

June 10, 2015

The meeting was called to order by Chairman Norman L. Marsh.

The invocation was given by Rev. leFeber.

The Attendance Roll Call disclosed one Legislator absent – Teachman.

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MS. EDSTROM moved, seconded by Mr. Lamberson that the minutes of the May 27, 2015 session be approved. Carried.

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COMMUNICATIONS:

Family of Mary Ellen Milanowski: Thank you for donation to the Cattaraugus/Allegany County Homeless Veterans Association in memory of their mother.

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CHAIRMAN MARSH granted Privilege of the Floor to Anthony Evans, Youth Bureau Director, who outlined the functions of the Youth Bureau and showed a video clip of the 2014 Youth Citizenship Banquet.

CHAIRMAN MARSH granted Privilege of the Floor to Thomas Malecki of Drescher & Malecki who gave a presentation on the 2014 County Audit.

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ACT NO. 298-2015 by Mr. Felton, Mr. Marsh, Mr. VanRensselaer,
Ms. Vickman, Mr. Weller and Mr. Koch

**AUTHORIZING THE CHAIR TO EXECUTE SUPPLEMENTAL AGREEMENT NO. 1
WITH NYSDOT AND AUTHORIZING CATTARAUGUS COUNTY TO PARTICIPATE IN
FEDERAL-AID PROJECT ADMINISTERED BY THE NYSDOT
AND ADJUSTING VARIOUS APPROPRIATION AND REVENUE ACCOUNTS
(Federal Aid Local Project Agreement No. D034837 - Bridge Painting)**

Pursuant to Title 23 U.S. Code and
Sections 363, 366 and 450 of the County Law.

WHEREAS, Act 293-2014 authorized a Marchiselli agreement with the New York State Department of Transportation (NYSDOT) for the Cattaraugus County Bridge Painting Project: Four (4) Bridges in the Towns of Conewango, Ellicottville, Franklinville and Freedom, Cattaraugus County, PIN

5760.51 (the "Project"), which is eligible for funding under Title 23 U.S. Code, as amended, and that calls for the apportionment of the costs of such program to be borne at the ratio of 80% federal funds and 20% non-federal funds, and

WHEREAS, the County desires to advance the above Project by making a commitment of 100% of the non-federal share of the costs of the Construction & Construction Inspection phase of the Project, PIN 5760.51, and

WHEREAS, various appropriation and revenue accounts must be adjusted to accommodate the aforementioned funding, now, therefore, be it

RESOLVED, that the Cattaraugus County Legislature hereby approves the above-described Project, and be it further

RESOLVED, that the Cattaraugus County Legislature hereby authorizes the County of Cattaraugus to pay in the first instance 100% of the federal and non-federal shares of the cost of the Construction & Construction Inspection phase of the Project, or portions thereof, and be it further

RESOLVED, that the sum of \$410,000.00 is hereby appropriated and made available to cover the cost of participation in the above phase 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 & Construction Inspection phase exceeds the amount appropriated above, the County of Cattaraugus shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon the notification by the NYSDOT thereof, and be it further

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute all necessary documents, on behalf of Cattaraugus County, with the NYSDOT 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 and state-aid eligible Project costs and all Project costs within appropriations therefor 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, that this Resolution shall take effect immediately, and be it further

RESOLVED, that the County Administrator is hereby directed to make the following budgetary changes:

Increase Estimated Revenue Accounts:

D.502.5111.0000.3591.01	Marchiselli Aid	\$ 16,500.00
D.502.5111.0000.4597.01	Federal Aid	\$ 88,000.00

Increase Appropriation Account:

D.502.5111.5112.41425	Bridge Painting Contracted	\$104,500.00.
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Approved by 9 members of the Finance Committee and 9 members of the Public Works Committee.

Adopted June 10, 2015 by voice vote.

ACT NO. 299-2015 by Mr. VanRensselaer and Mr. Boser
and Mr. Hale, Mr. Murphy and Mr. Padlo¹

**AUTHORIZING THE CHAIR TO EXECUTE GRANT APPLICATION WITH
NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION
FOR SNOWMOBILE TRAIL MAINTENANCE PROGRAM FUNDING**

Pursuant to Article 27 of the Parks, Recreation and
Historic Preservation Law and Section 450 of the County Law.

