary expenses of the county in administering such tax. §2. This act shall take effect on the first day of the month next succeeding the date on which it shall have become a law.

Section 14. Reserves.

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

Section 15. Remedies Exclusive.

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

Section 16. Proceedings to Recover Tax.

(a) Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this Local Law as therein provided, the Niagara County Attorney shall, upon the request of the County Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Niagara in any court of the State of New York or of any other state or of United States. If, however, the County Treasurer, in his discretion, believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

(b) As an additional or alternate remedy, the County Treasurer may issue a warrant, directed to the sheriff commanding him to levy upon and sell the real and personal property of the operator or officer of a corporate operator or of the occupant or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the County Treasurer and to pay to him the money collected by virtue thereof within sixty days after the receipt of such warrant. The sheriff shall, within five days after the receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon any interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in citing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the County Treasurer, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the County Treasurer and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual

expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the County Treasurer may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefore and execution thereon has been returned unsatisfied.

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

Section 17. General Powers of the County Treasurer.

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

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

(b) To extend for cause shown, the time of filing any return, and for cause shown, to waive penalties and interest; and to compromise disputed claims in connection with the taxes hereby imposed;

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

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

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

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

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

Section 18. Administration of Oaths and Compelling Testimony.

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

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

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

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

Section 19. Reference to Tax.

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

Section 20. Penalties and Interest.

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

(b) Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this Local Law, or filing or causing to be filed, or making or causing to be made or giving or

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

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

Section 21. Returns to be Secret.

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

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

Section 22. Notices and Limitations of Time.

(a) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this Local Law, or in any application made by him or, if no return has been filed or application made, then to such address as may be obtainable. The mailing

of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Local Law by the giving of notice shall commence to run from the date of mailing of such notice.

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

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

Section 23. Separability.

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

Section 24. Effective Date.

This local law shall take effect upon filing in the office of the Secretary of State as provided by the Municipal Home Rule Law.

Moved by Syracuse, seconded by Steed.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. CW-006-20

From: Committee of the Whole.

Dated: March 10, 2020

**RESOLUTION REQUESTING TO AMEND THE TAX LAW, IN RELATION TO
CONTINUING TO AUTHORIZE NIAGARA COUNTY TO IMPOSE
AN ADDITIONAL RATE OF SALES AND COMPENSATING USE TAXES, PURSUANT TO
SENATE BILL NO. S.7869 AND ASSEMBLY BILL NO. A.9906**

WHEREAS, in 2003 the County of Niagara requested the State of New York to amend Article 29, Sections, 1210, 1224 and 1262-n of the State of New York to authorize the County of Niagara to impose an additional one percent (1%) rate of tax in addition to the three percent (3%) the County is authorized to impose and pursuant thereto the County imposed the additional one percent (1%) rate and dedicated the funds so raised to the payment of the local share of Medicaid costs, and

WHEREAS, the County of Niagara deemed it necessary to extend the additional one percent (1%) in the Niagara County sales tax which was imposed pursuant to Home Rule Message resolution FN-005-03 adopted January 21, 2003 and pursuant to imposition resolution FN-006-03 adopted January 22, 2003 to enable the County of Niagara to offset the cost of the local share of Medicaid, and

WHEREAS, the additional one percent (1%) was imposed for the period beginning March 1, 2003 and ending November 30, 2005, and

WHEREAS, the County of Niagara thereafter deemed it necessary to extend the additional one percent (1%) in the Niagara County sales tax, as set forth in Home Rule Message resolution AD-017-05 adopted April 19, 2005 and imposition resolution AD-027-05 adopted July 12, 2005 to enable the County of Niagara to continue to offset the cost of the local share of mandated Medicaid costs, and

WHEREAS, the extension of the additional one percent (1%) rate was imposed for the period beginning December 1, 2005 and ending November 30, 2007, and

WHEREAS, the County of Niagara thereafter deemed it necessary to extend the additional one percent (1%) in the Niagara County sales tax, as set forth in Home Rule Message resolution AD-017-07 adopted May 1, 2007 and imposition resolution CW-001-07 adopted August 7, 2007 to enable the County of Niagara to continue to offset the cost of the local share mandated Medicaid costs, and

WHEREAS, the extension of the additional one percent (1%) rate was imposed for the period beginning December 1, 2007 and ending November 30, 2009, and

