



AGENDA
NIAGARA COUNTY LEGISLATURE
DECEMBER 2, 2014 – 7:00 P.M.

Resolutions not on previous agenda:

PW-128-14 Public Works & Administration, re Transit Road Emergency Repair – Approved

Regular Meeting – December 2, 2014

AD-024-14 Administration, re Distribution of Mortgage Tax – Treasurer

AD-025-14 Administration, re Line Item Transfer – Special Litigations & Legal Expenses – Co. Attorney

PW-129-14 Public Works & Administration, re DPW Niagara County Power Budget Modification

PW-130-14 Public Works, re Undertaking for the Benefit of the NYS DOT in Connection with Work Affecting State Highways

PW-131-14 Public Works & Administration, re DPW Highway Machinery Fund

PW-132-14 Public Works, re Lease Agreement with Niagara Cerebral Palsy for the Shaw Building in Lockport & the Trott Access Center in Niagara Falls

PW-133-14 Public Works & Administration, re Budget Modification Building Improvements 2014 Capital Project

PW-134-14 Public Works & Administration, re Youngstown Road Embankment Stabilization Project Consultant Amendment No. 1

PW-135-14 Public Works, re Selection of Pre-Qualified Consultant Services



Mary Jo Tamburlin, Clerk
Niagara County Legislature

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 December 9, 2014.

NIAGARA COUNTY LEGISLATURE

FROM: Administration Committee DATE: 12/02/14 RESOLUTION # AD-024-14

APPROVED	REVIEWED	COMMITTEE ACTION	LEGISLATIVE ACTION
CO. ATTORNEY	CO. MANAGER	<u>AD - 11/25/14</u>	Approved: Ayes _____ Abs. _____ Noes _____
			Rejected: Ayes _____ Abs. _____ Noes _____
			Referred: _____

DISTRIBUTION OF MORTGAGE TAX

WHEREAS, Niagara County has received mortgage tax monies for the period April, 2014 through September, 2014 in the amount of \$2,381,778.35, and

WHEREAS, the Recording Officer has previously distributed \$536,161.70 to the Niagara Frontier Transportation Authority, \$532,696.29 to the State Mortgage Tax Agency, and retained \$132,465.97 for approved county administrative expenses, and

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

RESOLVED, that the sum of \$1,180,454.39 reflects mortgage tax monies for the period April 1, 2014 through September 30, 2014 to be distributed, and the same be and hereby is, apportioned as follows among the various towns, villages and cities of the County of Niagara:

TOWNS	Cambria	\$ 33,474.61
	Hartland	20,456.31
	Lewiston	87,023.78
	Lockport	125,264.71
	Newfane	65,033.23
	Niagara	25,609.29
	Pendleton	69,713.07
	Porter	41,376.00
	Royalton	42,255.61
	Somerset	11,616.86
	Wheatfield	149,425.25
	Wilson	30,709.37

VILLAGES	Middleport (Hartland)	\$ 309.55
	Middleport (Royalton)	944.69
	Lewiston	10,406.03
	Youngstown	7,920.18
	Barker	958.93
	Wilson	3,351.91

CITIES	Lockport	\$ 131,503.81
	Niagara Falls	109,223.83
	North Tonawanda	213,877.37
	TOTAL:	\$1,180,454.39

and be it further

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

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Administration Committee DATE: 12/02/14 RESOLUTION # AD-025-14

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
AD - 11/25/14

LEGISLATIVE ACTION

Approved: Ayes _____ Abs. _____ Noes _____

Rejected: Ayes _____ Abs. _____ Noes _____

Referred: _____

LINE ITEM TRANSFER – SPECIAL LITIGATIONS AND LEGAL EXPENSES COUNTY ATTORNEY

WHEREAS, the Niagara County Attorney's Office is the legal representative for the County of Niagara and in such role often requires the assistance of outside counsel due to inherent conflicts of interest, the necessity of litigation expertise, and other reasons which preclude the Niagara County Attorney's Office from providing necessary representation, and

