

MEETING NO. 28  
December 7, 2004

ERIE COUNTY LEGISLATURE

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SPECIAL SESSION  
MEETING NO. 28  
December 7, 2004

The Legislature was called to order by CHAIRMAN HOLT.

All Members Present.

A moment of silence was held.

The Pledge of Allegiance was led by MR. DEBENEDETTI.

Item 1 – Minutes of previous meeting were tabled.

MS. MARINELLI moved to recess (12/07/04 @ 2:28 pm). MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

MS. MARINELLI moved to reconvene (12/07/04 @ 10:21 pm). MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

All Members Present.

MS. MARINELLI moved to recess (12/07/04 @ 10:25 pm). MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

MS. MARINELLI moved to reconvene (12/08/04 @ 2:30 pm). MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

All Members Present.

Item 2 – CHAIRMAN HOLT directed that Comm. 24E-1 (2004) remain on the table.

GRANTED.

Item 3 – MS. MARINELLI moved to discharge the FINANCE & MANAGEMENT BUDGET COMMITTEE from further consideration of Comm. 26E-4 (2004). MR. DEBENEDETTI seconded.

CHAIRMAN HOLT directed that a roll call vote be taken.

AYES: CHASE, McCARVILLE, SWANICK, WEINSTEIN, DEBENEDETTI, DUSZA, HOLT, KUWIK, MARINELLI, SCHROEDER, SMITH & WROBLEWSKI. NOES: CUSACK, MARSHALL, RANZENHOFER (AYES 12, NOES 3).

CARRIED.

RESOLUTION NO. 521

Re: Letter to Legislature Re:  
Memorializing Resolution for State  
Authorization for EC's Imposition of an  
Additional 1% Sales Tax & Inclusion in  
2005.

WHEREAS, Federal and State Medicaid policy has shaped Erie County budgets for the past 25 years; and

WHEREAS, in 1984 the sharp increase in State-mandated County payments to fund Medicaid caused Erie County to seek and be granted an additional 1% sales tax in order to help Erie County pay for Medicaid, such that the combined State and County sales tax in Erie County is currently 8.25%; and

WHEREAS, in the late 1990s there was a trend of declining Medicaid costs to Erie County, such that for the years 1997 to 2000 the average change in the local share of Medicaid was a negative 2.43%; and

WHEREAS, in budget years 2000 and 2001 the Erie County Legislature joined with the Erie County Executive in reducing the Erie County real property tax levy by approximately \$70 million in reliance upon the downward trend of Medicaid costs, and;

WHEREAS, the trend since 2001 has been negative for Erie County, such that for the years 2001 through 2005, the average annual growth in the local share cost of Medicaid has been 11%; and

WHEREAS, the increase in the Erie County local share cost of Medicaid since 2000 has been \$81.8 million, and will in 2006 be \$109 million, and will in 2007 be \$134 million; and

WHEREAS, the Erie County Budget Director informed the Erie County Legislature on September 8, 2004 that he sees no change in the factors that contribute to this trend, and further advised the Erie County Executive as well as the Erie County Legislature to continue to expect an average 11% annual growth in the Local Share cost of Medicaid; and

WHEREAS, in 2005 we expect the total Local Share cost of Medicaid to be approximately \$200 million, or approximately \$82 million more than in 1999; and

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WHEREAS, as detailed in his letter of September 8, 2004, the Budget Director is unable to offset the increase in the Local Share of Medicaid with the continued use of prior-year Fund Balance except as mandated by the Two-Year Rule; and

WHEREAS, the projected shortfall of revenues for normal expenditures in Budget Year 2005 is entirely due to the increased cost of the Medicaid Local Share together with the \$50 million in State-mandated Erie County contribution for employee pensions, which together total \$132 million in 2005; and

WHEREAS, these increased costs to Erie County are imposed by the State of New York and not by any decision of either the Erie County Executive of the Erie County Legislature; and