WHEREAS, the County of Niagara thereafter deemed it necessary to extend the additional one percent (1%) in the Niagara County sales tax, as set forth in Home Rule Message Resolution AD-012-09 adopted May 5, 2009 and imposition resolution CW-001-09 adopted July 28, 2009 to enable the County of Niagara to continue to offset the cost of the local share mandated Medicaid costs, and

WHEREAS, the extension of the one percent (1%) rate was imposed from the period beginning December 1, 2009 and ending November 30, 2011, and

WHEREAS, the County of Niagara thereafter deemed it necessary to extend the additional one percent (1%) in the Niagara County sales tax, as set forth in Home Rule Message Resolution AD-015-11 adopted May 17, 2011 and imposition resolution CW-001-11 adopted August 22, 2011 to enable the County of Niagara to continue to offset the cost of the local share mandated Medicaid costs, and

WHEREAS, the extension of the one (1%) percent rate was imposed from the period beginning December 1, 2011 and ending November 30, 2013, and

WHEREAS, the County of Niagara thereafter deemed it necessary to extend the additional one percent (1%) sales tax, as set forth in Home Rule Message Resolution AD-009-13 adopted May 21, 2013 and imposition resolution AD-019-13 adopted August 6, 2013 to enable the County of Niagara to continue to offset the cost of the local share of mandated Medicaid costs, and

WHEREAS, the extension of the one (1%) percent rate was imposed from the period beginning December 1, 2013 and ending November 30, 2015, and

WHEREAS, the County of Niagara thereafter deemed it necessary to extend the additional one percent (1%) sales tax, as set forth in Home Rule Message Resolution CW-009-15 adopted May 19, 2015 and imposition resolution CW-013-15 adopted September 9, 2015 to enable the County of Niagara to continue to offset the cost of the local share of mandated Medicaid costs, and

WHEREAS, the extension of the one percent (1%) rate was imposed from the period beginning December 1, 2015 and ending November 30, 2017, and

WHEREAS, the County of Niagara thereafter deemed it necessary to extend the additional one percent (1%) sales tax, as set forth in Home Rule Message Resolution CW-003-17 adopted May 2, 2017 and imposition

resolution CW-005-17 adopted August 1, 2017 to enable the County of Niagara to continue to offset the cost of the local share of mandated Medicaid costs, and

WHEREAS, the extension of the one percent (1%) rate was imposed from the period beginning December 1, 2017 and ending November 30, 2020, and

WHEREAS, the Niagara County Legislature hereby finds that it is necessary to further extend the additional one percent (1%) sales tax for the period beginning December 1, 2020 and ending November 30, 2023 to enable the County of Niagara to continue to offset the cost of the local share of mandated Medicaid costs, now, therefore, be it

RESOLVED, that the Niagara County Legislature requests the New York Legislature to authorize the County of Niagara to continue to impose an additional one percent (1%) rate of tax for the period beginning December 1, 2020 and ending November 30, 2023 in addition to the three percent (3%) the County is authorized to impose and to dedicate the funds from the additional one percent (1%) rate to the payment of the local share of Medicaid costs, said authorization in the form of Senate Bill No. S.7869 and Assembly Bill No. A.9906, and be it further

RESOLVED, that the Clerk of the Niagara County Legislature be authorized to execute the proper Home Rule Message documents and immediately forward them to the New York State Legislature.

Moved by Andres, seconded by Bradt.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IF-040-20

From: Infrastructure & Facilities Committee.

Dated: March 10, 2020

**AWARD OF CONTRACT – BRIDGE PAINTING AND STEEL REPAIRS:
ROBINSON ROAD OVER THE ERIE CANAL**

WHEREAS, the Department of Public Works has prepared specifications and the Niagara County Purchasing Department has advertised for bids for the Bridge Painting and Steel Repairs-Robinson Road over the Erie Canal project, and

WHEREAS, funds are available in account number D.15.5120.000 74800.06, Repairs and Maintenance, and

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on February 6, 2020 as tabulated below:

- | | | |
|----|---|---------------|
| 1. | Niagara Coatings
8025 Quarry Road
Niagara Falls, NY 14304 | \$ 273,999.54 |
| 2. | AMSTAR of Western NY
825 Rein Road
Cheektowaga, NY 14225 | \$ 412,000.00 |
| 3. | Erie Painting & Maintenance
999 Rein Road
Cheektowaga, NY 14225 | \$ 447,627.00 |

- | | | |
|----|---|----------------|
| 4. | Atlas Painting & Sheeting Corp.
465 Creekside Drive
Amherst, NY 14228 | \$ 556,000.00 |
| 5. | Manolis Painting, Inc.
PO Box 9710
Baldwin, MD 21013 | \$1,667,150.00 |

and

WHEREAS, the Infrastructure & Facilities 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 Bridge Painting and Steel Repairs-Robinson Road over the Erie Canal project be awarded to the lowest responsible bidder, Niagara Coatings, 8025 Quarry Road, Niagara Falls, NY 14304, in the amount of \$273,999.54, and be it further

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

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IF-041-20

From: Infrastructure & Facilities Committee.

