

AGENDA
NIAGARA COUNTY LEGISLATURE
OCTOBER 16, 2007 – 7:00 P.M.

- ***CS-051-07** Community Services & Administration, re New York State Aid application – Youth Bureau
- ***CS-052-07** Community Services & Administration, re budget modification-Flexible Fund for Family Services – Social Services
- ***CS-053-07** Community Services & Administration, re budget modification-Health Families New York Program – Social Services
- ***CS-054-07** Community Services & Administration, re budget modification-SNAP-CD2081 SNAP- Aging
- ***CS-055-07** Community Services & Administration, re budget modification-food–Title III C-1, C-2, D – Aging
- ***CS-056-07** Community Services & Administration, re budget modification-POE - NY Connects (Point of Entry) – Aging
- ***CSS-048-07** Community Safety/Security & Administration, re renew Traffic Safety Grant – Sheriff
- ***CSS-049-07** Community Safety/Security & Administration, re reclassify Clerical II positions to District Attorney Court Assistant positions – DA
- ***CSS-050-07** Community Safety/Security & Administration, re acceptance of District Attorney’s Recruitment and Retention Program Grant – DA
- ***CSS-051-07** Community Safety/Security & Administration, re budget modification-use of Asset Forfeiture Funds – DA
- IL-065-07** Leg Ross & Economic Development, re local law establishing the Right-To-Farm Law of Niagara County
- IL-066-07** Leg Apolito, re a local law to adopt certain benefits under §458-b of the Real Property Tax Law of the State of New York authorizing an alternative tax exemption for Cold War veterans
- IL-067-07** Leg McNulty, re abolishment of gifts to County Legislators
- IL-068-07** Leg Burmaster, re appointment of Deputy Historians
- IL-069-07** Leg Ross & Sklarski, re Bergholz Fire Company Inc property tax reduction request

James B. Sobczyk, 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 November 7, 2007.

**PREFERRED AGENDA
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CHAIRMAN

MAJORITY LEADER

MINORITY LEADER

NEW YORK STATE AID APPLICATION – NIAGARA COUNTY YOUTH BUREAU

WHEREAS, the County of Niagara and the municipalities within its boundaries have been designated as eligible to receive State Aid for 2008 youth programs through its Youth Bureau from the New York State Office of Children and Family Services in the amount of \$813,218.00, and

WHEREAS, the Comprehensive Planning Law mandates the Niagara County Youth Bureau must apply for such funds, now, therefore, be it

WHEREAS, prior to the execution of the required documents, the County Attorney will review the documents 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 required documents, and be it further

RESOLVED, that the Director of the County Youth Bureau be, and hereby is, authorized to make application for the following program funds:

Youth Service and Recreation	\$252,093.00
Youth Bureau Administration	188,717.00
Youth Initiative	44,338.00
Special Delinquency Prevention Program	149,188.00
Runaway and Homeless Youth	178,882.00
TOTAL	\$813,218.00

COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

**BUDGET MODIFICATION
FLEXIBLE FUND FOR FAMILY SERVICES - SOCIAL SERVICES**

WHEREAS, the Executive Budget did make Federal funds available to local districts to provide a comprehensive array of services to meet the needs of eligible TANF families and individuals, and

WHEREAS, these funds enable Niagara County to direct resources toward a number of areas of program needs, including, but not limited to Employment related activities, Child Welfare Services, PINS Detention Diversion Services, Substance Abuse Assessments, Domestic Violence Screenings, Title XX Services, JD/PINS Fostercare Costs, Child Care & Development, now, therefore, be it

RESOLVED, that Niagara County Department of Social Services will continue to operate the TOP unit, and to contract with various agencies that will provide the necessary services in accordance with the Niagara County Flexible Fund for Family Services Plan submitted to NYS OTDA and NYS OCFS at no additional cost to the County, and be it further

RESOLVED, that the following budget modification be effectuated to the Social Services 2007 budget:

INCREASE REVENUE:

A6010.44610	DSS Admin-Federal	\$ 379,500
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INCREASE APPROPRIATION:

A6010.74032	Contractual Expenses	\$ 379,500
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COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

**BUDGET MODIFICATION
HEALTHY FAMILIES NEW YORK PROGRAM – SOCIAL SERVICES**

WHEREAS, the New York State Office of Children & Family Services, in conjunction with the New York State Department of Health, did make state-wide funds available for the provision and expansion of Healthy Families New York Home Visiting Programs, and