WHEREAS, Act 411-2014 authorized the Chair to execute a grant application with the New York State Office of Parks, Recreation and Historic Preservation for snowmobile trail maintenance program funding for the 2014-2015 program year, and

WHEREAS, funding is again available through the New York State Office of Parks, Recreation and Historic Preservation for maintenance of snowmobile trails for the 2015-2016 program year, and

WHEREAS, Cattaraugus County has been requested by the Cattaraugus County Snowmobile Federation to act as a local sponsor for the grant application, and

WHEREAS, if the grant application is successful, then the Legislature would consider legislation entering into contracts with either the Cattaraugus County Federation of Snowmobile Clubs, Inc. or the snowmobile clubs for the snowmobile trail maintenance, now, therefore, be it

RESOLVED, that the Chair of the Legislature, be, and hereby is, authorized and directed to execute a grant application, on behalf of Cattaraugus County, with the New York State Office of Parks, Recreation and Historic Preservation, for the 2015-2016 program year, according to the above-described terms, and be it further

RESOLVED, that upon termination of either state or federal funding for this program, then this program shall be automatically abolished, and be it further

RESOLVED, that such contract shall provide that upon the reduction of any such funding, the County, in its sole discretion, may terminate the contract on thirty (30) days written notice, and be it further

RESOLVED, that in the event of any such reduction, the department head involved shall immediately report such occurrence to the Chairman of the Committee to which the department is assigned, who shall add the matter to the agenda of the Committee's next meeting.

Approved by 9 members of the Finance Committee and 6 members of the Development and Agriculture Committee.

¹The following Legislators requested their names be listed as additional sponsors: "Mr. Hale, Mr. Murphy and Mr. Padlo".

Adopted June 10, 2015 by voice vote.

ACT NO. 300-2015 by Mr. VanRensselaer and Mr. Boser

**AUTHORIZING THE CHAIR TO EXECUTE LOAN DOCUMENTS
WITH DM KRESS, LLC FOR
A BUSINESS DEVELOPMENT AND EQUIPMENT ACQUISITION PROJECT**

Pursuant to Section 99-h of the State Finance Law and
Section 450 of the County Law.

WHEREAS, Cattaraugus County has designated casino funds for economic development in the approved spending plan to address projects such as business retention and expansion by providing incentives to companies that retain and expand employment within Cattaraugus County, and

WHEREAS, the County is desirous of retaining and expanding employment in Cattaraugus County, and

WHEREAS, DM Kress, LLC, P.O. Box 637, Ellicottville, New York 14731, will operate Groove Fitness, a health, wellness, and fitness center in Ellicottville and proposes a development project that creates a need for equipment acquisition and working capital, and

WHEREAS, DM Kress, LLC, will operate Groove Fitness at 6696 Route 219, Ellicottville, New York, and is completing extensive physical improvements to the building and premises at that location, and

WHEREAS, DM Kress, LLC, projects that one (1) full time equivalent position and one (1) part time equivalent position will be created as a result of this project, and

WHEREAS, DM Kress, LLC, proposes owner equity and investment and other project financing of an additional \$238,000.00, and

WHEREAS, DM Kress, LLC, is in need of \$75,000.00 to help defray costs of the aforementioned project, and

WHEREAS, the County has \$75,000.00 in its economic development loan program, using casino funds for economic development projects in the County, and

WHEREAS, it is proposed that the County loan to DM Kress, LLC, the sum of \$75,000.00, at a 5% fixed interest rate per annum, to be repaid in monthly installments over a seven (7) year period, with the following conditions:

- Payments for months 1 (one) through 84 (eighty-four) shall be principal and interest;
- Upon the County's receipt of acceptable documentation verifying the creation of one (1) full-time equivalent (FTE) position, DM Kress, LLC, is eligible for loan principal forgiveness of \$5,000.00 per one (1) FTE position created (to a maximum of \$25,000) over the term of the loan;
- DM Kress, LLC, shall provide job creation documentation once per year, and such loan principal forgiveness will be pro-rated for the preceding 12 month period; and
- To maintain eligibility for loan principal forgiveness, loan repayments must be made on time,

and

WHEREAS, sufficient funds are included in the economic development fund from casino proceeds for this project, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute loan documents, on behalf of Cattaraugus County, with DM Kress, LLC, for a term commencing upon signing of the loan documents and terminating seven (7) years thereafter, according to the above-described terms.