Dated: March 10, 2020

**AWARD OF CONTRACT – NORTH CANAL ROAD REHABILITATION-
OLD NIAGARA RD TO THE ERIE CANAL**

WHEREAS, the Department of Public Works has prepared specifications and the Niagara County Purchasing Department has advertised for bids for the North Canal Road Rehabilitation-Old Niagara Road to the Erie Canal project, and

WHEREAS, funds are available in account number H638.15.5112.000 72600.01, Roads, and

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on February 26, 2020 as tabulated below:

- | | | |
|----|--|----------------|
| 1. | Edbauer Construction
2790 Clinton Street
West Seneca, NY 14224 | \$2,272,103.00 |
| 2. | Keeler Construction
13519 West Lee Road
Albion, NY 14411 | \$2,391,736.20 |
| 3. | 4 th Generation Construction
5650 Simmons Avenue | \$2,474,400.00 |

Niagara Falls, NY 14304

- | | | |
|----|--|----------------|
| 4. | Accadia Site Contracting
5636 Transit Road
Depew, NY 14043 | \$2,592,750.00 |
| 5. | CATCO (Concrete Applied Technologies Corp.)
1266 Townline Road
Alden, NY 14004 | \$2,630,924.00 |
| 6. | Milherst Construction, Inc.
10025 County Road
Clarence Center, NY 14032 | \$2,654,358.00 |
| 7. | Pinto Construction Services
132 Dingens Street
Buffalo, NY 14206 | \$2,844,120.76 |

and

WHEREAS, the Infrastructure & Facilities 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 North Canal Road Rehabilitation-Old Niagara Road to the Erie Canal project be awarded to the lowest responsible bidder, Edbauer Construction, 2790 Clinton Street, West Seneca, NY 14224, in the amount of \$2,272,103.00, and be it further

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

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IF-042-20

From: Infrastructure & Facilities Committee.

Dated: March 10, 2020

AWARD AKRON ROAD REHABILITATION CONSULTANT CONTRACT

WHEREAS, the Department of Public Works evaluated proposals from pre-qualified consulting engineering firms to assist the County with the Akron Road Rehabilitation Project, and

WHEREAS, funds are available in account H701.15.5112.000 72600.01, Roads, 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 contract for the Akron Road Rehabilitation Project be awarded to Mott MacDonald New York Inc., 438 Main Street, Suite 300, Buffalo, NY 14202, for a contract amount not to exceed \$220,273.26., and be it further

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

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IF-043-20

From: Infrastructure & Facilities Committee.

Dated: March 10, 2020

**ASBESTOS ABATEMENT AND FLOOR PREPARATION-
COURT HOUSE AND CIVIC BUILDING
CHANGE ORDER NO. 4**

WHEREAS, by Resolution No. IF-090-18, dated June 19, 2018, the Legislature awarded the contract for the Asbestos Abatement and Floor Preparation-Court House and Civic Building Project to Metro Environmental, 2939 Lockport Road, Niagara Falls, NY 14305, for a contract amount of \$184,000, and

WHEREAS, Resolution No. IF-152-18, dated December 4, 2018, authorized Change Order No. 1 to increase the contract in the amount of \$9,336 for abatement of additional pipe joint elbow mudded fittings, for a revised contract amount of \$193,336, and

WHEREAS, Resolution No. IF-067-19, dated May 21, 2019, authorized the extension of the contract completion date to December 31, 2019, at no additional cost to the County, and

WHEREAS, Resolution No. IF-028-20, dated February 18, 2020, authorized Change Order No. 3 to allow for an additional notification fee required by the New York State Department of Labor due to project extension beyond one (1) year from commencement of the project, for a revised contract amount of \$195,636, and to extend the contract completion date to February 18, 2021, and

WHEREAS, it is necessary to increase the contract in the amount of \$17,477.14 for additional abatement of floor tiles and mastic and drilling for MEP work, for a revised contract amount of \$213,113.14, 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. 4 to increase the contract by \$17,477.14 for the Asbestos Abatement and Floor Preparation-Court House and Civic Building Project, for a revised contract amount of \$213,113.14 to Metro Environmental, 2939 Lockport Road, Niagara Falls, NY 14305, be approved, and be it further

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

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IF-044-20

From: Infrastructure & Facilities and Administration Committees.

