

**ALLEGANY COUNTY BOARD OF LEGISLATORS  
REGULAR SESSION**

**FEBRUARY 23, 2015  
\*\*APPROVED \*\***

**CALL TO ORDER:** The regular meeting of the Board of Legislators was called to order at 2:01 p.m. by Chairman Curtis W. Crandall.

**PLEDGE OF ALLEGIANCE TO THE FLAG:** The Pledge of Allegiance was led by former United States Marine Corps Sergeant Paul J. Gabriel, Jr.

**INVOCATION:** The Invocation was given by Legislator Pullen.

**ROLL CALL:** 12 Legislators Present: Scott Burt, Curtis Crandall, Philip Curran, David Decker, Karl Graves, Dwight "Mike" Healy, Charles Jessup, Kevin LaForge, Aaron McGraw, Timothy O'Grady, David Pullen, Debra Root Absent: Dwight Fanton, Theodore Hopkins, Norman Ungermann, Jr.

**APPROVAL OF MINUTES:**

The Committee of the Whole minutes of January 12, 2015, were amended following a motion made by Legislator Root, seconded by Legislator Graves, and carried to correct an error. Legislator Root's name had been inadvertently excluded from the list of those in attendance at that meeting. The minutes were then approved on a motion made by Legislator Graves, seconded by Legislator Root, and carried.

The Committee of the Whole minutes of January 26, 2015, were amended following a motion made by Legislator Root, seconded by Legislator Graves, and carried to correct an error. Legislator Root's name had been inadvertently excluded from the list of people in attendance at that meeting. The minutes were then approved on a motion made by Legislator Decker, seconded by Legislator Curran, and carried.

The Board meeting minutes of February 9, 2015, were approved on a motion made by Legislator Graves, seconded by Legislator Root, and carried.

**PRIVILEGE OF THE FLOOR:**

Chairman Crandall acknowledged a group of government interns who were in attendance. The students will be introduced at a future meeting.

Chairman Crandall presented a certificate to Paul J. Gabriel, Jr., former United States Marine Corps Sergeant, in grateful appreciation of his service to our country. Mr. Gabriel's service dates were from September 7, 1978, to September 8, 1982. Following Basic Training at Parris Island, assignments included: Cherry Point, NC, Turkey, Spain, St. Thomas, Virgin Islands, and Operation Display Determination on a ship off the coast of Cuba.

Commendations he received included: Navy Achievement Medal, Good Conduct Medal and Sharpshooter Badge for M-16 Rifle. Mr. Gabriel led the Pledge of Allegiance to the Flag at the beginning of the meeting as part of the Veterans' Honorary Pledge of Allegiance Program.

**ACKNOWLEDGMENTS, COMMUNICATIONS, REPORTS, ETC.:**

1. Allegany County 2015 Directory
2. March 2015 Calendar
3. 2014 Annual Reports from the County Attorney, County Clerk, Probation, Public Works, and Cooperative Extension.
4. The County Treasurer filed Certificates of Withdrawal of Delinquent Tax Liens in the Clerk of the Board's Office for properties in the towns of Belfast, Clarksville, and Wirt on February 10, and for properties in the Town of Independence and Wirt on February 13, 2015.
5. The County Treasurer filed Certificates of Reinstatement for properties located in Belfast and Bolivar in the Clerk of the Board's Office on February 2, 2015.
6. The Allegany County Grange forwarded a resolution urging the Board to pass legislation banning importation of hydrofracking fluid and requiring plants to clean up contamination at their facilities caused by radioactive waste. In addition, they forwarded the DEC's draft permits proposed for the Hyland Landfill.

**RESOLUTIONS:**

**RESOLUTION NO. 46-15**

**RESOLUTION CALLING ON THE STATE OF NEW YORK TO DEVELOP A 100 PERCENT STATE-FUNDED INDIGENT LEGAL DEFENSE SYSTEM AS A WAY TO PROVIDE MANDATE RELIEF AND LOWER PROPERTY TAXES**

Offered by: Public Safety Committee

**WHEREAS**, the United States Supreme Court held in *Gideon v. Wainwright* that the right to counsel for one charged with a crime is fundamental and that it is the state's responsibility to supply lawyers for those unable to afford them; and

**WHEREAS**, in 1965 the State of New York delegated this state responsibility to the counties; and

**WHEREAS**, the decision to entrench responsibility at the county level in the State of New York has resulted in a system by which the county and local property taxpayers are burdened with the vast majority of the cost of this state responsibility; and

**WHEREAS**, the shift of costs for this state mandated service has become so imbalanced that the counties of New York now cover more than 80 percent of the cost burden; and

**WHEREAS**, due to a well-recognized correlation between socio-economic factors and criminal behavior, this burden tends to fall hardest on poorer counties; and

**WHEREAS**, implementation of the constitutional right to counsel under Gideon is a state, not county, obligation; and

**WHEREAS**, in 2006 the Kaye Commission on the Future of Indigent Defense Services declared that the New York State System of County-Delivered Indigent Services is in crisis and urged the expeditious establishment of an independent Public Defense Commission; and

**WHEREAS**, the State of New York and multiple counties are now defendants, and recently entered into a settlement, in the matter of Hurrell-Harring, et al. v. State of New York, a systemic lawsuit similar to many that have been successful across the country seeking to transform the indigent legal defense system; and

**WHEREAS**, the settlement will have a profound fiscal impact on the state and each and every county therein; and

**WHEREAS**, the state can both comply with its obligations under the settlement and significantly improve the public defense system by establishing a 100 percent state funded indigent legal defense program; and

**WHEREAS**, such a state funded system would relieve the counties of this state of the burden imposed upon them since 1965; now therefore, be it

**RESOLVED:**

1. That the Allegany County Legislature calls upon the State of New York and Governor Cuomo to immediately create a 100 percent state funded indigent legal defense system and relieve the counties of this state of the burden imposed upon them since 1965.