WHEREAS, Erie County government has approximately \$130 million of discretionary or non-mandated spending for the Library system, the Erie County Medical Center & Erie County Home, Sheriff's Road Patrol, Cultural funding, Public Benefit funding, Parks, Convention & Visitors Bureau, Senior Services and miscellaneous local programs that enhance the quality of life; and

WHEREAS, the choice before Erie County government is whether to fund the twin mandates of Medicaid and employee pensions with either substantial increases in real property taxes, drastic reductions in services or drawing on a new revenue source; and

WHEREAS, the real property taxes of most towns and the City of Buffalo have risen over the past four years while the Erie County real property tax has remained constant; and

WHEREAS, in seeking to close this budget gap caused by the Local Share of Medicaid and mandatory pension contributions the Erie County Executive and the Erie County Legislature must be mindful of the economic impact of their actions; and

WHEREAS, the impact of a substantial real property tax increase on a median-priced home in Erie County, which today pays a County real property tax levy of \$4.25 per thousand of assessed value for a median County tax of \$425, which would be raised as high as \$8.50 per thousand of assessed value for a median County tax of \$850 annually, or a \$425 increase in one year; and

WHEREAS, the impact of an additional 1 percent sales tax, thus making the total sales tax in Erie County 9.25 percent on the median-income family in Erie County would be, according to the estimate of Budget Director, approximately \$230 annually; and

WHEREAS, the sales tax, which exempts food and medicine, is a broader-based tax than the tax on real property, and that unlike the tax on real property, the sales tax does not have an immediate negative impact on home values

NOW, THEREFORE BE IT

RESOLVED, that this Legislature hereby memorializes the State of New York that Erie County government recognizes its legal obligation to fund the Local Share of Medicaid and its employee pension contributions; and be it further

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RESOLVED, that this Legislature hereby memorializes the State of New York that Erie County government recognizes its moral obligation to provide public services in a cost-effective manner so that our community's high quality of life can be maintained at a reasonable cost; and be it further

RESOLVED, that this Legislature hereby memorializes the State of New York that Erie County government recognizes its practical obligation to provide public quality-of-life services that keep homeowners and businesses as constituents of this community; and be it further

RESOLVED, that this Legislature hereby memorializes the State of New York that Erie County government requests that the State authorize Erie County to impose an additional 1% sales tax, thus increasing the combined State and County sales tax in Erie County to 9.25%, to be used solely for Erie County so that Erie County may pay for its State-mandated Medicaid Local Share and employee pension contribution; and expecting that enactment, and it is further

RESOLVED, that this Legislature hereby memorializes the State of New York that Erie County government shall include such additional 1% sales tax revenue, of approximately \$130 million, in its 2005 budget; and be it further

RESOLVED, that certified copies of this resolution be transmitted to the Honorable Paul A. Tokasz of the NYS Assembly and the Honorable Dale M. Volker of the NYS Senate, together with the Division of Budget, Management and Finance, the County Attorney and the County Comptroller.

MS. MARINELLI moved to amend the resolution. MR. DEBENEDETTI seconded.

CHAIRMAN HOLT directed that a roll call vote be taken.

Result not acknowledge.

MS. MARINELLI moved to recess (12/08/04 @ 3:25 pm). MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

MS. MARINELLI moved to reconvene (12/08/04 @ 11:30 pm). MR. DEBENEDETTI seconded.

CARRIED UNANIMOUSLY.

All Members Present.

Item 4 – MS. MARINELLI moved to withdraw the amendment to Comm. 26E-4. MR. KUWIK seconded. LEGISLATOR DEBENEDETTI in the negative.

CARRIED (14 – 1).

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MS. MARINELLI moved to amend the resolution. MR. KUWIK seconded.  
 LEGISLATORS CUSACK, MARSHALL, McCARVILLE, RANZENHOFER, WEINSTEIN in the  
 negative.

CARRIED (10 – 5).

