




AGENDA
NIAGARA COUNTY LEGISLATURE
APRIL 17, 2012 – 7:00 P.M.

Regular Meeting – April 17, 2012

- *ED-011-12** Economic Development, re Publish & Post the Notice of the Review of Niagara County Agricultural District #8
- *ED-012-12** Economic Development, re Resolution to Hold Hearing on the Review of Niagara County Agricultural District #8
- *ED-013-12** Economic Development, re Approval of Low Cost Power Benefit to Budwey's Market Place LLC Under the Agreement for the Sale & Purchase of Niagara Project Power & Energy (ASPNPPE)
- *ED-014-12** Economic Development, re Approval of Low Cost Power Benefit to Russell Farms Under the Agreement for the Sale & Purchase of Niagara Project Power & Energy (ASPNPPE)
- IL-010-12** Legislator William L. Ross & Economic Development, re Requesting Support for the 50 Year Anniversary of the Founding of Niagara County Community College
- IL-016-12** Legislators Jason A. Zona, Owen T. Steed & Dennis F. Virtuoso, re Calling on the New York State Legislature to Pass Legislation Combining the State Primary Date with the Federal Election Primary Day, Saving Local Governments & Taxpayers from a Fifty Million Dollar Unfunded Mandate
- IL-017-12** Legislator Michael A. Hill & Parks, Recreation & Tourism Ad Hoc Committee, re Support for the Hartland Town Park Initiative Greenway Project
- IL-018-12** Legislators Michael A. Hill, Anthony J. Nemi, Wm. Keith McNall, Richard E. Updegrove & Parks, Recreation & Tourism Ad Hoc Committee, re Support for the Historic Palace Theatre Greenway Project
- IL-019-12** Legislator Chereé J. Copelin, re Calling Upon the New York State Legislature to Legalize & Establish Procedures Regulating Professional Mixed Martial Arts Competition in New York State, Ensuing that UFC Champion Rashad Evans May One Day Fight on his "Home Turf"
- IL-020-12** Legislators William L. Ross, Richard E. Updegrove & John Syracuse, re County Resolution Supporting PILOT Amendment for Somerset Generating Station

- *PW-041-12** Public Works, re Agreement between the County of Niagara & the Lockport Rugby Club
- *PW-042-12** Public Works, re Bid Award for Highway Materials
- *PW-043-12** Public Works, re Award of Contract – County Road Painting and Striping
- *PW-044-12** Public Works, re Niagara County Bridge Maintenance Project for Sub-Structure Repairs, Six Bridges, in Various Towns, Niagara County, PIN 5760.15
- *PW-045-12** Public Works, re Niagara County Scour & Channel Erosion Protection Project, Seven Bridges, in Various Towns, Niagara County, PIN 5760.21


Mary Jo Tamburlin, Clerk
Niagara County Legislature

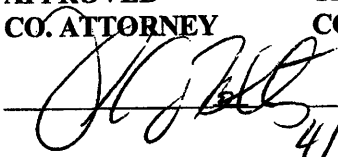
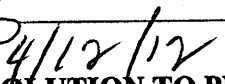
*** Indicates Preferred Agenda items**

Attachments for resolutions may be obtained in the office of the Clerk of the Legislature upon request.

The next meeting of the Legislature will be held on May 1, 2012.

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development Committee **DATE:** 04/17/12 **RESOLUTION #** ED-011-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	<u>ED - 4/11/12</u>	Approved: Ayes _____ Abs. _____ Noes _____
		_____	Rejected: Ayes _____ Abs. _____ Noes _____
		_____	Referred: _____

**RESOLUTION TO PUBLISH AND POST THE NOTICE OF THE REVIEW
OF NIAGARA COUNTY AGRICULTURAL DISTRICT #8**

WHEREAS, Niagara County Agricultural District #8 with portions of the district in the towns of Wilson and Porter has an 8-year anniversary of October 14, 2012 and a review period commencing 300 days prior to this date, and

WHEREAS, New York State Agriculture and Markets Law 25AA, Section 303-a(2)a states that the county legislative body shall provide for a 30-day comment period during which time requests for changes in the district may be submitted for consideration by the Niagara County Agriculture and Farmland Protection Board and the Legislative body, and

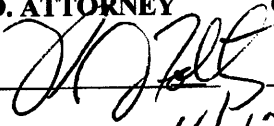
WHEREAS, the above legislation requires a notice of the review be published in a newspaper having general circulation within the district and posting of such notice in at least 5 conspicuous places within the district, now, therefore, be it

RESOLVED, that the Niagara County Legislature authorizes the publishing and posting of said notice immediately following the action on this resolution.