WHEREAS, these resources are directed toward expectant and new parents in an effort to promote positive growth and development to improve health and social outcomes for families at high risk of abuse and neglect, and

WHEREAS, Niagara County has received a grant award of \$786,032, which is 100% State funded, effective 7/1/07, now, therefore, be it

RESOLVED, that Niagara County Department of Social Services will continue to contract with Family & Children’s Services of Niagara, Inc. to provide the necessary services as outlined in the Healthy Families New York Program requirements, and be it further

RESOLVED, that the following budget modification be effectuated to the Social Services 2007 budget:

INCREASE REVENUE:

A6010.43610	DSS Admin-State	\$ 786,032
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INCREASE APPROPRIATION:

A6010.74032	Contractual Expense	\$ 786,032
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COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

**BUDGET MODIFICATION - SNAP
CD2081 – SNAP - OFFICE FOR THE AGING**

WHEREAS, the Niagara County Office For the Aging serves as the officially designated Area Agency on Aging for Niagara County, and

WHEREAS, the office has received updated guidance regarding revenue projections for the Supplemental Nutrition Assistance Program (SNAP) for 2007 which are increases over original projections utilized in initial 2007 budgeting, and

WHEREAS, the office is required to utilize these funds to provide meals for seniors in Niagara County, now therefore be it

RESOLVED, that the following budget modifications be effectuated in the 2007 OFA budget:

INCREASE REVENUE:

CD2081.43779	SNAP	\$46,664
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INCREASE APPROPRIATIONS:

CD2081.74244	Food & Kitchen	\$46,664
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INCREASE REVENUE:

CD2081.43776	USDA Food Cash	\$30,000
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INCREASE APPROPRIATIONS:

CD2081.74869	USDA Food	\$30,000
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INCREASE REVENUE:

CD2081.41280	Reimbursement	\$30,000
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INCREASE APPROPRIATIONS:

CD2081.74244	Food & Kitchen	\$15,000
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CD2081.72093	Food Service Equip	\$15,000
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COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

**BUDGET MODIFICATION - FOOD
TITLE III C-1, C-2, D - OFFICE FOR THE AGING**

WHEREAS, the Niagara County Office for the Aging serves as the officially designated Area Agency on Aging for Niagara County, and

WHEREAS, the office has received updated guidance regarding revenue projections for the Title III D program for 2007 which is an increases over the original projection utilized in initial 2007 budgeting, and

WHEREAS, there remain currently unappropriated revenues under the heading of USDA Food in both the Title III C-1 and C-2 programs, and

WHEREAS, the office is required to utilize these funds to provide meals and services for seniors in Niagara County, now, therefore, be it

RESOLVED, that the following budget modifications be effectuated in the 2007 OFA budget:

INCREASE REVENUE:

A7625.43775	Nutrition Prog (III-D)	\$9,704
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INCREASE APPROPRIATIONS:

A7625.74032	Contractual	\$9,704
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INCREASE REVENUE:

A7626.42210	Reimb, Other Govt's	\$15,000
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INCREASE APPROPRIATIONS:

A7626.74244	Food & Kitchen	\$15,000
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**BUDGET MODIFICATION - POE
OFFICE FOR THE AGING – NY CONNECTS (POINT OF ENTRY)**

WHEREAS, the Office For the Aging has been designated by Niagara County as the lead agency in NY Connects: Niagara, which is the new Long Term Care Point of Entry initiative and was formerly named and referred to as “POE,” and

WHEREAS, there exist additional NYS grant funds (no local match required) over and above those initially accepted to operate the first year of the NY Connects program, and

WHEREAS, the NY Connects, Niagara program became operational effective July 1, 2007 (1/2 budget year), while position and health insurance lines had been budgeted for 2/3 of the 2007 budget year, thus creating surpluses in these lines that must be expended on behalf of NY Connects: Niagara activities, now, therefore be it

RESOLVED, that the following budget modification be effectuated in the 2007 OFA budget:

INCREASE REVENUES:

CD2085.43771	POE	\$5,000
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INCREASE APPROPRIATIONS:

CD2085.74032	Contractual	\$5,000
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DECREASE APPROPRIATIONS:

CD2085.7 1010	Positions	\$6,000
CD2085.78400	Hos/Med Ins	1,500

INCREASE APPROPRIATIONS:

CD2085.74032	Contractual	\$7,500
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COMMUNITY SERVICES COMMITTEE