- **DELETE** the second (2<sup>nd</sup>) WHEREAS Clause in its entirety and **REPLACE** with the following:

WHEREAS, in 1984, Erie County sought from the State, and was granted an additional 1% sales tax in order to help Erie County pay for Medicaid and other county costs such that the combined State and County sales tax in Erie County was temporarily raised to 8%; and

- **DELETE** the fourth (4<sup>th</sup>) WHEREAS Clause in its entirety and **REPLACE** with the following:

WHEREAS, in budget years 2000 and 2001 the Erie County Legislature and County Executive reduced the Erie County property tax levy by approximately \$70 million dollars; and

- **DELETE** the tenth (10<sup>th</sup>), eleventh (11<sup>th</sup>), fifteenth (15<sup>th</sup>), sixteenth (16<sup>th</sup>), and eighteenth (18<sup>th</sup>) WHEREAS Clauses in their entirety.

- **ADD** the following WHEREAS Clauses:

WHEREAS, on November 5, 2004, the Erie County Executive submitted a \$958.3 million 2005 budget that he has labeled a “red” budget, and which is the only budget before, and actionable by the Legislature; and

WHEREAS, the red budget was duly amended by this Honorable Body on the 3<sup>rd</sup> day of December, 2004; and

WHEREAS, according to many department heads and commissioners who testified at the Legislature’s budget hearings, the red budget propels Erie County into fiscal, legal and operational chaos; and

WHEREAS, the red budget was placed before the public and was the subject of four public hearings recently held by the Legislature across the County to gain the input and views of residents as the Legislature prepares to act on the 2005 budget; and

WHEREAS, approximately 2,000 individuals attended the public hearings and hundreds of others contacted their county legislators through telephone calls, e-mails, letters, and visits, expressing their views concerning the red budget; and

WHEREAS, as expressed in the meetings, in their calls, e-mails, letters, and visits, the consensus of constituents is that the red budget would be devastating for Erie County, bringing many desired services to a complete halt; and

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WHEREAS, it is evident that residents want reform as much as they want to continue enjoying access to services, along with continued advocacy for state and federal mandate reform, including Medicaid relief for local taxpayers; and

WHEREAS, the impact of an additional 1% sales tax, thus making the total sales tax in Erie County 9.25%, results in the realization of additional funds, according to the estimate of Budget Director, which approximates \$109 million in the fiscal year 2005; and

WHEREAS, the 15-member Legislature is comprised of a majority of representatives who believe that any additional sales tax must include a revenue sharing component

- **DELETE** the first (1<sup>st</sup>), second (2<sup>nd</sup>), third (3<sup>rd</sup>), fourth (4<sup>th</sup>), fifth (5<sup>th</sup>), and sixth (6<sup>th</sup>) RESOLVE Clauses in their entirety and **REPLACE** with the following:

RESOLVED, that the Erie County Legislature hereby acknowledges to the State of New York that Erie County recognizes its legal obligation to fund the local share of Medicaid and to fund county employee pension contributions, and be it further

RESOLVED, that this Honorable Body hereby acknowledges to the State of New York that Erie County recognizes its moral obligation to provide public services in a cost-effective manner in order that our community's high quality of life may be maintained at reasonable cost, and be it further

RESOLVED, that this Honorable Body hereby acknowledges to the State of New York that Erie County recognizes its practical obligation to provide public services that allow and encourage homeowners and businesses to remain in this community, and be it further

RESOLVED, that this Honorable Body hereby memorializes the State of New York that Erie County government respectfully requests that the State Legislature authorize an additional 1% sales tax for Erie County, subject to the \$12,500,000 revenue sharing formula (attached hereto and made a part hereof), in order that the County may pay for its mandated Medicaid local share cost, employee pension contributions, health care costs, and closing the budget deficit that will exist for 2005 if such action is not timely undertaken, and be it further

RESOLVED, that the Erie County Legislature hereby memorializes the State of New York that Erie County shall include the determined sales tax revenue in its 2005 budget, and that the additional 1% of sales tax revenue herein requested shall be deemed an appropriation for one year which shall expire at 11:59 PM on the last day of February 2006, and be it further

RESOLVED, that certified copies of this resolution be transmitted to the Governor, local delegation of the New York State Legislature, the County Executive, Budget Director, Comptroller, and County Attorney.