Approved by 9 members of the Finance Committee and 6 members of the Development and Agriculture Committee.

Adopted June 10, 2015 by voice vote.

ACT NO. 301-2015 by Mr. Murphy and Mrs. Stockman

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH
OLEAN COMMUNITY SCHOOLS FOR HIGH SCHOOL EQUIVALENCY INSTRUCTION
(Departments of Social Services and Probation)**

Pursuant to Section 450 of the County Law.

WHEREAS, Act 326-2014 authorized a contract with the Olean Community Schools for the provision of high school equivalency (HSE) instruction services for eligible recipients up to the age of 21, in the Olean area, referred by the Department of Social Services, the term of which expires June 30, 2015, and

WHEREAS, the County Department of Social Services is desirous of continuing the aforementioned HSE instruction services in the Olean area, and

WHEREAS, the County Probation Department is in need of HSE instruction services in the Salamanca area, and

WHEREAS, Olean Community Schools, 410 West Sullivan Street, Olean, New York 14760, through its Adult Education Program, can provide the aforementioned HSE instruction services for the Departments of Social Services and Probation for a total amount not to exceed \$10,680.00, to be paid on a quarterly basis as invoiced, as follows:

Department of Social Services share	\$ 6,000.00
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Probation Department share	\$ 4,680.00,
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and

WHEREAS, this program is 100% federally funded, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with Olean Community Schools, for the provision of the above-described services, for a term commencing July 1, 2015 and terminating December 31, 2015, according to the above-described terms, and be it further

RESOLVED, that upon termination of either state or federal funding for this program, then this program shall be automatically abolished, and be it further

RESOLVED, that such contract shall provide that upon the reduction of any such funding, the County, in its sole discretion, may terminate the contract on thirty (30) days' written notice, and be it further

RESOLVED, that in the event of any such reduction, the department head involved shall immediately report such occurrence to the Chairman of the Committee to which the department is assigned, who shall add the matter to the agenda of the Committee's next meeting.

Approved by 9 members of the Finance Committee, 7 members of the Human Services Committee and 5 members of the Public Safety Committee.

Adopted June 10, 2015 by voice vote. Ms. Edstrom abstained from vote.

ACT NO. 302-2015 by Ms. Edstrom and Mrs. Stockman

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH
INSTITUTE FOR HEALTHCARE IMPROVEMENT FOR SCALE INITIATIVE
FUNDED THROUGH ROBERT WOOD JOHNSON FOUNDATION
AND ADJUSTING VARIOUS APPROPRIATION AND REVENUE ACCOUNTS
(Health Department)**

Pursuant to Sections 363, 366 and 450 of the County Law.

WHEREAS, Act 238-2015 authorized the Chairman to apply for funding through the Robert Wood Johnson Foundation for the SCALE Program (Spreading Community Accelerators through Learning and Evaluation), and

WHEREAS, the purpose of the SCALE program is to provide an opportunity for communities to substantially accelerate their health improvement by equipping communities with skills and resources to unlock their potential and achieve significant results, and

WHEREAS, the County Health Department was awarded a grant in the amount of \$71,000.00 and selected to participate in a 20-month intensive "learning and doing" program designed to assist communities to achieve unprecedented results in improving the health and well-being of people and the community, and

WHEREAS, the funding awarded for participation in the aforementioned SCALE Program in the amount of \$71,000.00, will be disbursed in two (2) installments, as follows:

1st Installment – Year 1

(May 1, 2015 – January 31, 2016)		\$27,500.00
	plus travel	<u>\$ 6,000.00</u>
	Total Year 1	\$33,500.00

2nd Installment – Year 2

(February 1, 2016 – December 31, 2016)		\$34,500.00
	plus travel	<u>\$ 3,000.00</u>
	Total Year 2	\$37,500.00,

and

WHEREAS, various appropriation and revenue accounts must be adjusted in order to accommodate the aforementioned grant funding, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with the Institute for Healthcare Improvement, in order to accept the aforementioned grant funding which was provided through the Robert Wood Johnson Foundation, for a term commencing May 1, 2015 and terminating December 31, 2016, according to the above-described terms, and be it further