Dated: March 10, 2020

**ABOLISH CLEANER POSITION
CREATE AND FILL CLEANER/LABORER**

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

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

WHEREAS, funding for this newly created position will be from the mentioned abolished position, and a currently vacant Building Attendant position, now, therefore, be it

RESOLVED, that Position No. 13367, Cleaner, be abolished, and be it further

RESOLVED that the position of Cleaner/Laborer, AFSCME, Grade 42, Step 1, at an annual salary of \$31,970, be created and filled, effective April 22, 2020, and be it further

RESOLVED that the following budget modification be made:

FROM:

A.15.1620.000.71010.01	Positions (Cleaner-Pos. #13367)	\$20,000
A.15.1620.000.71010.01	Positions (Building Attendant Pos. # 13359)	\$ 1,518

TO:

A.15.1620.000.71010 .01	Positions (Cleaner/Laborer – Pos. #xxxxxx)	\$21,518
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Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IF-045-20

From: Infrastructure & Facilities Committee.

Dated: March 10, 2020

AGREEMENT BETWEEN THE COUNTY OF NIAGARA AND THE BOND LAKE ENVIRONMENTAL COMMITTEE

WHEREAS, by Resolution IL-003-95 the Bond Lake Environmental Committee was established as an advisory board to assist in the planning of the Clyde L. Burmaster Park improvements and enhancing the Clyde L. Burmaster Park as an educational asset for the County of Niagara, and

WHEREAS, the Bond Lake Environmental Committee has been responsible for securing funds for major educational and conservational improvements at the Clyde L. Burmaster Park, and

WHEREAS, the Bond Lake Environmental Committee has promoted these improvements to increase the awareness and use of the Clyde L. Burmaster Park and its environmental assets through community awareness and educational events, and

WHEREAS, Bond Lake Environmental Committee has requested that the County of Niagara allow them to continue these educational events and grant them permission to use portions of the Clyde L. Burmaster Park and the Nature Center for the purpose of holding these events, and

WHEREAS, it is the wish of the Bond Lake Environmental Committee to hold these events, 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 Bond Lake Environmental Committee, and

WHEREAS, prior to the execution of the License Agreement between the County of Niagara and Bond Lake Environmental Committee, 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 Bond Lake Environmental Committee.

Moved by Bradt, seconded by Virtuoso.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IL-011-20

From: Legislator John Syracuse.

Dated: March 10, 2020

**SUPPORT FOR COUNTY FUNDING TO HELP WITH LOCAL MATCH
FOR OLCOTT REDI PROJECTS**

WHEREAS, lakeshore towns in Niagara County have been faced with unprecedented damage due to Lake Ontario flooding in 2017 and 2019, and

WHEREAS, the Town of Newfane is working with all levels of government to find ways to mitigate damage from future flooding allowing for economic recovery, growth, and development, including tourism, and

WHEREAS, New York State created the Resiliency and Economic Development Initiative (REDI) to fund projects that increase the resilience of shoreline communities and bolster economic development, and

WHEREAS, three important projects in the Town of Newfane have been approved through the New York State Resiliency and Economic Development Initiative – Olcott Harbor Breakwater (\$14,000,000), Olcott Harbor Containment Walls (\$1,707,000), and Olcott Beach Berm (\$1,814,000), with the costs for these projects totaling \$17,521,000, and

WHEREAS, the New York State Resiliency and Economic Development Initiative will fund 95 percent of the total project costs or \$16,644,950, provided the local community can meet a 5 percent matching share, which works out to \$876,050 for the Town of Newfane, and

WHEREAS, the Town of Newfane has identified matching funds of \$475,000 from a Federal Community Development Block Grant awarded for the Olcott Harbor Breakwater Construction Plan and \$180,000 from the Town's General Fund for geotechnical investigations in the lake and harbor required for these projects, and

WHEREAS, the Town of Newfane is asking Niagara County to help with the remaining \$221,050 so the matching funds requirement will be met, the state grant funds will be unlocked, and these important projects can move forward, now, therefore, be it

RESOLVED, that the Niagara County Legislature approves \$221,050 to be dedicated to the Town of Newfane's local match relating to the Olcott projects approved for New York State Resiliency and Economic Development Initiative funding, and be it further

RESOLVED, that this funding be transferred from the Niagara Falls Bridge Commission funds provided to Niagara County to the Town of Newfane
Moved by Syracuse, seconded by Hill, to implement the portion of Rule 15 that pertains to voting on a resolution as opposed to referring it to committee.
Carried.