ECONOMIC DEVELOPMENT COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development Committee DATE: 04/17/12 RESOLUTION # ED-012-12

APPROVED CO. ATTORNEY	REVIEWED CO. MANAGER	COMMITTEE ACTION	LEGISLATIVE ACTION
 4/17/12		<u>ED - 4/11/12</u>	Approved: Ayes _____ Abs. _____ Noes _____ Rejected: Ayes _____ Abs. _____ Noes _____ Referred: _____

RESOLUTION TO HOLD HEARING ON THE REVIEW OF NIAGARA COUNTY AGRICULTURAL DISTRICT #8

WHEREAS, Niagara County Agricultural District #8 with portions of the district in the towns of Wilson and Porter has an 8-year anniversary and review date of October 14, 2012, and

WHEREAS, New York State Agriculture and Markets Law 25AA, Section 303-a states that a public hearing shall be held no greater than 180 days nor less than 120 days prior to the review date, and

WHEREAS, the above legislation requires a notice of the hearing be published in a newspaper having general circulation within the district, be provided to those municipalities in which the district lies and be given to landowners of parcels recommended for modification by the Niagara County Agriculture and Farmland Protection Board, now, therefore, be it

RESOLVED, that the Niagara County Legislature authorizes the publishing and posting of said notice immediately following the action on this resolution and the conducting of a hearing on June 5, 2012.

ECONOMIC DEVELOPMENT COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development Committee **DATE:** 04/17/12 **RESOLUTION #** ED-013-12

APPROVED CO. ATTORNEY	REVIEWED CO. MANAGER	COMMITTEE ACTION <u>ED - 4/11/12</u>	LEGISLATIVE ACTION Approved: Ayes _____ Abs. _____ Noes _____ Rejected: Ayes _____ Abs. _____ Noes _____ Referred: _____
--	---------------------------------------	--	--

**APPROVAL OF LOW COST POWER BENEFIT TO BUDWEY'S MARKET PLACE LLC
UNDER THE AGREEMENT FOR THE SALE & PURCHASE OF
NIAGARA PROJECT POWER & ENERGY (ASPNPPE)**

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

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

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

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

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

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

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

WHEREAS, the Empower Niagara Board has reviewed the formal application of Budwey's Market Place LLC for the use of low cost power for developing, renovating and retaining its business in Niagara County, and

WHEREAS, the application of Budwey's Market Place LLC has met all the criteria qualifying its project for consideration and the Empower Niagara Board is recommending approval of this application, and

WHEREAS, the application was for 250kw and the creation of clerks, assistant managers, skilled and manager positions within two (2) years of the agreement, requiring a new load of electricity for two (2) phases of upgrading new buildings for a food market with a cash influx by Budwey's Market Place LLC of more than \$1,440,000, and

WHEREAS, the approval of the Budwey's Market Place LLC original application increased economic development in Niagara County, but also assisted Budwey's Market Place LLC to bring a food supermarket back to Newfane residents, and

WHEREAS, the Empower Niagara Board, at its April 4, 2012 meeting, recommended the low cost power allocations to Budwey's be modified to 175 kw (.175mw) based upon the audit of low cost power usage and newly refined method of providing low cost power benefits to Budwey's and will not negatively impact Budwey's; but provide for the availability of similar benefits to other approved applicants, and

WHEREAS, the Empower Niagara Board has met with all parties and recommends in consideration of the project and the modification (reduction) of the amount of low cost power to Budwey's its agreement be extended three (3) years, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby approves Budwey's application for low cost power benefits from Niagara County, pursuant to low cost power allocation received through the June 25, 2005 HCRSA and ASPNPPE, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute with Budwey's Market Place LLC the Agreement for low cost power allocation.

ECONOMIC DEVELOPMENT COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Economic Development Committee DATE: 04/17/12 RESOLUTION # ED-014-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	ED - 4/11/12	Approved: Ayes _____ Abs. _____ Noes _____
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

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

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

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

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

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

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

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

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

WHEREAS, the Empower Niagara Board has requested an audit of low cost power usage by Empower Users and modification accordingly on their agreements, and

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

WHEREAS, the application was for 180kw (.18mw) of low cost power and the creation of new jobs required new load of electricity for 15,800 sq. ft. of controlled atmosphere storage facility, and

WHEREAS, the approval of the Russell Farms' original application maintained and improved economic development in Niagara County; but also assisted Russell Farms to remain competitive in a global apple industry, and

WHEREAS, the Empower Niagara Board, at its April 4, 2012 meeting, recommended the low cost power allocation to Russell Farms be modified to 100kw (.10mw) based upon the audit of low cost power usage and newly refined method of providing low cost power benefits to Russell Farms and will not negatively impact Russell Farms; but provide for the availability of similar benefits to other approved applicants, and

WHEREAS, the Empower Niagara Board has met with all parties and recommends in consideration of the project and the modification (reduction) of the amount of low cost power to Russell Farms its agreement be extended three (3) years, now, therefore, be it

RESOLVED, that the Niagara County Legislature hereby approves Russell Farm's agreement modification for low cost power benefits from Niagara County, pursuant to low cost power allocation received through the June 25, 2005 HCRSA and ASPNPPE, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute an agreement with Russell Farms under Resolution ED-010-08.