**INSERT CHART FROM BILL**

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MS. MARINELLI moved the approval of the resolution as amended. MR. SWANICK seconded. LEGISLATORS CUSACK, MARSHALL, McCARVILLE, RANZENHOFER, WEINSTEIN in the negative.

CARRIED (10 – 5).

Item 5 – MS. MARINELLI moved to reconsider Comm. 24E-1. MR. KUWIK seconded.

CARRIED UNANIMOUSLY.

MR. SWANICK moved to delete amendment package “A”. MR. KUWIK seconded. LEGISLATORS CUSACK, MARSHALL, McCARVILLE, RANZENHOFER, WEINSTEIN, DEBENEDETTI & MARINELLI in the negative.

CARRIED (8 – 7).

MR. SWANICK moved to delete amendment package “B”. MR. SCHROEDER seconded. LEGISLATORS CUSACK, MARSHALL, RANZENHOFER, WEINSTEIN, DEBENEDETTI & MARINELLI in the negative.

CARRIED (9 – 6).

MR. SWANICK moved to delete amendment package “C”. MR. SCHROEDER seconded. LEGISLATORS CUSACK, MARSHALL, RANZENHOFER, WEINSTEIN, DEBENEDETTI & MARINELLI in the negative.

CARRIED (9 – 6).

MR. SWANICK moved to delete amendment package “D”. MR. DUSZA seconded. LEGISLATORS CUSACK, MARSHALL, RANZENHOFER, WEINSTEIN, DEBENEDETTI & MARINELLI in the negative.

CARRIED (9 – 6).

MR. SWANICK motion for a suspension of the rules to amend the Budget as a package. MR. SMITH seconded.

GRANTED.

MR. SWANICK moved to amend the resolution. MR. SCHROEDER seconded. LEGISLATORS CUSACK, MARSHALL, McCARVILLE, RANZENHOFER, WEINSTEIN, DEBENEDETTI & MARINELLI in the negative.

CARRIED (8 – 7).

INSERT PACKAGE OF 341 pages

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MR. SWANICK moved to further amend the resolution with package "E". MR. DUSZA seconded. LEGISLATORS CUSACK, MARSHALL, RANZENHOFER, WEINSTEIN & MARINELLI in the negative.

CARRIED (10 – 5).

- ADD THE FOLLOWING BEFORE THE LAST BUDGET RESOLUTION:

WHEREAS, Community Based Corrections, LLC (CDC) will provide case monitoring and case management services for certain categories of a low-risk target population of defendants, reporting and related services at an approximate savings to the County of \$16,000,000 over the course of one year based upon the management of an average of 500 cases per day, at an approximate cost to the County of \$3,000,000.

RESOLVED, that the County Executive is hereby authorized, subject to the approval of the County Legislature, to enter into a contract with Community Based Corrections, LLC for the purpose of instituting an alternative to incarceration program to reduce the cost of managing and supervising low-risk defendants and which will better serve the County's economic interests.

RESOLVED, funding for this program will be covered by funds appropriated for the Erie County Probation Department, the Erie County Holding Center and the Erie County Correctional Facility.

MR. SWANICK moved the approval of the resolution as amended. MR. DUSZA seconded.

CHAIRMAN HOLT directed that a roll call vote be taken.

AYES: CHASE, SWANICK, DUSZA, HOLT, KUWIK, SCHROEDER, SMITH & WROBLEWSKI. NOES: CUSACK, MARSHALL, McCARVILLE, RANZENHOFER, WEINSTEIN, DEBENEDETTI & MARINELLI. (AYES 8, NOES 7).

CARRIED.

Item 6 – MS. MARINELLI moved to discharge the FINANCE & MANAGEMENT COMMITTEE from further consideration of Comm. 26E-8 (2004). MR. KUWIK seconded. LEGISLATORS CUSACK & MARSHALL in the negative.

CARRIED (13 – 2).