RESOLVED, that upon termination of either state or federal funding for this program, then this program shall be automatically abolished, and be it further

RESOLVED, that such contract shall provide that upon the reduction of any such funding, the County, in its sole discretion, may terminate the contract on thirty (30) days written notice, and be it further

RESOLVED, that in the event of any such reduction, the department head involved shall immediately report such occurrence to the Chairman of the Committee to which the department is assigned, who shall add the matter to the agenda of the Committee's next meeting, and be it further

RESOLVED, that the County Administrator is hereby directed to make the following budgetary changes:

Increase Estimated Revenue Account:

A.401.4015.4020.2705.29	SCALE	\$33,500.00
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Increase Appropriation Accounts:

A.401.4015.4020.41603	Contracted Services	\$29,020.00
A.401.4015.4020.48003	Meeting Expense	\$ 800.00
A.401.4015.4020.46101	Employee Meal Reimbursement	\$ 680.00
A.401.4015.4020.46103	Employee Other Travel	\$ 3,000.00.

Approved by 9 members of the Finance Committee, 6 members of the Senior Services Committee and 7 members of the Human Services Committee.

Adopted June 10, 2015 by voice vote.

ACT NO. 303-2015 by Ms. Edstrom and Mrs. Stockman

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT EXTENSION WITH
P2 COLLABORATIVE OF WNY, INC. FOR PARTICIPATION IN
COLLABORATING EFFORT TO PROMOTE HEALTH IN WESTERN NEW YORK**

Pursuant to Section 450 of the County Law.

WHEREAS, Act 443-2014 authorized a contract with P2 Collaborative of WNY, Inc., 355 Harlem Road, Building C, 2nd Floor, West Seneca, New York 14224, for participation in a collaborative effort to promote health in Western New York, the term of which expired May 31, 2015, and

WHEREAS, a contract extension to December 31, 2015 is needed in order to allow for more time to utilize the grant funding, and

WHEREAS, P2 Collaborative of WNY, Inc., has agreed to the aforementioned contract extension at no cost to the County, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract extension, on behalf of Cattaraugus County, with P2 Collaborative of WNY, Inc., for participation in the Promoting Health in Western New York Collaborative, extending the term of the contract which commenced June 1, 2014 to December 31, 2015, according to the above-described terms.

Approved by 9 members of the Finance Committee and 7 members of the Human Services Committee.

Adopted June 10, 2015 by voice vote.

ACT NO. 304-2015 by Ms. Edstrom and Mrs. Stockman

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH
NEW YORK STATE DEPARTMENT OF HEALTH FOR
EARLY INTERVENTION PROGRAM ADMINISTRATION (EIP)**

Pursuant to Public Law 98-8 and Section 450 of the County Law.

WHEREAS, Act 441-2014 authorized the Chair to execute a contract with the New York State Department of Health and various entities for the Child Find (Infant & Child Health Assessment Program) and the Early Intervention Program (EIP) administration, the term of which expires September 30, 2015, and

WHEREAS, the New York State Department of Health, Bureau of Child and Adolescent Health, has approved funding in the amount of \$33,377.00 for the County Health Department to continue a system to gather quality information about children with special health care needs in Cattaraugus County for the period commencing October 1, 2015 and terminating September 30, 2016, and

WHEREAS, a contract is necessary with the New York State Department of Health in order to obtain the aforementioned funding, and

WHEREAS, this program is 62% federally funded and 38% state funded, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with the New York State Department of Health, in order to obtain the aforementioned funding for the Early Intervention Programs, for a term commencing October 1, 2015 and terminating September 30, 2016, according to the above-described terms, and be it further

RESOLVED, that upon termination of either state or federal funding for this program, then this program shall be automatically abolished, and be it further

RESOLVED, that such contract shall provide that upon the reduction of any such funding, the County, in its sole discretion, may terminate the contract on thirty (30) days written notice, and be it further

RESOLVED, that in the event of any such reduction, the department head involved shall immediately report such occurrence to the Chairman of the Committee to which the department is assigned, who shall add the matter to the agenda of the Committee's next meeting.