ECONOMIC DEVELOPMENT COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Legislator William L. Ross & Economic DATE: 04/17/2012 RESOLUTION # IL-010-12
Development Committee

APPROVED BY CO. ATTORNEY	REVIEWED BY CO. MANAGER	COMMITTEE ACTION ED - 04/11/12	LEGISLATIVE ACTION
			Approved: Ayes _____ Abs. _____ Noes _____
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

RESOLUTION REQUESTING SUPPORT FOR THE 50 YEAR ANNIVERSARY OF THE FOUNDING OF NIAGARA COUNTY COMMUNITY COLLEGE

WHEREAS, the Niagara County Legislature established Niagara County Community College in 1962, and

WHEREAS, Niagara County Community College will be celebrating the 50th anniversary of its founding in 2012, and

WHEREAS, the premier event of their 50th anniversary will take place on July 27-29, 2012 at the NCCC Sanborn Campus, and

WHEREAS, this family-friendly event will feature a weekend of spectacular attractions, non-stop activities, delicious food and fabulous live entertainment, and

WHEREAS, this event will contribute to Niagara County economic development by:

1. Generating valuable funds from visitors from inside and outside of Niagara County who will be making purchases at the event and supporting the local vendors;
2. The purchase of event supplies by the local vendors from surrounding businesses to set-up and stock their stalls;
3. The college's investment in event set-up, working with local vendors to prepare the campus for the event, and

WHEREAS, many members of NCCC faculty, administration and support staff hosted Niagara County's Bicentennial event in 2008 providing free labor along with monetary support from NCCC which attracted over 7,000 people and was an outstanding event, now, therefore, be it

RESOLVED, that the Niagara County Legislature support the 50th anniversary of the founding of NCCC with a monetary contribution of \$12,500.00, and be it further

RESOLVED, that the following budget modification be effectuated to the Niagara County Economic Development 2012 budget:

INCREASE REVENUE:

A.28.8020.812 42725.00	VLT Tribal State Compact Money	\$12,500
------------------------	--------------------------------	----------

INCREASE APPROPRIATION:

A.28.8020.812 74400.08	Seneca Niagara Monies	\$12,500
------------------------	-----------------------	----------

NIAGARA COUNTY LEGISLATURE

FROM: Legislators Jason A. Zona, Owen T. Steed & Dennis F. Virtuoso **DATE:** 04/17/12 **RESOLUTION #** IL-016-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER		Approved: Ayes _____ Abs. _____ Noes _____
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

**RESOLUTION CALLING ON THE NEW YORK STATE LEGISLATURE TO PASS
LEGISLATION COMBINING THE STATE PRIMARY DATE WITH THE FEDERAL ELECTION
PRIMARY DAY, SAVING LOCAL GOVERNMENTS AND TAXPAYERS FROM A FIFTY MILLION
DOLLAR UNFUNDED MANDATE**

WHEREAS, in accordance with the MOVE Act, The United States District Court set June 26, 2012 as the New York primary date for federal elections, and

WHEREAS, the United States District Court also left open to the State Legislature the possibility of selecting another date as long as it would meet the MOVE ACT requirements, and

WHEREAS, the state primary elections for New York are not subject to the provisions of the MOVE Act, and

WHEREAS, a second primary election will cost taxpayers fifty million dollars across the State, and

WHEREAS, this cost, which will be incurred by local governments throughout the State is yet another costly unfunded mandate, and

WHEREAS, combining the federal and state primary elections into one date would eliminate this costly unfunded mandate on local government throughout New York State, and

WHEREAS, this unfunded mandate will cost the County of Niagara approximately two hundred thirty-five thousand dollars in additional expense to the Niagara County Board of Elections in 2012, and

WHEREAS, the New York State Association of Counties, League of Women Voters, Election Commissioners Association of New York State, New York Public Interest Research Group, Common Cause, among others have endorsed the combining of federal and state primaries, and

WHEREAS, voter turnout in New York State primaries is historically low and an additional primary will likely cause even lower voter turnout, now, therefore, be it

RESOLVED, that the Niagara County Legislature does not support any additional unfunded mandates from the Legislature of New York State, and be it further

RESOLVED, that the Niagara County Legislature encourages the New York State Senate and Assembly to put forth legislation combining the federal and state primaries, and be it further

RESOLVED, that the Niagara County Legislature strongly encourages the Western New York delegation of New York State Senate and Assembly members to support such legislation, and be it further

RESOLVED, that the County of Niagara forward copies of this resolution to Governor Andrew M. Cuomo, Senate Vice President Pro Tem George D. Maziarz, Senator Mark Grisanti, Senate Temporary President Dean G. Skelos, Senate Deputy Majority Leader Thomas W. Libous, Senate Minority Leader John L. Sampson, Assembly Speaker Sheldon Silver, Member of the Assembly John D. Ceretto, Member of the Assembly Jane L. Corwin, Member of the Assembly Robin Schimminger, and all others deemed necessary and proper.