RESOLUTION NO. 522

Re: Levy & Apportion of the EC Real  
Property Tax – 2005. (Comm. 26E-8)

WHEREAS, the Erie County budget for the year 2005 has been adopted.

NOW, THEREFORE, BE IT



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RESOLVED, that the amounts in said County budget that are required to be raised by taxes by this Legislature, are hereby levied upon and shall be collected from the taxable property situated within the County of Erie and liable therefore, effective January 1, 2005, and be it further

RESOLVED, that the Director of Budget, Management and Finance and/or successor to the Commissioner of Finance is hereby directed to apportion said taxes to be raised for such budget against the taxable property liable therefore, as provided by law, and be it further

RESOLVED, that certified copies of this resolution be transmitted to the County Executive, the Director of Budget, Management and Finance, the County Comptroller, the County Attorney and the Finance Department.

MS. MARINELLI moved the approval of the resolution. MR. KUWIK seconded. LEGISLATORS CUSACK, MARSHALL, McCARVILLE, RANZENHOFER, WEINSTEIN, DEBENEDETTI & MARINELLI in the negative.

CARRIED (8 - 7).

COMMUNICATIONS FROM ELECTED OFFICIALS

FROM CHAIRMAN HOLT

Item 7 - (Comm. 28E-1) Calling Special Meeting.

RECEIVED, FILED & PRINTED.

December 3, 2004

Kevin M. Kelley, Clerk  
Erie County Legislature  
92 Franklin Street, 4<sup>th</sup> Floor  
Buffalo, New York 14202

Dear Mr. Kelley:

Pursuant to Rule 2.02 of the *RULES OF ORDER* of the Erie County Legislature, you are hereby directed to call a Special Meeting of the Erie County Legislature to be held on *TUESDAY, DECEMBER 7, 2004, at TWO O'CLOCK* in the afternoon of that day in the Erie County Legislature Chambers on the 4<sup>th</sup> floor of old County Hall, 92 Franklin Street, in the City of Buffalo New York.

The purpose of this meeting will be to vote on the 2005 Erie County Budget. In addition, we will be acting on Comm. 26E-8, the Levy and Apportion of the Erie County Real Property Tax - 2005 and any other additional budget items or actions as necessary.

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GEORGE A. HOLT, JR.  
Chairman  
Erie County Legislature

**COMMUNICATIONS FROM THE DEPARTMENTS**

**FROM CLERK OF THE LEGISLATURE**

Item 8 – (Comm. 28D-1) Special Meeting Notice.

RECEIVED, FILED & PRINTED.

December 3, 2004

To: All Erie County Legislators  
From: Kevin M. Kelley, Clerk of the Legislature  
Subject: SPECIAL MEETING NOTICE

*PLEASE TAKE NOTICE* that pursuant to Rule 2.02 of the *RULES OF ORDER* of the Erie County Legislature and under the direction of Chairman George A. Holt, Jr., there will be a *SPECIAL MEETING* of the Erie County Legislature on *TUESDAY, DECEMBER 7, 2004, at TWO O'CLOCK* in the afternoon of that day in the Erie County Legislature Chambers on the 4<sup>th</sup> floor of old County Hall, 92 Franklin Street, in the City of Buffalo, New York.

The purpose of this meeting will be to vote on the 2005 Erie County Budget. In addition, we will be acting on Comm. 26E-8, the Levy and Apportion of the Erie County Real Property Tax – 2005 and any other additional budget items or actions as necessary.

Thank you.

ATTACHMENT – 1 (Chairman Holt's Letter)

**ADJOURNMENT**

Item 9 – At this time, there being no further business to transact, the Chairman announced that the Chair would entertain a Motion to Adjourn.

MR. SWANICK moved that the Legislature adjourn until 2 p.m. Thursday, December 16, 2004. MS. MARINELLI seconded.

CARRIED UNANIMOUSLY.

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The Chairman declared the Legislature adjourned until Thursday, December 16, 2004 at 2 p.m. Eastern Standard Time.

**KEVIN M. KELLEY**  
**CLERK**