WHEREAS, it is necessary to have sufficient funds available to compensate outside counsel for legal representation of Niagara County, and

WHEREAS, the funds which have been previously allocated to Niagara County for the hiring of outside counsel have been fully utilized and as a result, the Niagara County Attorney's Office is in a position that it is unable to effectively carry out the necessary assignment of legal assistance, and

WHEREAS, it is anticipated that the remaining 2014 costs for outside counsel will be in the approximate amount of \$100,000, now, therefore, be it

RESOLVED, that the following line item transfer be effectuated:

FROM:

A.08.1990.000 74500.01	Contingency	\$100,000
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TO:

A.11.1930.110 74500.01	Special Litigations	\$50,000
A.11.1420.000 74350.02	Legal Expenses	\$50,000

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works and Administration DATE: 12/02/14 RESOLUTION # PW-129-14

Committees

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
PW - 11/25/14
AD - 11/25/14

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

DEPARTMENT OF PUBLIC WORKS – NC POWER BUDGET MODIFICATION

WHEREAS, Niagara County receives low cost power from the New York Power Authority (NYPA),
and

WHEREAS, additional funds are required to cover the remainder of expenses for 2014 in the line item
for Natural Gas and Misc. Expenses, now, therefore, be it

RESOLVED, that the following budget modifications be effectuated:

INCREASE ESTIMATED REVENUE:

A.15.1620.108.42655.03	Sale of Excess Power	\$25,000.00
A.15.1620.108.42770.01	Unclassified Revenue	\$285,000.00

INCREASE ESTIMATED APPROPRIATION:


A.15.1620.108.74400.10	Misc. Expenses	\$285,000.00
A.15.1620.108.74850.03	Natural Gas	\$25,000.00

PUBLIC WORKS COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee **DATE:** 12/02/14 **RESOLUTION #** PW-130-14

APPROVED CO. ATTORNEY	REVIEWED CO. MANAGER	COMMITTEE ACTION <u>PW -11/25/14</u>	LEGISLATIVE ACTION Approved: Ayes _____ Abs. _____ Noes _____ Rejected: Ayes _____ Abs. _____ Noes _____ Referred: _____
			

UNDERTAKING FOR THE BENEFIT OF THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH WORK AFFECTING STATE HIGHWAYS

WHEREAS, the County of Niagara, (hereinafter referred to as "Permittee") from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as "NYSDOT") and otherwise conducts activities and operations upon highways and/or within right-of-way controlled by the State of New York for such purposes as obstruction, installation, construction, maintenance and/or operation of facilities, and

WHEREAS, Permittee's access and operation upon state right-of-way is conditioned compliance with Highway Law Sections 52, 103, 203 and/or 234, including the conditions that Permittee assume all responsibility for (a) temporary control of all modes of traffic (including motorized and non-motorized travel) affected by Permittee's operations, (b) complete restoration of state facilities to their condition prior to permitted use or activity and (c) all claims, damages, losses and expenses, now, therefore, be it

RESOLVED, in relation to all operations and/or actions undertaken within state right-of-way, Permittee hereby agrees to the following terms and conditions:

1. Permit Applications – Excepting only activities undertaken to protect public safety because of emergency conditions or incidents, Permittee shall provide timely written notice to NYSDOT of operations or activities affecting state right-of-way. Under normal circumstances, a minimum of five business days' notice shall be provided. Notification of emergency activities shall be provided to NYSDOT as soon as practicable after the activity. The Permittee shall apply for project-specific permits for activities not allowed under any existing annual permit. Such application shall identify proposed project locations, desired dates/hours, proposed work/activities, traffic control and site restoration.
2. Applicable Rules, Regulations & Conditions – Permittee shall comply will all of the laws, rules and regulations applicable to construction, maintenance activities and operations and shall further comply with such terms and conditions that may be imposed by NYSDOT in connections with permitted activity or operations. Temporary Traffic Control, highway safety appurtenances, and restoration of state facilities shall be completed in accordance with NYSDOT regulations and standards.
3. Site Restoration – Permittee shall, at its own expense, promptly complete the work allowed under each permit and, within a reasonable time, restore State property damaged by its work/activities to substantially the same or equivalent condition as existed before such work was begun as determined by the Commissioner or his/her designee. In the event that the Permittee fails to so restore damaged State property within what the Commissioner deems to be a reasonable time, the Commissioner, after giving written notice to the Permittee, may restore the property to substantially the same or equivalent condition as existed before the Permittee's work/activities, in which case, Permittee agrees to reimburse the reasonable expenses in connection therewith.