LEGISLATOR JASON A. ZONA

LEGISLATOR OWEN T. STEED

LEGISLATOR DENNIS F. VIRTUOSO

NIAGARA COUNTY LEGISLATURE

FROM: Legislator Michael A. Hill and **DATE:** 04/17/12 **RESOLUTION #** IL-017-12

Parks Recreation & Tourism Ad Hoc Committee

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
Ad Hoc - 1/23/12

LEGISLATIVE ACTION

Approved: Ayes _____ Abs. _____ Noes _____
Rejected: Ayes _____ Abs. _____ Noes _____
Referred: _____

SUPPORT FOR THE HARTLAND TOWN PARK INITIATIVE GREENWAY PROJECT

WHEREAS, the Niagara Power Coalition ("NPC") and the New York Power Authority agreed to a relicensing settlement for the Niagara Power Project, and

WHEREAS, that settlement allows Niagara County to receive, through NPC HCSC, up to \$390,000 annually to fund projects which are found to be consistent with the Niagara Greenway along the Greenway Trails and Corridors, and

WHEREAS, the Hartland Town Park Initiative is fully supported by the citizens of the Town of Hartland, as shown by petitions attached to the application, and

WHEREAS, that existing Town of Hartland Park is located along the Niagara Wine Trail Corridor and would be the entrance to the Niagara River Greenway from the east along that corridor, and

WHEREAS, the Hartland Town Park Initiative Project includes a kiosk important to be able to advise all visitors stopping at the park of projects throughout the entire Niagara River Greenway, and

WHEREAS, the Town of Hartland has proposed this project in order to expand and update a widely used but aging Town Park acquired by the Town in the 1970's offering picnic facilities, restrooms, nature trails, recreational programs for children and a variety of sporting amenities that is approximately 50 acres, and

WHEREAS, this project will provide access to unique natural assets of the Town of Hartland, preserve and enhance the utilization of the region's open space for the citizens, not only of Niagara County, but those individuals coming into Niagara County and the Niagara River Greenway area, and

WHEREAS, the signage for the Niagara River Greenway will be appropriate within the template used with Niagara County and ensure notice in connection to other Niagara County Greenway projects throughout Niagara County, and

WHEREAS, the Town of Hartland Project meets the guiding principles of the Niagara Greenway Commission, and

WHEREAS, the Niagara River Greenway Commission's guiding principles promote high quality ecologically sensitive and sustainable development, and

WHEREAS, the proposed Town of Hartland project will promote increased access to the County's open greenspace and place for relaxation for its citizens and taxpayers, and

WHEREAS, the Hartland Town Park Initiative has the support of the Assemblyman John Ceretto 138th District, the Town of Hartland's Youth League for sports and activities for the children, along with the Hartland Historical Society, the Middleport Police Department and several individuals as shown by the petitions, and

WHEREAS, the total project budgeted by the Town of Hartland at \$444,370.00 and the Town of Hartland is requesting that the County of Niagara support its sponsorship in order to approach the HCSC of the NPC as its sponsor in order to have approved funding in the amount of \$219,000.00 for the Hartland Town Park Initiative and an additional \$25,000.00 for Greenway signage and the Greenway kiosk, and

WHEREAS, the Ad Hoc Committee for Recreation and Tourism Fund appointed by the Niagara County Legislature to review projects brought to Niagara County seeking funding from Niagara County through the Greenway and the Niagara Power Coalition and the Host Community Standing Committee has received their recommendation and that this recommendation is made to approve and support this Hartland Town Park Initiative, now, therefore, be it

RESOLVED, that the Niagara County Legislature does hereby support and sponsor the Hartland Town Park Initiative in its request for funding from the HCSC of the NPC in the amount of \$219,000.00 for the Hartland Town Park Initiative and an additional \$25,000.00 for Greenway signage and the Greenway kiosk.

LEGISLATOR MICHAEL A. HILL

PARKS RECREATION & TOURISM
AD HOC COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Legislators Michael A. Hill, Anthony J. Nemi, William Keith McNall, Richard E. Updegrove and Parks Recreation & Tourism Ad Hoc Committee **DATE:** 04/17/12 **RESOLUTION #** IL-018-12

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
Ad Hoc - 1/23/12

LEGISLATIVE ACTION

Approved: Ayes _____ Abs. _____ Noes _____
Rejected: Ayes _____ Abs. _____ Noes _____
Referred: _____

SUPPORT FOR THE HISTORIC PALACE THEATRE GREENWAY PROJECT

WHEREAS, the Niagara Power Coalition ("NPC") and the New York Power Authority agreed to a licensing settlement for the Niagara Power Project, and

WHEREAS, that settlement allows Niagara County to receive, through NPC HCSC, up to \$390,000 annually to fund projects which are found to be consistent with the Niagara Greenway along the Greenway Trail, and