ADMINISTRATION COMMITTEE

RENEW TRAFFIC SAFETY GRANT

WHEREAS, the Niagara County Office of traffic Safety has been notified that the State of New York Governor's Traffic Safety Commission has renewed the grant for the period of October 1, 2007 through September 30, 2008 in the amount of \$56,632, and

WHEREAS, the funds are used to educate the public in the proper use of seatbelt restraints, bicycle safety, pedestrian safety and school bus safety, now therefore, be it

RESOLVED, that the position of full-time Traffic Safety Education, Group 8A, Level 3, at an hourly rate of \$20.57 per hour (30 hours per week), be continued, co-terminus with the grant, and be it further

RESOLVED that the following budget modifications be made to appropriate the funds in the 2007 budget:

INCREASE REVENUE:

CD2035.43313	Ped/Vehicle Initiative	\$1,700
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INCREASE APPROPRIATION:

CD2035.74167	Training/Education	\$1,000
CD2035.74722	Safety Supplies	500
CD2035.74062	Mileage	200

COMMUNITY SAFETY & SECURITY
COMMITTEE

ADMINISTRATION COMMITTEE

**RECLASSIFY CLERICAL II POSITIONS TO
DISTRICT ATTORNEY COURT ASSISTANT POSITIONS**

WHEREAS, there currently exists within the District Attorney's personnel budget two Clerical II positions, # 00045 and #04271, Job Group IV, with a salary range of \$14.08 to \$15.84/hr., and

WHEREAS, the title of Clerical II does not accurately reflect the actual duties performed by these positions, and

WHEREAS, the job duties performed by both Clerical II positions are consistent with, and more accurately reflected in, the title of District Attorney Court Assistant, and

WHEREAS, reclassifying the Clerical II positions within the District Attorney's personnel budget would create consistency among the support staff positions, and

WHEREAS, the Clerical II position #04271 will become vacant October 1, 2007 due to a transfer within the District Attorney's Office, and

WHEREAS, funds are available within the District Attorney's personnel budget to fund the additional expense incurred by this change for the remainder of the 2007 fiscal year, now, therefore, be it

RESOLVED, that effective November 5, 2007, the Niagara County District Attorney's Office be authorized to reclassify the existing vacant full time Clerical II position, #004271, to a full time District Attorney Court Assistant position, Job Group V, salary range \$14.66 - \$16.53/hr, and be it further

RESOLVED, that the vacant Clerical II position, #0045, created by the provisional appointment be reclassified only after the permanent appointment of the current incumbent to the newly created District Attorney Court Assistant position, and be it further

RESOLVED, that this provisional appointment be effective November 5, 2007, pending the results of the Civil Service exam administered September 29, 2007, and be it further

RESOLVED, that the District Attorney's Office will make any necessary line item transfers between personnel budget positions as needed.

COMMITTEE

**ACCEPTANCE OF DISTRICT ATTORNEY'S RECRUITMENT
AND RETENTION PROGRAM GRANT**

WHEREAS, the Niagara County District Attorney's Office applied for and was awarded funding from the New York State Division of Criminal Justice Services for the District Attorney's Recruitment and Retention Program to supplement the cost of the salary of a part time Assistant District Attorney position, and

WHEREAS, funding has been awarded in the amount of \$29,953 for the period January 1, 2008 through December 31, 2008, and

WHEREAS, position #10526, Assistant District Attorney Part Time, with a salary range at the Attorney III level, was created effective April 9, 2007 with funds received from the Division of Criminal Justice Services as part of the District Attorney Recruitment and Retention Program, and

WHEREAS, this position was created co-terminus with grant funding, and

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

RESOLVED, that the County of Niagara does hereby accept this grant award, and be it further

RESOLVED, following the County Attorney's review, the Chairman of the Niagara County Legislature be, and hereby is, authorized to sign the grant award documents, and be it further

RESOLVED, that the part time Assistant District Attorney position, #10526, continue to be co-terminus with the grant funded program, and be it further

RESOLVED, that the District Attorney's Office will budget for all expenses and revenues associated with this program in its 2008 budget request.