4. Payment & Release of Liens – Permittee shall be responsible for the payment of all costs and materials relating to improvements in the public right-of-way, and agrees to defend and save harmless NYSDOT against any and all claims for the value of public improvements.
5. Indemnity – In addition to the protection afforded to NYSDOT under any available insurance, NYSDOT shall not be liable for any damage or injury to the Permittee, its agents, employees, or to any other person, or to any property, occurring on the site or in any way associated with Permittee's activities or operations; whether undertaken by Permittee's own forces or by contractors or other agents working on Permittee's behalf. To the fullest extent permitted by law, the Permittee agrees to defend, indemnify, and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of any claim, including but not limited to claims for personal injuries, property damage or wrongful death and/or environmental claims, in any way associated with the Permittee's, activities or operations, no matter how caused.

and be it further

RESOLVED, Permittee hereby warrants that the obligations of this Undertaking are backed by the full faith and credit of the Permittee; Permittee may insure or bond any of the obligations set forth herein, or may rely upon self-insurance, budgeted funds, or funds for general operations, and be it further

RESOLVED, this Undertaking shall be applicable to all permitted activities and operations undertaken after the date of execution and work initiated while this Undertaking is in effect; this Undertaking may be revoked upon thirty days written notice but will continue to apply to all permitted activities/operations that were permitted by virtue of this Undertaking, unless terminated for the purpose of future activities/operations, this Undertaking shall have a term of twenty (20) years and shall be kept on file to facilitate the issuance of future permits to which it will apply, and be it further

RESOLVED, the County of Niagara agrees to the terms of this Undertaking, and has caused its execution by the authorized officer or employee.

PUBLIC WORKS COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works and Administration DATE: 12/02/14 RESOLUTION # PW-131-14

Committees

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
PW - 11/25/14
AD - 11/25/14

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

DEPARTMENT OF PUBLIC WORKS – HIGHWAY MACHINERY FUND

WHEREAS, the Highway Machinery Fund requires additional funds to cover diesel and gasoline expenses for the remainder of 2014, and

WHEREAS, funds are available in account D.15.5110.000.74800.12, Road Construction Materials, now, therefore, be it

RESOLVED, that the following budget modifications be effectuated:

DECREASE APPROPRIATION:

D.15.5110.000.74800.12	Road Construction Materials	\$50,000.00
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INCREASE APPROPRIATION:

D.15.9901.000 79010.00	Interfund Transfers – To Other Funds	\$50,000.00
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INCREASE ESTIMATED REVENUE:

DM.15.9901.000 45031.00	Interfund Transfers – From Operating	\$50,000.00
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INCREASE APPROPRIATION:

DM.15.5130.000.74750.21	Gas and Oil	\$50,000.00
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PUBLIC WORKS COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee **DATE:** 12/02/14 **RESOLUTION #** PW-132-14

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
PW - 11/25/14

LEGISLATIVE ACTION

Approved: Ayes _____ Abs. _____ Noes _____

Rejected: Ayes _____ Abs. _____ Noes _____

Referred: _____

**LEASE AGREEMENT WITH NIAGARA CEREBRAL PALSY
FOR THE SHAW BUILDING IN LOCKPORT
AND THE TROTT ACCESS CENTER IN NIAGARA FALLS**