Moved by Syracuse; seconded by Hill to amend resolution.

Amendment:

Addition in last RESOLVED,

“...Niagara County to the Town of Newfane

INCREASE REVENUE:

A.28.8020.811 40599.01	Appropriated Fund Balance-Committed Funds	\$221,050
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INCREASE APPROPRIATION:

A.28.8020.811 74550.29	Beautification Program	\$221,050...”
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Moved by Syracuse, seconded by Hill.

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

Resolution No. IL-012-20

From: Legislators Christopher A. Robins, Dennis F. Virtuoso, Anita Mullane, Owen T. Steed, Mark J. Grozio, et al.

Dated: March 10, 2020

HELP GROW NEW YORK STATE COMPANIES

WHEREAS, Empire Emergency Apparatus Inc. provides highly customized emergency response vehicles to ensure effectiveness and safety to those who protect and serve our communities, and

WHEREAS, Empire Emergency Apparatus Inc. is a Niagara County Company that started in 2006 with one employee and provides services to fire, police, EMS, and DPW agencies throughout New York State and Pennsylvania, and

WHEREAS, in 2018 Empire Emergency Apparatus Inc. decided to expand and grow their business in Niagara County, and

WHEREAS, this investment has strengthened the economy of the Western New York region by providing 25 livable wage jobs and investing 1.6 million dollars into the expansion of their facility, and

WHEREAS, this investment was made possible with the help of a \$400,000 Excelsior Job Program tax credit and \$200,000 in grants from the Niagara County Industrial Agency as well as a property tax pilot, and

WHEREAS, their expertise in upfitting emergency vehicles has drawn business from all over New York State and Pennsylvania because of their meticulous attention to detail and expert knowledge of the safety equipment installation, and

WHEREAS, New York State should spend our tax payer dollars with New York State companies that provide jobs and pay taxes within the State, now, therefore, be it

RESOLVED, that Niagara County Legislature is asking the New York State Police to consider using a New York State company in upfitting their vehicles, and further be it

RESOLVED, that copies of this resolution be sent to Governor Cuomo, Leaders of the State Assembly and Senate, Assemblymen Angelo J. Morinello, Senator Robert G. Ort, Senator Timothy M. Kennedy, New York State Police, and the office of General Services of New York State.

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

Carried.

Moved by Robins, seconded by Grozio.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IL-013-20

From: Legislators Jesse P. Gooch, Rebecca J. Wydysch and Randy R. Bradt.

Dated: March 10, 2020

RESOLUTION CALLING ON MEMBERS OF THE NYS SENATE AND ASSEMBLY TO REJECT THE GOVERNOR'S SFY 2020-21 EXECUTIVE BUDGET PROPOSAL TO SHIFT 100% OF THE COST OF 730.20 COMPETENCY RESTORATION SERVICES TO THE COUNTY MENTAL HEALTH COMMISSIONERS

WHEREAS, the Governor's proposal would require counties to pay 100% of the OMH State Operations costs for individuals receiving mental health competency restoration at State-operated Forensic Psychiatric Centers, and

WHEREAS, historically, counties have paid 50% of the per diem rate set by OMH, which has now reached an unsustainable cost burden on county budgets, and

WHEREAS, the derivation of Section 43.03 of Mental Hygiene Law (MHL), dates back to 1907, prior to the NYS Unified Court System, and allows the State to offset the costs of operating its Forensic Psychiatric Centers at county expense, and

WHEREAS, this statute no longer reflects the current mental hygiene system or the NYS Unified Court System and needs to be updated to be consistent with other statutes that makes the State responsible for its own costs for the treatment of mentally ill individuals in State operated psychiatric facilities, and

WHEREAS, despite the fact that counties are now paying for half of such restoration services and under the Executive budget proposal, would be paying 100% of the costs, and