Approved by 9 members of the Finance Committee and 7 members of the Human Services Committee.

Adopted June 10, 2015 by voice vote.

ACT NO. 305-2015 by Ms. Edstrom and Mrs. Stockman

**AUTHORIZING THE CHAIR TO EXECUTE AMENDED CONTRACT WITH
HEALTHY COMMUNITY ALLIANCE, INC. FOR
HEALTH DEPARTMENT REPRODUCTIVE HEALTH EDUCATOR**

Pursuant to 10 NYCRR Part 40-1 and Section 450 of the County Law.

WHEREAS, Act 82-2015 authorized a contract with Healthy Community Alliance, Inc., 26 Jamestown Street, P.O. Box 27, Gowanda, New York 14070, for the provision of services of a Reproductive Health Educator for the County Health Department family planning clinics, the term of which expires December 31, 2015, and

WHEREAS, an amendment to the aforementioned contract is necessary to include the additional amount of \$2,000.00, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute an amended contract, on behalf of Cattaraugus County, with Healthy Community Alliance, Inc., for the provision of the above-described services, for a term commencing March 1, 2015 and terminating December 31, 2015, according to the above-described terms.

Approved by 9 members of the Finance Committee and 7 members of the Human Services Committee.

Adopted June 10, 2015 by voice vote.

ACT NO. 306-2015 by Ms. Edstrom and Mrs. Stockman
and Ms. Vickman and Mr. Padlo¹

LOCAL LAW NUMBER 6-2015
COUNTY OF CATTARAUGUS, NEW YORK

Pursuant to Article 13F of the Public Health Law and
Section 10 of the Municipal Home Rule Law.

**A LOCAL LAW AMENDING LOCAL LAW NUMBER 10-2011 (INTRO NUMBER 16-2011),
ENTITLED "A LOCAL LAW REGULATING ELECTRONIC CIGARETTES
["E-CIGARETTES"] AND HERBAL CIGARETTES"**

BE IT ENACTED by the County Legislature of the County of Cattaraugus as follows:

SECTION 1. Legislative Intent. It is the intent of this Local Law to amend Local Law Number 10-2011 (Intro Number 16-2011) to reflect that the provisions of such local law relating to the sale of electronic cigarettes to minors have been preempted by state law and to otherwise amend such local law.

SECTION 2. Amendments. Local Law Number 10-2011 (Intro Number 16-2011), entitled "A Local Law Regulating Electronic Cigarettes ("E-Cigarettes") and Herbal Cigarettes" is hereby amended as follows:

A. Section 1 thereof, entitled "Legislative Intent", is amended by deleting therefrom subparagraph (c) and by relettering former subparagraphs (d) and (e) as subparagraphs (c) and (d) respectively; and by deleting the following words from subparagraph d (formerly e) thereof: "and to ban the sale of such products to persons under the age of eighteen (18)".

B. Section 2 of such local law, entitled "Definitions", is amended in the following respects:

(1) by adding a new subparagraph (f) thereof, which shall read as follows:

"f) "Business" shall mean a sole proprietorship, corporation, limited liability company, partnership or other enterprise in which the primary activity is the

sale, manufacture or promotion of e-cigarettes, e-cigarette cartridges, e-cigarette cartridge filler, or accessories, either at wholesale or retail, and in which the sale, manufacture or promotion of other products is merely incidental. A Business shall include but not be limited to a lounge where e-cigarette use is permitted as well as any establishment which sells e-cigarette materials.”;

(2) by adding a new subparagraph (g) thereof, which shall read as follows:

“g) “Director” shall mean the Director of the Cattaraugus County Department of Health.”; and

(3) by adding a new subparagraph (h) thereof, which shall read as follows:

“h) “Department” shall mean the Cattaraugus County Department of Health”.