COMMUNITY SAFETY & SECURITY
COMMITTEE

ADMINISTRATION COMMITTEE

**BUDGET MODIFICATION - USE OF ASSETS FORFEITURE FUNDS
DISTRICT ATTORNEY**

WHEREAS, the Niagara County District Attorney's Office currently has a balance of approximately \$14,460 in the Local Asset Forfeiture Trust Account, and

WHEREAS, the use of locally forfeited funds is restricted by the New York State Division of Criminal Justice Services to the enhancement of the prosecution of related crimes and can be used to supplement but not supplant current resources, and

WHEREAS, the Niagara County District Attorney will allocate \$3,977 for advertising costs involved in the process of seizing funds obtained during the prosecution of criminal activity, and

WHEREAS, this is an allowable use under the Guidelines, now, therefore, be it

RESOLVED, that the Niagara County Treasurer's Office is hereby authorized to disburse \$3,977 from the Local Assets Forfeiture Trust Account 200036 into the District Attorney's Budget, and be it further

RESOLVED, that the following budget modifications are effectuated:

INCREASE REVENUE:

A1165.42625	Assets Forfeiture – Local	\$3,977
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INCREASE APPROPRIATIONS:

A1165.74001	Advertising	\$3,977
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COMMUNITY SAFETY AND SECURITY
COMMITTEE

ADMINISTRATION COMMITTEE

**APPROVAL OF LEASE OF STORAGE SPACE FOR THE NIAGARA COUNTY
SHERIFF'S DEPARTMENT FROM CROWN ENTERPRISES, INC., LANDLORD**

WHEREAS, the Niagara County Sheriff's Department requires additional space for off-site storage, and

WHEREAS, the Niagara County Sheriff's Department has investigated various, potential leasing sites in the Lockport area, all having a square footage of approximately 7,000 square feet, and

WHEREAS, the time period required for this lease is a minimum of five (5) years with an option for an additional five (5) years, and

WHEREAS, based on the investigation and review conducted by the Niagara County Sheriff's Department, the maximum base rent for the required storage space is no more than \$30,000 per year plus standard leasehold charges including, but not limited to, utilities, insurance coverages and real estate taxes, and

WHEREAS, said department has received, and forwarded to the Niagara County Attorney's Office, a proposed lease for one of the sites in which the Niagara County Sheriff's Department has an interest, and

WHEREAS, the storage space covered by the aforementioned lease will require certain structural modifications, the budget for which is subject to the review and approval of this Legislature, and

WHEREAS, the Niagara County Sheriff's Department expects to enter into possession of the lease space no later than November 1, 2007, and

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

RESOLVED, that a lease of space comprising of approximately 7,000 square feet for a base rental amount of \$30,000 per year for a period of five (5) years, with an option retained by the County of Niagara for an additional five (5) year term at the same rental rate, plus standard charges for utilities, insurance and real estate taxes, is hereby approved in all respects, and be it further

RESOLVED, that following the County Attorney's review, the Chairman of the County Legislature be, and hereby is, authorized to execute the lease agreement with Crown Enterprises, Inc.

COMMUNITY SAFETY & SECURITY
COMMITTEE

ADMINISTRATION COMMITTEE

APPROVED FOR SUBMISSION:

CHAIRMAN

MINORITY LEADER

MAJORITY LEADER

A LOCAL LAW ESTABLISHING THE RIGHT-TO-FARM LAW OF NIAGARA COUNTY

WHEREAS, it is hereby found and declared by the Legislature of the County of Niagara that agricultural lands are irreplaceable assets and that farming is an essential activity, and

WHEREAS, farming reinforces the special quality of life enjoyed by citizens, provides the visual benefits of open space and generates economic benefits and social well being within the community, and

WHEREAS, Niagara County encourages sound agricultural practices and promotes understanding and acceptance of the necessary day-to-day activities connected with agriculture, and

WHEREAS, Niagara County wants to maintain and preserve the rural traditions and character of the County, to permit the continuation of agricultural practices, expansion of farms, and agricultural businesses, and

WHEREAS, Niagara County can attain the aforementioned goals and objectives by providing that such practices and activities may proceed and be undertaken free of unreasonable and unwarranted interference or restrictions by a Niagara County Right-to-Farm Law, and

WHEREAS, Legislator William L. Ross and the Economic Development Committee present in writing the following proposed Local Law:

A Local Law establishing the Right-to-Farm Law of Niagara County;

Be it enacted by the County Legislature of the County of Niagara, as follows:

Section 1. Title

This Local Law shall be known as the “Right-to-Farm Law of Niagara County.”

Section 2. Declaration of Policy and Purpose

It is hereby found and declared by the Legislature of the County of Niagara that agricultural lands are irreplaceable assets and that farming is an essential activity. Farming, as defined in this Right-to-Farm Law and by New York State Department of Agriculture and Markets, reinforces the special quality of life enjoyed by citizens, provides the visual benefits of open space and generates economic benefits and social well being within the community. Therefore, Niagara County encourages sound agricultural practices and adopts this Law with the goal of promoting understanding and acceptance of the necessary day-to-day activities connected with agriculture.