WHEREAS, costs to Niagara County (at 50% rate) for OMH related 730.20 competency restoration have grown dramatically from \$175,897 in 2016, \$241,765 in 2017, \$526,667 in 2018, to \$573,440 in 2019, and

WHEREAS, this growth is unsustainable and creates an undue burden on the local tax payors, and

WHEREAS, the Restoration services are provided through NYS OMH operated facilities and the Counties have no control over the type and duration of treatment provided nor the timing of competency re-evaluation, and

WHEREAS, the Counties are not responsible for and cannot predict the number of individuals found by the Unified Court System Judges to be in need of 730.20 competency restoration, and

WHEREAS, but for being caught committing a crime in the County, individuals that the county is required to pay competency restoration for may not even be county residents or have any ties or connection to the county, and

WHEREAS, OMH has taken the position that the County Mental Health Commissioners are not entitled to any information about the treatment they are paying for, and

WHEREAS, all other payors for medical services are clearly entitled both under HIPAA and the MHL to receive information about the services for which payment is sought, and

WHEREAS, OMH has taken the position that County Jails could develop the capacity to provide 730.20 competency restoration services in the local jails, despite the fact that Local Jails lack the expertise, the therapeutic oriented facilities, and the capacity to provide medication over objection and despite the fact that this position promotes the criminalization of the Mentally Ill, and

WHEREAS, OMH has also indicated counties should be responsible for any medical or hospitalization costs incurred for individuals mandated to competency restoration which, depending on the medical or surgical treatment required could hundreds of thousands of dollars and have devastating impacts on county budgets, and

WHEREAS, in NYS, the counties through county tax levy already bear an overwhelming portion of the financial burden for supporting individuals suffering from serious mental illness and assuming 100% in 730.20 competency restoration costs will take away millions of dollars for critical behavioral health programming in the community, and

WHEREAS, Niagara County requesting members of the NYS Senate and Assembly reject the Governor's proposal to shift 100% of the cost of 730.20 competency restoration services to the County Mental Health Commissioners in the SFY 2020-21 Enacted State Budget, now, therefore, be it

RESOLVED, that Niagara County calls on the Governor and the Office of Mental Health to strongly reconsider the enactment of this proposal which will cripple county budgets and have a devastating impact on the counties ability to pay for behavioral health programs that are critical for serving the State's most vulnerable populations, and be it further

RESOLVED, that the County of Niagara shall forward copies of this Resolution to Governor Cuomo, Senate Minority Leader John Flanagan; Senator Robert G. Ort, Assembly Minority Leader William A. Barclay, Member of the Assembly Michael J. Norris, Member of the Assembly Angelo Morinello, Member of the Assembly Robin Schimminger and all others deemed necessary and proper.

Approved for submission.

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

Carried.

Moved by Gooch, seconded by Bradt.

Adopted. 15 Ayes, 0 Noes, 0 Absent.

Resolution No. IL-014-20

From: Legislators Randy R. Bradt, John Syracuse, Jesse P. Gooch, Irene M. Myers, Rebecca J. Wydysh, Richard L. Andres, David E. Godfrey, William J. Collins, Anthony J. Nemi and Michael A. Hill.

Dated: March 10, 2020

REQUESTING THE WITHDRAWAL OF THE STATE BUDGET'S ENERGY SITING AMENDMENT

WHEREAS, New York State is a Home Rule State, which basically means that any and all powers of the State emanate from the people, and

WHEREAS, per the NYS Constitution, Article IX, it is our statutory obligation to protect the health, safety and welfare of citizens of our community, and

WHEREAS, on Feb 21, 2020, Governor Cuomo proposed a Budget Amendment "to dramatically speed up the permitting and construction of renewable energy projects," and

WHEREAS, this amendment could be passed with the Budget by April 1st, replacing the current Article 10 process with a radically new method for siting renewable energy projects, and

WHEREAS, this amendment will effectively remove any meaningful input from citizens, towns, counties, local environmental groups, and community businesses regarding the siting and regulation of renewable energy projects, and

WHEREAS, the new process is structured such that scientific data, or testimony from qualified experts, will have little bearing regarding siting regulations and approval, and

WHEREAS, once an application is submitted, the new Office of Renewable Energy Siting (ORES) has 60 days to review and determine if it is complete. If the ORES decision is not made in that time, the application is automatically deemed complete, and

WHEREAS, once an application is determined to be complete, ORES has 12 months to approve the project. If the ORES decision is not made in that time, the application is automatically approved! There is no provision for extending this time limit, and

WHEREAS, all of these proposed changes are not only in conflict with our Home Rule rights, but are also contrary to our obligation to protect the health, safety and welfare of our constituents, now, therefore, it be

RESOLVED, the Niagara County Legislature formally requests that this Budget Amendment be withdrawn before the Budget is voted on. Additionally we petition the State to respect our Home Rules rights, and to defend our authority to regulate renewable energy projects as the citizens of our community see fit.
Approved for submission.