C. Section 3 of such local law, entitled “Sale to Minors Prohibited”, is hereby rescinded and deleted in its entirety.

D. Section 4 of such local law, entitled “Restrictions on Smoking of Herbal or E-Cigarettes”, is renumbered as Section 3 and amended to read as follows:

“The smoking of herbal and electronic cigarettes shall not be permitted and no person shall smoke electronic or herbal cigarettes in any areas in which smoking tobacco products is prohibited or restricted pursuant to the Public Health Law. For violations of this section, it shall be an affirmative defense that during the relevant time period actual control of the indoor area open to the public was not exercised by the respondent, but rather by a lessee, a sub-lessee or any other person. To establish an affirmative defense, the respondent shall submit an affidavit and may submit any other relevant proof indicating that the respondent did not exercise actual control of said area during the relevant time period. Such affidavit and other proof shall be mailed by certified mail to the Board within 30 days of receipt of such notice of violation.”

E. A new Section 4 is hereby added as follows:

“SECTION 4. Business Registration. Any Business which relies on the provision of on-site sampling as a mechanism to market and/or sell e-cigarettes, e-cigarette cartridges or e-cigarette cartridge fillings and accessories may register with the Department as a Certified E-Cigarette Business. The Department shall develop, and make available to Businesses, a certification form by which a Business may certify that it meets the definition of Business contained within this local law. The certification will also include any provisions which the Department finds necessary to protect the health and safety of the residents of Cattaraugus County. When a Business completes the certification form to the Department’s satisfaction, the Department shall add such Business to a registry of Certified E-Cigarette Businesses which it shall control and maintain.”

F. A new Section 5 is hereby added as follows:

“SECTION 5. Application. The restrictions contained in Section 3 of this local law shall not apply to Businesses registered as Certified E-Cigarette Businesses pursuant to Section 4 above or to individuals while they are patronizing a Certified E-Cigarette Business. Otherwise, the terms and conditions of this local law shall have general effect county wide.”

G. By renumbering the remaining sections of such local law as Sections 6 through 11, respectively.

H. Section 6 of such local law, entitled "Enforcement", subparagraph (c) is hereby amended as follows: at the end, add: ", and in addition thereto, may suspend or revoke any certification issued to the Business committing such violation".

SECTION 3. SEQRA Determination: This Legislature, being the state environmental quality review act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II Action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title VI of the New York Code of Rules and Regulations and within the meaning of Section 8-0109(2) of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures and legislative decisions in connection with continuing agency administration, management and information collection. The County Administrator is hereby directed to circulate any appropriate SEQRA notice of determination of non-applicability or non-significance in accordance with this law.

SECTION 4. Effective Date. This local law shall become effective upon filing with the Secretary of State.

Approved by 9 members of the Finance Committee and 6 members of the Human Services Committee.

¹The following Legislators requested their names be listed as additional sponsors: "Ms. Vickman and Mr. Padlo".

No action taken on Act No. 306-2015 at this time.

ACT NO. 307-2015 by Ms. Edstrom and Mrs. Stockman

AUTHORIZING PUBLIC HEARING ON LOCAL LAW NUMBER 6-2015

Pursuant to Article 13F of the Public Health Law and
Section 10 of the Municipal Home Rule Law.

WHEREAS, there has been duly presented and introduced at a meeting of this Legislature held on June 10, 2015, a proposed Local Law entitled, "A Local Law Amending Local Law Number 10-2011 (Intro Number 16-2011) entitled 'A Local Law Regulating Electronic Cigarettes ["E-Cigarettes"] and Herbal Cigarettes'", and

WHEREAS, no local law shall be adopted until a public hearing thereon has been had by the Cattaraugus County Legislature upon at least five (5) days' notice, now, therefore, be it

RESOLVED, that a public hearing shall be held on the proposed local law by this County Legislature on the 24th day of June, 2015, at 3:02 p.m. at the Legislature's Chambers, County Center, 303 Court Street, Little Valley, New York, and that at least five (5) days' notice of such hearing shall be given by the Clerk by the due posting thereof upon the bulletin board of each County Court House within the County and by publishing such notice at least once in the official newspapers of the County.

Approved by 9 members of the Finance Committee and 6 members of the Human Services Committee.

Adopted June 10, 2015 by voice vote.