WHEREAS, Niagara Cerebral Palsy desires to continue the lease for office/classroom space at the Shaw Building in Lockport, NY and the Trott ACCESS Center, in Niagara Falls, New York, and

WHEREAS, the County has available space for this activity, 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 Public Works Committee recommends the lease agreement to be entered into with Niagara Cerebral Palsy for office/classroom space at the Shaw Building in Lockport, NY and the Trott ACCESS Center in Niagara Falls, NY, and be it further

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

PUBLIC WORKS COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works and Administration DATE: 12/02/14 RESOLUTION # PW-133-14

Committees

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
PW - 11/25/14
AD - 11/25/14

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

BUDGET MODIFICATION – BUILDING IMPROVEMENTS 2014 CAPITAL PROJECT

WHEREAS, the Shaw Building, 5465 Upper Mountain Road, Lockport, New York, houses the Mental and Public Health Departments, and

WHEREAS, it is necessary to install security devices in the building to keep clients and workers safe, and

WHEREAS, Niagara County Mental Health Department has funds available to assist with the security enhancements required at the Shaw Building, now, therefore, be it

RESOLVED, that the following budget modification be effectuated:

INCREASE ESTIMATED REVENUE:

A.21.4310.000.40691.14	Deferred Revenue Account	\$43,500.00
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INCREASE APPROPRIATIONS:

A.07.9950.000 97010.00	Transfers to Capital Projects	\$43,500.00
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INCREASE ESTIMATED REVENUE:

H611.15.1620.000 75031.00	Interfund Transfer from Operating	\$43,500.00
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INCREASE APPROPRIATIONS:

H611.15.1620.000.72200.01	Building Improvements Expenses 08 – Shaw Security	\$43,500.00
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PUBLIC WORKS COMMITTEE

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works and Administration DATE: 12/02/14 RESOLUTION # PW-134-14

Comittees

APPROVED
CO. ATTORNEY

REVIEWED
CO. MANAGER

COMMITTEE ACTION
PW - 11/25/14
AD - 11/25/14

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

**YOUNGSTOWN ROAD EMBANKMENT STABILIZATION
PROJECT CONSULTANT AMENDMENT NO. 1**

WHEREAS, Resolution No. PW-075-13, dated August 6, 2013, selected GPI, 4950 Genesee St, Suite 165, Buffalo, NY 14225, to assist the County with the Youngstown Road Embankment Stabilization Project, for a price not to exceed, \$6,500, and

WHEREAS, it is necessary to increase the contract to allow for design services in the amount of \$41,304, for a revised contract amount of \$47,804, 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 to assist the County with the design services for the Youngstown Road Embankment Stabilization Project, be amended by \$41,304, to GPI, 4950 Genesee St, Suite 165, Buffalo, NY 14225, for a revised contract amount of \$47,804, 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

ADMINISTRATION COMMITTEE

NIAGARA COUNTY LEGISLATURE

FROM: Public Works Committee DATE: 12/02/14 RESOLUTION # PW-135-14

APPROVED CO. ATTORNEY	REVIEWED CO. MANAGER	COMMITTEE ACTION	LEGISLATIVE ACTION
		<u>PW - 11/25/14</u>	Approved: Ayes _____ Abs. _____ Noes _____ Rejected: Ayes _____ Abs. _____ Noes _____ Referred: _____

SELECTION OF PRE-QUALIFIED CONSULTANT SERVICES

WHEREAS, the Department of Public Works, in accordance with federal/state guidelines, evaluated proposals from engineering consulting firms, to establish a listing of pre-qualified engineering firms to assist the county with consultant services, when required, on a project by project basis, and

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

RESOLVED, that the list of pre-qualified engineering consultant firms be approved, for a term of three years with an optional two – one-year extensions, and be it further

RESOLVED, that the Purchasing Guidelines shall be amended to incorporate the procedure set forth in this resolution and accompanied memorandum as to guidelines for obtaining qualified consultant services, 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