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

Moved by Syracuse, seconded by Bradt.
Adopted. 15 Ayes, 0 Noes, 0 Absent.

APPOINTMENTS:

	<u>Appt.</u>	<u>Expires</u>
<u>MUTUAL SELF INSURANCE ADVISORY COMMITTEE (AD HOC):</u>		
Jennifer Pitarresi – Chairman Niagara County Mu.S.I.P., 111 Main St., Lockport 14094	03/10/20	03/10/21
Wright Ellis, Supervisor, Town of Cambria 4160 Upper Mountain Rd, Sanborn 14132	03/10/20	03/10/21
Janet Slack, Adm. Asst., Town of Hartland Hwy Dept. 8940 Ridge Rd, Gasport 14067	03/10/20	03/10/21
Steven Broderick, Supervisor, Town of Lewiston P.O. Box 330, Lewiston 14092	03/10/20	03/10/21
Timothy Horanburg, Supervisor, Town of Newfane 2896 Transit Rd, Newfane 14108	03/10/20	03/10/21
Joel Maerten, Supervisor, Town of Pendleton 6570 Campbell Blvd., Lockport 14094	03/10/20	03/10/21


Kim Boyer, Bookkeeper, Town of Porter (replace Mary Siegrist) 3265 Creek Road, Youngstown 14174	03/10/20	03/10/21
James Muscoreil, Town Councilman 3505 Wilson-Cambria Rd., Wilson 14172	03/10/20	03/10/21
Amanda Detschner , Clerk-Treasurer, Village of Barker 1697 East Ave. PO Box 298 Barker 14012	03/10/20	03/10/21
Anne Welch, Mayor, Village of Lewiston (replaces Terry Collesano) 145 N. Fourth St., P.O. Box 325, Lewiston 14092-0325	03/10/20	03/10/21
Rebecca A. Schweigert, Clerk-Treasurer, Vill. of Middleport P.O. Box 186, Middleport 14105	03/10/20	03/10/21
Ellen M. Hibbard, Clerk, Tresurer & Registrar, Village of Wilson 240 Lake St., P.O. Box 371, Wilson 14172	03/10/20	03/10/21
Wendy Brown, Clerk-Treasurer, Vill. of Youngstown (replace Cindy Tripoli) P.O. Box 168, Youngstown 14174	03/10/20	03/10/21
Bart Schuler, Bus. Admin., Newfane Central School 6048 Godfrey Rd., Burt NY 14028	03/10/20	03/10/21
Hank Stopinski, Superintendent, Royalton Hartland School (replaces Roger Klatt) 54 State St., Middleport NY 14105	03/10/20	03/10/21
Jonathan Andrews, Director, Adm. Services, Starpoint School 4363 Mapleton Rd, Lockport 14094	03/10/20	03/10/21
Carolyn Oliveri, Business Director, Wilson Central School 412 Lake St., P.O. Box 648, Wilson 14172-0648	03/10/20	03/10/21
Catherine Brown, Director, Human Resources NCCC, 3111 Saunders Settlement Rd, Sanborn 14132	03/10/20	03/10/21
Jonathan Schultz, Niagara County Fire Coordinator 5574 Niagara St. Ext., PO Box 496 Lockport 14095	03/10/20	03/10/21
Anthony J. Nemi, Chairman, Administration Committee Moved by Andres, seconded by Robins. Adopted. 15 Ayes, 0 Noes, 0 Absent.	03/10/20	03/10/21

Director of Employment & Training Donald Jablonski announced a Career Fair on March 25th, 2020 at the Four Points Sheraton Hotel from 1pm-3pm.

Moved by Steed, second by Syracuse, that the board adjourn.

The Chairman declared the board adjourned at 9:50 p.m., subject to the call of the Clerk.

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


Mary Jo Tamburlin, Clerk