ACT NO. 308-2015 by Mr. Weller and Mr. Koch
*and Mr. Klancer and Mr. Sprague*¹
who ask immediate consideration

**BID ACCEPTANCE FOR REPAVING OF COUNTY ROAD NO. 46 AND
MILLING AND PAVING OF PORTIONS OF
COUNTY ROAD NO. 12 AND COUNTY ROAD NO. 55
(Department of Public Works)**

Pursuant to Section 103 of the General Municipal Law and
Sections 408 and 408-a of the County Law.

WHEREAS, the Clerk of the Legislature was authorized to advertise for sealed bids for the repaving of County Road No. 46 in the Towns of Farmersville and Lyndon, and the milling and paving of portions of County Road No. 12 in the Town of Ashford and portions of County Road No. 55 in the Town of Yorkshire, according to specifications provided by the Public Works Committee, and

WHEREAS, the lowest bid received meeting specifications was the bid of Milherst Construction, Inc., 10025 County Road, Clarence Center, New York 14032, in the total amount not to exceed \$758,890.00 to be paid by the County periodically on a percent-of-completion basis as determined by the Department of Public Works, and

WHEREAS, sufficient funds are included in the 2015 budget to cover the costs of the aforementioned services, now, therefore, be it

RESOLVED, that the bid of Milherst Construction, Inc., be, and the same hereby is, accepted, for a term commencing upon notice to proceed, with substantial completion by August 28, 2015, and a contract termination date of December 31, 2015, and be it further

RESOLVED, that the vouchers accordingly certified by the Commissioner of the Department of Public Works be audited by the Auditor and paid by the County Treasurer.

No State Bid.

Five sets of specifications were sent out.

Three bids were received.

MS. VICKMAN moved, seconded by Mrs. Labuhn to waive Rule 12. Carried.

¹The following Legislators requested their names be listed as additional sponsors: "Mr. Klancer and Mr. Sprague".

Adopted June 10, 2015 by voice vote.

ACT NO. 309-2015 by Mr. Klancer and Mr. Lamberson
*and Mrs. Labuhn and Mr. Sprague*¹
who ask immediate consideration

**AUTHORIZING THE CHAIR TO EXECUTE MEMORANDUM OF UNDERSTANDING
AND AGREEMENT WITH NEW YORK STATE DEPARTMENT OF TRANSPORTATION
AND ERIE COUNTY FOR MAINTENANCE OF SOUTH CASCADE DRIVE/MILLER ROAD BRIDGE
(A/K/A ROUTE 219 BRIDGE) OVER CATTARAUGUS CREEK AND RESCINDING ACT 243-2015**

Pursuant to Section 450 of the County Law.

WHEREAS, the New York State Department of Transportation (NYSDOT) has advanced a project to replace the Route 219 Bridge over Cattaraugus Creek, also known as the South Cascade Drive/Miller Road Bridge, and

WHEREAS, the NYSDOT has prepared a memorandum of understanding (MOU) and an agreement with Cattaraugus and Erie Counties to be executed between the parties hereto which details the agreed upon terms, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a memorandum of understanding and an agreement, on behalf of Cattaraugus County, with the New York State Department of Transportation and Erie County, as provided under the terms of the above-described MOU and agreement, and be it further

RESOLVED, that Act 243-2015 be, and hereby is, rescinded.

MR. MURPHY moved, seconded by Mr. Sprague to waive Rule 12. Carried.

¹The following Legislators requested their names be listed as additional sponsors: “Mrs. Labuhn and Mr. Sprague”.

MR. EDWARDS and MR. KOCH requested a Roll Call Vote on Act No. 309-2015, which disclosed as follows:

Ayes: Boser 1.0267, Edstrom 0.8673, Felton 1.0972, Hale 1.0655, Keller 0.8673, Klancer 1.1005, Labuhn 0.8685, Lamberson 1.0267, Marsh 1.1278, Murphy 1.1005, Padlo 0.8673, Snyder, Sr. 0.8673, Snyder, Jr. 1.0655, Sprague 1.0230, Stockman 1.0003, VanRensselaer 1.1278, Vickman 1.0972, Weller 1.0972 – 18.2936.

Nays: Edwards 0.9684, Koch 0.8685 – 1.8369.

Act No. 309-2015, having received a majority vote of the Legislature, was declared Adopted.