It is the general purpose and intent of this Local Law to maintain and preserve rural tradition and character of Niagara County, to permit this continuation of agricultural practices and the business of farming

and initiation, and expansion of farms, and agricultural businesses. In recognition of the fact that there are many practices and activities which are inherent to and necessary for the business of farming, it is the specific purpose and intent of this Local Law to attain the aforementioned goals and objectives by providing that such practices and activities may proceed and be undertaken free of unreasonable and unwarranted interference or restrictions.

The Legislature, in an effort to promote and foster a harmonious relationship between the residents of Niagara County, and to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, hereby also declares that it shall be the policy of Niagara County to provide reasonable notice to prospective landowners that farming activities may occur on neighboring lands.

Section 3. Definitions

Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them meaning they have in common usage and to give this Local Law its most reasonable and effective application.

As used in this Local Law, the following terms shall have the meaning indicated:

Agricultural and Farmland Protection Board – Shall mean a board formally appointed by the County Legislature pursuant to Article 25AA, Section 302 of New York State Agriculture and Markets Law.

Agricultural Land – Shall mean any single or multiple, contiguous or non-contiguous tax parcel or parcels that, together, represent all that real property within the boundaries of Niagara County currently used for agricultural farm operations or upon which agricultural farm operations or upon which agricultural practices are being utilized or upon which agricultural farm operations or agricultural practices may in the future be established or utilized.

Agricultural Farm Operations – Shall mean any person, organization, entity, association, partnership, limited liability corporation or corporation engaged in the business of agriculture or farming or agricultural practices whether for profit or otherwise.

Agricultural Practices – Shall mean any activity connected with the raising of crops, livestock or livestock products as defined in Agriculture and Markets Law Section 301, subdivision 2, including but not limited to the following:

- a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk, eggs and furs.
- f. Maple sap.
- g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

- h. Aquaculture products, including fish, fish products, water plants and shellfish.
- i. Woody biomass, which means short rotation woody crops raised for bio-energy.

Should there be a conflict between the definitions employed by New York State and those contained herein, such conflict shall be resolved in favor of the agricultural producer so as to include the enterprise as an agricultural practice.

Further agricultural practices shall include any activity now permitted by law, engaged in by or on behalf of a farmer in connection with and furtherance of the business of agriculture or farming and shall include without limitation, the collection, transportation, distribution, composting and storage of animal and poultry waste; storage, transportation and use of equipment for tillage, planting, harvesting and marketing; transportation, storage and use of legally permitted fertilizers and limes and insecticides, herbicides and fungicides, all in accordance with local, state and federal law and in accordance with the manufacturer's instructions and warnings; construction of farm structures and facilities, including farm wineries and other on-farm food processing, as permitted by local and State building code regulation; construction and maintenance of fences and other enclosures; and the use and/or maintenance of fences and other enclosures; and the use and/or maintenance of related pastures, idle or fallow land, woodland, wetland, farm ponds, farm roads and certain farm buildings and other structures related to the agricultural practices.

The following examples are intended to be illustrative of common agricultural practices covered within this definition, but are not inclusive:

1. Providing for the processing, wholesale and retail marketing, including U-pick marketing, and sales of the agricultural output of the farm and related products that contribute to farm income, including the sale at the owner's farm stand/market of agricultural products so long as fifty percent (50%) of the gross sales of the farm stand/market have been from products grown on said farm.
2. Replenishing soil nutrients, including but not limited to the spreading of manure, compost, and applying approved chemical and organic fertilizers
3. Using state and federally approved products and methods, in accordance with label instructions, as recommended by Cornell University and the New York Agricultural Experiment Station as controlled by state and federal regulatory for the control of disease, weed, insect and arachnid pests, as well as nuisance wildlife affecting plants and livestock.
4. Transporting large, slow-moving equipment over roads within the County, in accordance with local, state and federal law and regulations.
5. Clearing of woods using accepted techniques, installing and maintaining vegetative and terrain alterations, and other physical facilities for water and soil conservation and surface water control.

The foregoing uses, activities and rights, when reasonable and necessary for agricultural or horticultural production and when conducted in accordance with generally accepted agricultural practices, may occur on holidays, Sundays and weekends, by day or night.