WHEREAS, the Niagara Power Coalition "NPC" and the New York Power Authority agreed to a relicensing settlement agreement for the Niagara Power Project, and

WHEREAS, the Historic Palace Theatre Project is a project for the proposed exterior renovation to improve and restore the functionality of the theatre benefiting Lockport's downtown core and enhancing an attraction in close proximity to the Erie Canal in the heart of Niagara County, and

WHEREAS, these renovations and repairs including the historic sign of the Palace Theatre which fits into the Lockport downtown revitalization and comprehensive plan and the waterfront revitalization program adopted by the City of Lockport, and

WHEREAS, the Historic Palace Theatre has fundraised and raised over \$50,000.00 to assist in the total project, and

WHEREAS, the Historic Palace Theatre Project has the support of the New York State Senator George Maziarz, the City of Lockport, the Grigg Lewis Foundation, Anthony J. Nemi, Niagara County Legislator, William Keith McNall, Niagara County Legislator and the Town of Lockport, and

WHEREAS, the Town of Hartland Project meets the guiding principles of the Niagara Greenway Commission, and

WHEREAS, the Historic Palace Theatre is requesting sponsorship in order to approach the Host Community Standing Committee and the HCSC of the NPC as its sponsor in order to have approved funding in the amount of \$151,697.00, and

WHEREAS, the Ad Hoc Committee for Recreation and Tourism Fund appointed by the Niagara County Legislature to review projects brought to Niagara County seeking funding from Niagara County through the Greenway and the Niagara Power Coalition and the Host Community Standing Committee has received their

recommendation and that this recommendation is made to approve and support this Historic Palace Theatre Greenway Project, now, therefore, be it

RESOLVED, that the Niagara County Legislature does hereby support and sponsor the Historic Palace Theatre in its request for funding from the HCSC of the NPC in the amount of \$151,697.00.

LEGISLATOR MICHAEL A. HILL

LEGISLATOR ANTHONY J. NEMI

LEGISLATOR WILLIAM KEITH McNALL

LEGISLATOR RICHARD E. UPDEGROVE

PARKS RECREATION & TOURISM
AD HOC COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Legislator Cheree J. Copelin DATE: 04/17/12 RESOLUTION # IL-019-12

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION

LEGISLATIVE ACTION

Approved: Ayes _____ Abs. _____ Noes _____

Rejected: Ayes _____ Abs. _____ Noes _____

Referred: _____

**RESOLUTION CALLING UPON THE NEW YORK STATE LEGISLATURE TO LEGALIZE AND
ESTABLISH PROCEDURES REGULATING PROFESSIONAL MIXED MARTIAL ARTS
COMPETITION IN NEW YORK STATE, ENSURING THAT UFC CHAMPION RASHAD EVANS
MAY ONE DAY FIGHT ON HIS "HOME TURF"**

WHEREAS, professional mixed martial arts competition is currently legal in 48 states and sanctioned in 46, and

WHEREAS, the New York Times has reported that projections show the potential to generate \$15 million in revenue by holding two UFC events, one at Madison Square Garden and one in Buffalo, and

WHEREAS, an HR&A financial impact study has suggested that New York State could see an annual \$16 million positive inflow of revenue from holding two UFC events and an annual \$7 million inflow from non-UFC mixed martial arts, and

WHEREAS, our neighboring State of New Jersey, which was among the very first states to legalize and sanction both professional and amateur mixed martial arts competition, hosted, in 2010, 19 professional mixed martial arts and 20 amateur mixed martial arts events per year, and

WHEREAS, while this resolution concedes the violent nature of mixed martial arts competition, under New York State's laws, boxing is legal and sanctioned by the New York State Athletic Commission, and

WHEREAS, professional wrestling events, such as those promoted by World Wrestling Entertainment, including the popular "WrestleMania" competitions, are legal and regularly held at venues in New York State, and

WHEREAS, the New York State Senate has repeatedly passed bi-partisan legislation legalizing professional mixed martial arts competition in New York State, most recently on May 23, 2011, when S.1707-A, authored by Senator Joseph Griffo of Rome, passed by a 42-18 margin, and

WHEREAS, the New York State Assembly has, through its committee system, prevented a floor vote on the companion bill, A.9797, by the full membership of that body, and

WHEREAS, it is the view of this Legislature that there is no value, moral or otherwise, to the State of New York continuing to ban properly sanctioned and regulated mixed martial arts competition, as it is already legal in nearly every other U.S. state, and

WHEREAS, this Legislature must also note the substantial success of Rashad Evans of Niagara Falls, currently ranked the no. 2 light heavyweight fighter in the world in Ultimate Fighting Championship mixed martial arts competition, his athletic prowess having also led to such non-athletic successes as endorsement and advertising deals with such companies as Microsoft, and who has been honored by this Legislature and received the key to the City of Niagara Falls in honor of his athletic exploits, and