ACT NO. 310-2015 by Mrs. Stockman
and Mr. Klancer, Mr. Murphy and Ms. Vickman¹
who ask immediate consideration

**SALE OF TAX TITLE PROPERTY TO VILLAGE OF SOUTH DAYTON AND
WAIVING RULE 40 OF THE RULES OF ORDER AND
RESCINDING ACT 546-2013
(Village of South Dayton)**

Pursuant to Section 215 of the County Law, Rule 33 of the
Rules of Order of the Cattaraugus County Legislature, and
Section 72-h of the General Municipal Law.

WHEREAS, the building and property located in the Village of South Dayton, known as Tax Map Numbers 33.041-1-5 and 33.041-1-6, formerly owned and operated by Nestle U.S.A. ("the Property") appears on the County's 2012 in rem tax foreclosure list, and

WHEREAS, the aforementioned property is currently owned by Eagle Forest Products, and

WHEREAS, taxes in the approximate amount of \$45,000.00 on the aforementioned Property remain unpaid, and

WHEREAS, the Property is subject to foreclosure by the County Treasurer, and

WHEREAS, the property has been unproductive for approximately twenty (20) years, and is presently used by the current owner only for the storage of hardwood, and

WHEREAS, since it has been determined that there is no practical method of enforcing tax liens on the Property in the future, the Legislature on October 23, 2013 adopted Act No. 455-2013 directing the County Treasurer to issue a certificate of prospective cancellation of tax liens on the Property thereby rendering it exempt from real property taxation, and

WHEREAS, conveyance of the Property to the Village of South Dayton and the waiver of delinquent taxes is in the best interests of the County, and

WHEREAS, such conveyance would enable the County Legislature to restore the Property to the tax roll, now, therefore, be it

RESOLVED, that upon obtaining title to the Property through the in rem tax foreclosure process, or if the Court so orders, the County Treasurer shall be, and hereby is, authorized and directed to execute a deed or deeds conveying the property to the Village of South Dayton, for an amount of \$1.00, on the condition that the Village execute an agreement, the form of which shall be acceptable to the County Attorney, requiring that it complete all required environmental remediation of the property, and be it further

RESOLVED, that Rule 40 of the Rules of Order of the Cattaraugus County Legislature is hereby waived for this sale, and be it further

RESOLVED, that Act 546-2013 be, and hereby is, rescinded.

MR. SNYDER, SR. moved, seconded by Mr. Padlo to waive Rule 12. Carried.

¹The following Legislators requested their names be listed as additional sponsors: "Mr. Klancer, Mr. Murphy and Ms. Vickman".

Adopted June 10, 2015 by voice vote.

ACT NO. 311-2015 by Mr. Boser and Mr. Lamberson
who ask immediate consideration

**SALE OF TAX TITLE PROPERTY TO FORMER OWNERS
(Town of Allegany)**

Pursuant to Section 215 of the County Law and
Rule 40 of the Rules of Order of the
Cattaraugus County Legislature.

WHEREAS, Cattaraugus County has tax title to certain property situate in the Town of Allegany, and

WHEREAS, the former owners of the property have offered to purchase the same at a cost which will cover the County's financial involvement in these premises, and

WHEREAS, the costs involved for these premises have been tendered to the County Treasurer's Office, now, therefore, be it

RESOLVED, that the County Treasurer be, and hereby is, authorized and directed, on behalf of Cattaraugus County, to execute a County Treasurer's Deed conveying this property to the following individuals:

TOWN OF ALLEGANY

PARCEL	TAX MAP NO.	FORMER OWNER(S)	ADDRESS	COUNTY INVOLVEMENT
107	83.004-3-7.4	Timothy Phearsdorf Jean Phearsdorf	2515 N. Nine Mile Rd. Allegany, NY 14706	\$1,140.11

MR. VANRENSSELAER moved, seconded by Mr. Lamberson to waive Rule 12. Carried.

Adopted June 10, 2015 by voice vote.

MR. SPRAGUE moved, seconded by Mr. Lamberson to adjourn until June 24, 2015 at 3:00 p.m. Carried.

Meeting adjourned at 3:51 p.m.

Ann M. Giglio
Journal Clerk