Farmer – Shall mean any person, organization, entity, association, partnership or corporation engaged in the agricultural farm operation or agricultural practices as defined herein.

Farming – Shall mean the act of engaging in an agricultural farm operation and/or agricultural practices as defined herein.

Town Agricultural Advisory Committee – Shall mean a committee, formally appointed by the town board of any town in Niagara County, for the purpose of resolving right-to-farm disputes as provided hereunder. Such a committee shall be appointed on either an annual or *ad hoc* basis (or an existing committee can be designated to serve in that capacity) with such numbers of members as the town board shall determine, providing there are no less than three with at least one representative each from the farm and non-farm communities. All members, however, shall be knowledgeable regarding agricultural practices common to the town. The decision to form such a committee shall be at the sole discretion of the town board. The “town agricultural advisory committee” may be variously named including such names as “grievance” or “resolution” committee.

Section 4. Right-to-Farm

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices on any agricultural farm operation within Niagara County at all such times and all such locations as are reasonably necessary to carry on an agricultural farm operation or agricultural practice. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, due weight and consideration shall be given both to traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

Agricultural practices conducted on farmland shall not violate the public policy of Niagara County if such agricultural practices are: (i) reasonable and necessary to the particular farm or farm operation; (ii) conducted in a manner which is not negligent or reckless; (iii) conducted in conformity with generally accepted agricultural practices; (iv) conducted in conformity with all local, state and federal laws, ordinances and regulations; (v) conducted in a manner which does not constitute a threat to public health and safety or cause injury to health and safety of any person; and (vi) conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to negligence or recklessness.

Section 5. Nuisance

No agricultural practice or associated activity, conducted or maintained on a sound basis, in a manner consistent with best management practices, such as those recommended by state and federal agencies in conjunction with educational programs for farmers, or other agricultural practice, herein and hereafter referred to as the accepted custom and standard in the agricultural industry, shall be considered a public or private nuisance so long as the activity is conducted in a reasonable and prudent manner.

Section 6. Interference Prohibited

No person, group, entity, association, partnership, or corporation shall engage in any conduct or act in any manner so as to unreasonably, intentionally, knowingly, and/or deliberately interfere with, prevent, or in any way deter the practice of farming within Niagara County.

Section 7. Penalties

An action to restrain or enjoin any violation of this Local Law may be brought in a court of competent jurisdiction by any aggrieved entity and/or Niagara County. Recovery of reasonable attorneys fees, costs and expenses against the violating party is specifically allowed under this law.

Section 8. Local Government Advice and Dispute Resolution

In offering local government advice and dispute resolution, the Niagara County Agricultural and Farmland Protection Board is available to provide support for or work with local agricultural advisory committees in such way, as the local committee shall deem appropriate. In the event a municipality does not have an agricultural advisory committee, that municipality may call on the Niagara County Agricultural and Farmland Protection Board for agriculturally related advice and/or assistance in the resolution of disputes. In this capacity, the Niagara County Agricultural and Farmland Protection Board may seek outside expertise as necessary to address the issues or concerns presented.

Section 8-a. Resolution of Disputes

Should any controversy arise regarding any inconveniences or discomfort occasioned by any agricultural operations or agricultural practices, as defined in Section 3 of this Local Law, the parties may submit the controversy to the town's agricultural advisory committee or, in the absence of a local committee, the Niagara County Agricultural and Farmland Protection Board, as set forth below in an attempt to resolve the matter prior to the filing of any court action or submission to the New York State Department of Agriculture and Markets pursuant to Section 308 of the Agriculture and Markets Law.

Any controversy between the parties may be submitted to the town agricultural advisory committee, or in the absence of a local committee, the Niagara County Agricultural and Farmland Protection Board, whose decision shall be advisory only, within sixty (60) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party writes to formally request a review.

The effectiveness of the town agricultural advisory committee and the Niagara County Agricultural and Farmland Protection Board as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

The controversy shall be presented to the town agricultural advisory committee or, in the absence of a local committee, the Niagara County Agricultural and Farmland Protection Board, by written consent of one of the parties within the time specified herein. Thereafter, the committee or Board may investigate the facts of the controversy, but must, within thirty (30) days, hold a public meeting pursuant to public notice to consider the merits of the matter and within twenty (20) days of the meeting, render a written opinion to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers pertinent facts.

The decision of the town agricultural advisory committee or the Niagara County Agricultural and Farmland Protection Board shall not be binding.