WHEREAS, the Legislature of the County of Niagara deplors any law that prevents a son of Niagara County who has gone on to great success in a widely-respected profession from engaging in that profession within the confines of his home state, and hopes that Mr. Evans may one day be permitted to fight and win on his "home turf," now, therefore, be it

RESOLVED, the Legislature of the County of Niagara does call upon the New York State Senate to re-pass the recommitted S.1707-A, and the Speaker of the New York State Assembly, the Honorable Sheldon Silver, to permit a floor vote on A.9797, and be it further

RESOLVED, the Legislature of the County of Niagara does call upon the New York State Senate and Assembly to work with opponents of mixed martial arts, chiefly Member of the Assembly Robert Reilly, to establish a reasonable regulation scheme for legalized mixed martial arts, sanctioning the same under the auspices of the New York State Athletic Commission, and be it further

RESOLVED, the Legislature of the County of Niagara further calls upon the Honorable Andrew M. Cuomo, Governor of the State of New York, to honor campaign pledges supporting the legalization of mixed martial arts and sign the same into law, and be it further

RESOLVED, that the County of Niagara shall forward copies of this Resolution to Governor Cuomo, Senator George D. Mazarz, Senator Mark Grisanti, Senate Majority Leader Dean G. Skelos, Senator Joseph Griffo, Member of the Assembly John D. Ceretto, Assembly Jane L. Corwin, Member of the Assembly Stephen Hawley, Member of the Assembly Ray Walter, Member of the Assembly Robin Schimminger, Member of the Assembly Robert Reilly, Member of the Assembly Steven Englebright, Speaker of the Assembly Sheldon Silver, New York State Athletic Commission Chairwoman Melvina Lathan, New York State Athletic Commission Commissioner Edwin Torres, and all others deemed necessary and proper.

LEGISLATOR CHEREE J. COPELIN

NIAGARA COUNTY LEGISLATURE

FROM: Legislators William L. Ross, Richard E. DA TE: 04/17/12 RESOLUTION # IL-020-12

Updegrove and John Syracuse

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION

LEGISLATIVE ACTION

Approved: Ayes _____ Abs. _____ Noes _____

Rejected: Ayes _____ Abs. _____ Noes _____

Referred: _____

COUNTY RESOLUTION SUPPORTING PILOT AMENDMENT FOR SOMERSET GENERATING STATION

WHEREAS, the Niagara County Industrial Development Agency ("NCIDA") by resolution dated January 13, 2010, issued following a public hearing and resolutions of support by the Town of Somerset (Town"), County of Niagara ("County") and Barker Central School District ("School District") entered into Payment in Lieu of Tax ("Original PILOT") and Lease/Leaseback Agreements all dated February 1, 2010, with AES Eastern Energy, L.P. and its affiliate, AES Somerset LLC (the "Company") with respect to the Somerset Generating Station real property located at 7725 Lake Road in Somerset, New York and identified by the tax map numbers on the cover page of the Original PILOT ("Premises") and the improvements located on the Premises (referred to herein as the "Facility Improvements" and the Premises and the Facility Improvements, collectively, referred to herein as the "Facility"); the Original PILOT and Lease/Leaseback Agreements are collectively referred to herein as the "2010 Agency Agreements," and

WHEREAS, the NCIDA by resolution dated February 9, 2011, and after discussions with and the support of the Town, County and School District adopted the February 1, 2011 First Amendment to the Original PILOT, which modified the Original PILOT payment schedule ("First Amendment"), and

WHEREAS, at the time of the execution of the 2010 Agency Agreements the following trusts held certain interests in the Facility: Kintigh Facility Trust A-1, Kintigh Facility Trust A-2, Kintigh Facility Trust B-1, Kintigh Facility Trust B-2, Kintigh Facility Trust C-1, Kintigh Facility Trust C-2, and are collectively hereinafter referred to as the "Kintigh Trusts"; each of the Kintigh Trusts has a trustee responsible for the execution of its obligations created in the trust indentures (the "Trustees"); the beneficial owners of the Kintigh Trusts are the institutional investors who hold pass-through certificates issued by each of the Kintigh Trusts (the "Certificate Holders"), and

WHEREAS, on December 30, 2011, the Company and certain affiliate entities filed voluntary bankruptcy petitions in the United State Bankruptcy Court for the District of Delaware (the "Court") seeking a court order approving a compromise and settlement between the Company and the other debtors, the Certificate Holders and the Trustees of the Kintigh Trusts, and

WHEREAS, pursuant to a Settlement Agreement the terms of which the Company and the Kintigh Trusts expect to be incorporated into an order of the Court, and an Asset Purchase Agreement, the following events and modifications to the ownership structure of the Premises and the Facility Improvements will occur:

- The trustees of the Kintigh Trusts will be deemed to have secured first priority interests in the Premises and the Facility Improvements, and the fee title to the Premises and the Facility Improvements will be deemed vested in the Company for the purpose of transferring the Premises and Facility Improvements to an entity approved by the Court.
- The Trustees submitted credit bids as stalking horse bidders (the "Trustees' Bid") meaning that the Certificate Holders' nominee would acquire title to the Premises and the Facility

- Improvements from the Company in return for a forgiveness of a portion of the secured indebtedness.
- An auction of the Assets was scheduled to be conducted by the Court to consider any unrelated party's bid in comparison to the Trustees' Bid. Bidding terms were established and published by the Court, however, no bids which complied with the auction terms were submitted and, accordingly, the Court accepted the Trustees' Bid.
- Pursuant to the order of the Court, the Company shall transfer all of its right title and interest, in and to the Premises and the Facility Improvements to the Certificate Holders' nominee, the Certificate Holders have created or will create a new entity to take title to the Assets which will be transferred by various instruments from the Company to the new entity.

and

WHEREAS, in light of the Company's bankruptcy and the continuing unprecedented negative economic circumstances and competitive difficulties which confront the Somerset Generating Station, and that the Company and the Certificate Holders, which intend to take title to and responsibility for the Facility, have requested that the NCIDA further modify the Original PILOT payment schedule, as amended by the First Amendment to incorporate the terms set forth in Exhibit "A" attached hereto, and

WHEREAS, because of the critical importance of sustaining the viability of the Somerset Generating Station as a major employer and the largest property taxpayer in the Niagara region in general and the Town, County and School District in particular, now, therefore, be it

RESOLVED, that the Niagara County Legislature does hereby support the request to the NCIDA by the Company and the Certificate Holders to further modify the Original PILOT payment schedule as amended by the First Amendment to incorporate the terms set forth in Exhibit "A" attached hereto, and be it further

RESOLVED, that the Niagara County Legislature does hereby consent to the distribution percentages set forth in Exhibit "A" attached, and hereby encourages the NCIDA to enter into a second amendment to the PILOT Agreement incorporating the terms as set forth in Exhibit "A".

LEGISLATOR WILLIAM L. ROSS

LEGISLATOR RICHARD E. UPDEGROVE

LEGISLATOR JOHN SYRACUSE

SCHEDULE A

The County, the Town and the school shall receive the following amounts in the year indicated:

School:

2012-2013	\$7,584,000.00
2013-2014	4,550,400.00
2014-2015	3,033,600.00

County:

2013	\$2,522,688.00
2014	1,664,544.00
2015	1,612,800.00

Town:

2013	\$741,312.00
2014	489,056.00
2015	473,600.00

Distribution percentages remained UNCHANGED at:

School: 59.25%; County 31.50%; Town 9.25%

As Security, in lieu of a letter of credit, the Company shall pay said amounts in advance of the respective due dates on an installment basis, as shown attached hereto as Schedule "D". While Security is provided in this form, the Events of Default shall include failure to pay a scheduled payment after five (5) business day's written notice from the Agency or the Affected Tax Jurisdiction that an amount is due and has not been paid. No cure period shall apply to a default hereunder.


SCHEDULE "D"

Security-Payment Schedule

Calendar Year	15- Jan	1- Feb	15- JUN	15 JUL	15-AUG	15 SEP	1-OCT	15-DEC
2011	\$0	\$6,438,500.00	\$706,062.50	\$706,062.50	\$706,062.50	\$706,062.50	\$5,648,500.00	\$0
2012	\$375,375.00	\$5,451,875.00	\$632,000.00	\$632,000.00	\$632,000.00	\$632,000.00	\$5,056,000.00	\$336,000.00
2013	\$201,600.00	\$2,726,400.00	\$379,200.00	\$379,200.00	\$379,200.00	\$379,200.00	\$3,033,600.00	\$201,600.00
2014	\$134,400.00	\$1,817,600.00	\$252,800.00	\$252,800.00	\$252,800.00	\$252,800.00	\$2,022,400.00	\$134,400.00
2015	\$134,400.00	\$1,817,600.00						

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee DATE: 04/17/12 RESOLUTION # PW-041-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	PW - 3/26/12	Approved: Ayes _____ Abs. _____ Noes _____
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

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, 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 following the County Attorney's review, the Chairman of the Legislature be, and hereby is, authorized to execute the agreement with the Lockport Rugby Club.