Section 8-b. Local Government Advisory Support

Upon reviewing referrals, the Niagara County Planning Board will take into consideration the Niagara County Right-to-Farm Law as applicable. Comments from the Niagara County Agricultural and Farmland Protection Board could be used by local governments to prevent ordinances from conflicting with normal farming practices as prescribed by Agriculture and Markets Law Article 25AA, Section 305-a.

Section 9. Notice to Prospective Neighbors/Notice of Farm Use

Agricultural Data Statement: Niagara County will encourage and support local adoption of the agricultural data statement requirements as prescribed in NYS Agriculture and Markets Law, Section 305-a, Subdivisions 2-4.

Agricultural Disclosure New Residential Development: For the purpose of giving due notice of nearby farming uses to proposed new residential areas adjacent to open land being farmed or suitable therefore, Niagara County will require that local planning boards mandate that any applicant for an adjacent major or minor subdivision, as a condition of approval of such application, include a provision in each and every deed conveying all or any portion of the lands thereby subdivided, as well as on filed final subdivision maps, the following record notice to and waiver by grantees of such present or future proximate farming uses, which provision shall be made to run with the land:

“The grantee hereby acknowledges notice that agricultural operations exist throughout the town and that there are presently or may in the future be farm uses adjacent or in proximity to the within described premises. The grantee acknowledges that farmers have the right to undertake farm practices which may generate dust, odor, fumes, noise, and vibrations associated with agricultural practices, and that these practices are permitted under the town or in the absence of a local right-to-farm law. Niagara County’s Right-to-Farm Law, and, by acceptance of this conveyance, the grantee does hereby waive objection to such activities. Furthermore, changes in economic conditions may cause agricultural operations to shift enterprises and produce different products than in the past.”

The risk of any impact of these agricultural uses on the purchase of property is specifically to be borne by the purchaser of that property.

Agricultural Disclosure at Time of Property Transfer: Niagara County will implement and encourage local implementation of the agriculture disclosure requirement as prescribed in New York State Agriculture and Markets Law Article 25AA, Section 310.

Section 10. Conflict Clause

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations. Insofar as the provisions of this Local Law are inconsistent with the provisions of any other local law, rule or ordinance, the provisions of this Local Law shall supersede those found inconsistent and prevail.

Section 11. Severability

If any part of this Local Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law.

Section 12. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

RESOLVED, that the Niagara County Legislature shall conduct a public hearing upon said proposed Local Law at the Legislative Chambers, Niagara County Courthouse, Lockport, New York, on the 7th day of November, 2007 at 6:30 p.m., and be it further

RESOLVED, that the Clerk of the Niagara County Legislature, at least six days in advance of such hearing, shall post a notice upon the bulletin boards in the Courthouse at Lockport, the Civic Building at Niagara Falls, and the County Building at North Tonawanda and shall publish such notice in the Lockport Union Sun & Journal, the Niagara Gazette, and the Tonawanda News; such notice shall contain the title of the Local Law and an abstract of the text to be prepared by the Clerk of the Legislature, with the assistance of the County Attorney's Office.

LEGISLATOR WILLIAM L. ROSS

ECONOMIC DEVELOPMENT COMMITTEE

**A LOCAL LAW TO ADOPT CERTAIN BENEFITS UNDER § 458-b OF THE
REAL PROPERTY TAX LAW OF THE STATE OF NEW YORK AUTHORIZING
AN ALTERNATIVE TAX EXEMPTION FOR COLD WAR VETERANS**

WHEREAS, military personnel that served their country during the Cold War but not during actual, declared war, are not entitled to a veterans exemption from Real Property Taxation Law under § 458 and § 458-a thereof, and

WHEREAS, veterans, regardless if they were not serving during war time, should be entitled to receive property tax exemption from Niagara County under the recent passage of Chapter 655 of the Laws of 2007 (Senate Bill S-4697 from Senator Leibell), and

WHEREAS, Legislator Harry J. Apolito presents in writing the following proposed Local Law:

A Local Law to adopt certain benefits under § 458-b of the Real Property Tax Law of the State of New York authorizing an alternative tax exemption for Cold War Veterans,

Be it enacted by the County Legislature of the County of Niagara as follows:

Section 1. Pursuant to subsection 2(a) of § 458-b of the Real Property Tax Law of the State of New York, the County of Niagara hereby adopts the qualifying residential real property exemption under subdivision 2(a)(ii) of § 458-b of the Real Property Tax Law of the State of New York, that is, an exemption in the amount of fifteen percent of the assessed value of such property, provided however, that such exemption shall not exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate of such property's assessing unit or, in the case of a special assessing unit, the latest class ratio, whichever is less, such exemption to be subject to the definitions, limitations and requirements of § 458-b.