PUBLIC WORKS COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee DATE: 04/17/12 RESOLUTION # PW-042-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	<u>PW - 3/26/12</u>	Approved: Ayes _____ Abs. _____ Noes _____
	_____	_____	Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

BID AWARD FOR HIGHWAY MATERIALS

WHEREAS, in previous years, the Highways, Bridges & Structures Division of the Department of Public Works prepared bid specifications for all of the materials used in its annual highway maintenance program which were then advertised, reviewed and awarded by the Purchasing Agent, and

WHEREAS, specifications for the 2012 highway maintenance program have been prepared by the Highways, Bridges & Structures Division of the Department of Public Works, and

WHEREAS, the Purchasing Department advertised for bids and publicly opened and read bids on March 1, 2012, and

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

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

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

WHEREAS, funds are available in the 2012 budget of the Department of Public Works, now, therefore, be it

RESOLVED, that the low bids, as outlined on the result sheets, be awarded to the respective low bidders, and be it further

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

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

PUBLIC WORKS COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee DATE: 04/17/12 RESOLUTION # PW-043-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	<u>PW - 3/26/12</u>	Approved: Ayes _____ Abs. _____ Noes _____
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

AWARD OF CONTRACT - COUNTY ROAD PAINTING AND STRIPING

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

WHEREAS, funds are available in the 2012 budget of the Highways, Bridges & Structures Division of the Department of Public Works, and

WHEREAS, the following bids were publicly opened and read by our Purchasing Department on March 1, 2012 and tabulated below:

<u>Waterborne Paint Application</u>	<u>Price Per Mile Of Centerline</u>	<u>Price Per Mile Of Edge Line</u>
Seneca Pavement Marking Inc. 3526 Watkins Road Horseheads, NY 14845	\$293.00	\$183.00
Accent Stripe, Inc. 3275 N. Benzing Road Orchard Park, NY 14127	\$320.00	\$218.00

and

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

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

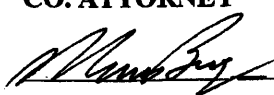
RESOLVED, that the contract for painting traffic lines on County roadways be awarded to the lowest responsible bidder, Seneca Pavement Marking Inc., 3526 Watkins Road, Horseheads, NY 14845, and be it further

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

PUBLIC WORKS COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee DATE: 04/17/12 RESOLUTION # PW-044-12

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	PW - 3/26/12	Approved: Ayes _____ Abs. _____ Noes _____
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

NIAGARA COUNTY BRIDGE MAINTENANCE PROJECT FOR SUB-STRUCTURE REPAIRS, SIX BRIDGES, IN VARIOUS TOWNS, NIAGARA COUNTY, PIN 5760.15

WHEREAS, the Niagara County Bridge Maintenance Project for Sub-Structure Element Repairs on three (3) Bridges, BINS 2213470, 3329470 and 3329220, in the Town of Newfane and Hartland; Super-Structure Element Repairs on two (2) bridges, BINS 3329490 and 3329510, in the Towns of Lockport and Royalton and expansion joint replacement on one (1) bridge, BIN 3367320, in the Town of Lockport, in Niagara County, PIN 5760.15, "the Project", is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% federal and 20% non-federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the construction and construction inspection phases of the Project, PIN 5760.15, now, therefore, be it

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

RESOLVED, that the County Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the construction and construction inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the sum of \$109,000 is hereby appropriated in D.15.5120.000.74800.06, Bridge Maintenance, Repairs and Maintenance Items, and made available to cover the cost of participation in the above phases of the Project, and be it further

RESOLVED, that in the event the amount required to pay the full federal and non-federal shares of the cost of the project's construction and construction inspection phases exceeds the amount appropriated above and/or 100% of the full federal and non-federal shares of the cost of the project's construction and construction inspection phase exceeds \$545,000, the County of Niagara shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

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

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

RESOLVED, this Resolution shall take effect immediately.

PUBLIC WORKS COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee

DATE: 04/17/12

RESOLUTION #PW-045-12

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
PW - 3/26/12

LEGISLATIVE ACTION

Approved: Ayes _____ Abs. _____ Noes _____

Rejected: Ayes _____ Abs. _____ Noes _____

Referred: _____

NIAGARA COUNTY SCOUR & CHANNEL EROSION PROTECTION PROJECT, SEVEN BRIDGES, IN VARIOUS TOWNS, NIAGARA COUNTY, PIN 5760.21

WHEREAS, the Niagara County Scour and Channel Erosion Protection Bridge Maintenance Project, Seven (7) Bridges in Various Towns, in Niagara County, PIN 5760.21, "the Project", is eligible for funding under Title 23 US Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% federal and 20% non-federal funds, and

WHEREAS, the County of Niagara desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of the Construction and Construction Inspection phases of the Project, PIN 5760.21, now, therefore, be it

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

RESOLVED, that the County Legislature of the County of Niagara hereby authorizes the County of Niagara to pay in the first instance 100% of the federal and non-federal shares of the cost of the construction and construction inspection phases of the Project or portions thereof, and be it further

RESOLVED, that the sum of \$310,000 is hereby appropriated in D.15.5120.000.74800.06, Bridge Maintenance, Repairs and Maintenance Items, and made available to cover the cost of participation in the above phases of the Project, and be it further

RESOLVED, that in the event the amount required to pay the full federal and non-federal shares of the cost of the project's construction and construction inspection phases exceeds the amount appropriated above, the County of Niagara shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

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

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

RESOLVED, this Resolution shall take effect immediately.

PUBLIC WORKS COMMITTEE