Section 2. This Local Law shall take immediately upon its filing with the Secretary of State and shall be applicable to all assessment rolls prepared pursuant to the first taxable status date occurring on or after the effective date of this local law.

RESOLVED, that the Niagara County Legislature shall conduct a public hearing upon said proposed Local Law at the Legislative Chambers, Niagara County Courthouse, Lockport, New York, on the 7th day of November, 2007 at 6:50 p.m., and be it further

RESOLVED, that the Clerk of the Niagara County Legislature, at least six days in advance of such hearing, shall post a notice upon the bulletin boards in the Courthouse at Lockport, the Civic Building at Niagara Falls, and the County Building at North Tonawanda and shall publish such notice in the Lockport Union Sun & Journal, the Niagara Gazette, and the Tonawanda News; such notice shall contain the title of the Local Law and an abstract of the text to be prepared by the Clerk of the Legislature, with the assistance of the County Attorney's Office.

LEGISLATOR HARRY J. APOLITO

ABOLISHMENT OF GIFTS TO COUNTY LEGISLATORS

WHEREAS, it is of the highest importance that the people of Niagara County have complete confidence in the integrity of their public servants, and

WHEREAS, ethical behavior by government employees is a necessity for fostering and maintaining public trust in government, and

WHEREAS, in Erie County, District Attorney Frank Clark has been conducting an investigation of possible Buffalo City Hall wrongdoing, and

WHEREAS, on June 28, a high ranking city official pled guilty to three misdemeanor charges of receiving unlawful gratuities for taking eight contractor-financed trips, and

WHEREAS, accepting gratuities from businesses seeking public contracts violates the public trust, and

WHEREAS, the Niagara County Code of Ethics allows for gifts to legislators in an amount not to exceed \$75.00, and

WHEREAS, although this is a minimal amount, a gift of any amount promulgates the perception of possible favoritism, now, therefore, be it

RESOLVED, that the Niagara County Legislature does hereby ban any and all gifts of any amount to members of the County Legislature.

LEGISLATOR ANDREA MCNULTY

APPOINTMENT OF DEPUTY HISTORIANS

WHEREAS, Niagara County is one of the most historic areas in the entire United States, and

WHEREAS, it is important that our local history is preserved to the fullest for future generations, and

WHEREAS, recording and preserving of the history is labor intensive requiring a true labor of love and dedication, and

WHEREAS, it is widely accepted that these positions and qualifications can be best filled only by residents of this area with personal ability, dedication and desire, and

WHEREAS, filling of these positions does not require Civil Service testing, now, therefore, be it

RESOLVED, that the Niagara County Historian's Office be staffed by two part-time Deputy Historians under the guidance of the County Historian, and be it further

RESOLVED, that the County Clerk be given the responsibility to hire these two positions and no Civil Service testing will be required, and be it further

RESOLVED, that this policy take effect immediately.

LEGISLATOR CLYDE L. BURMASTER

BERGHOLZ FIRE COMPANY, INC. PROPERTY TAX REDUCTION REQUEST

WHEREAS, the first Volunteer Fire Company of Bergholz, Inc. purchased a piece of property at 2474 Niagara Road ref. SBL#:147.14-2-28, and

WHEREAS, the Bergholz Fire Company is tax exempt as a not-for-profit community service organization, and

WHEREAS, there was some inadvertent miscommunication at the time of the closing as to what was required to place the property on tax exempt status, and

WHEREAS, the Bergholz Fire Company has now taken the necessary steps for tax exempt status through the Town of Wheatfield Assessor's Office, and

WHEREAS, the New York State Legislature passed bills authorizing the Town of Wheatfield assessor to accept an application for real property tax exemption from the First Volunteer Fire Company of Bergholz on real property and school taxes beginning with the 2005-2006 school tax roll on property acquired on November 17, 2005 (Senate Bill S21 and Assembly Bill A7897) effective August 15, 2007, now, therefore, be it

RESOLVED, that the Niagara County Legislature forgive the amount of real property and school tax on the property acquired on November 17, 2005 based on the passed New York State legislative bills.

LEGISLATOR WILLIAM L. ROSS

LEGISLATOR DANNY W. SKLARSKI