2. That the Clerk of this Board is directed to forward certified copies of this resolution to Governor Andrew M. Cuomo; Senator Catharine M. Young; Assemblyman Joseph M. Giglio; New York State Association of Counties; Inter-County Association of Western New York.

Moved by: Mr. Curran  
Seconded by: Mr. Healy

Adopted: Voice Vote

Comments made regarding Resolution No. 46-15 included: Legislator Pullen remarked that as an attorney, he is particularly close to this topic. He finds it troubling that the State keeps imposing greater and greater burdens. The cost of these programs has skyrocketed. Our County Budget for indigent legal defense is around \$1 Million. Some of that is paid for by the State, but a lot of it comes from our own taxpayers. He acknowledged that while it's an important program, it's really a State issue. It should be paid for by the State. After the vote, Chairman Crandall noted that this program is one of the "big eight" unfunded mandates that he has spoken about on numerous occasions.

**RESOLUTION NO. 47-15**

**CREATION OF ONE POSITION OF AN**

**INTENSIVE CASE MANAGER IN COMMUNITY SERVICES**

Offered by: Human Services Committee

**RESOLVED:**

1. That one position of Intensive Case Manager (PEF, Grade 7, Step Base) is created.
2. This resolution shall take effect immediately.

Moved by: Mr. LaForge  
Seconded by: Mr. Graves

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 48-15**

**APPOINTMENT OF ONE NEW MEMBER TO COUNTY TRAFFIC SAFETY BOARD TO COMPLETE AN UNEXPIRED TERM**

Offered by: Public Safety Committee

Pursuant to Local Law No. 2 of 1972

**RESOLVED:**

1. That Brian Perkins of Andover, New York, is appointed to the County Traffic Safety Board, to complete a vacant unexpired three-year term, commencing immediately and expiring December 31, 2015.

Moved by: Mr. Curran  
Seconded by: Mr. Graves

Adopted: Voice Vote

**RESOLUTION NO. 49-15**

**APPROVAL FOR GRANT APPLICATION TO INDIGENT LEGAL SERVICES UNDER DISTRIBUTION #5 FOR THE PUBLIC DEFENDER'S OFFICE**

Offered by: Public Safety and Ways & Means Committees

**WHEREAS**, the Allegany County Public Defender is requesting approval to apply for grant money through the Indigent Legal Services (ILS) Distribution #5, and

**WHEREAS**, if approved the grant would provide \$70,434 per year, for a total of \$211,302 for three years, now, therefore, be it

**RESOLVED:**

1. That the Public Defender is authorized to act on behalf of the County of Allegany to apply for grant funds through the Indigent Legal Services Distribution #5.

Moved by: Mr. Curran  
Seconded by: Mr. Jessup

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 50-15**

**AUTHORIZATION FOR THE PURCHASE OF FIVE MOTOR VEHICLES FROM THE  
VEHICLE PURCHASE AND REPLACEMENT CAPITAL ACCOUNT**

Offered by: Ways & Means Committee

**WHEREAS**, the County Administrator has requested authorization to purchase five motor vehicles to be financed by previously allocated resources in the Vehicle Replacement Capital Fund Account, and

**WHEREAS**, the Department of Public Works Buildings & Grounds seeks to purchase a vehicle not to exceed \$23,000, and

**WHEREAS**, the Health Department seeks to purchase a vehicle not to exceed \$18,000, and

**WHEREAS**, Community Services seeks to purchase a vehicle not to exceed \$20,000, and

**WHEREAS**, the Office for the Aging seeks to purchase a vehicle not to exceed \$22,000, and

**WHEREAS**, the Office for the Aging seeks a replacement vehicle necessitated by a motor vehicle accident, not to exceed \$22,000, now, therefore, be it

**RESOLVED:**

1. That purchase of five vehicles, all as described above, is approved.
2. That the amount of \$105,000 for the purchase of four motor vehicles from the Vehicle Replacement Capital Fund No. H5997.2 is approved.

Moved by: Mr. Jessup  
Seconded by: Ms. Root

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

Comments made regarding Resolution No. 50-15 included: Legislator Burt expressed his concern for the lack of detail regarding the vehicles on the paperwork submitted for the Board's review. He understood that more detail was available about these vehicles when they were discussed during the Budget process, but he would like the memorandum of explanation that's attached to the resolution to contain more detail so that taxpayers know the Board has done its homework.

**RESOLUTION NO. 51-15**

**RE-APPROPRIATION OF UNSPENT STATE HOMELAND SECURITY PROGRAM (SHSP)  
GRANT MONEY FOR 2014 FOR CONTRACT #C969110**

Offered by: Public Safety and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$14,159, SHSP grant money not spent in 2014 (Project #SH11-1050-E00 SHSP, Contract #C969110), shall be appropriated to Account No. A3648.450 (Public Safety Contract – P-25 Mobile & Portable High-Band Radios) with a like sum credited to Revenue Account No. A3648.3306.EM11 (State Aid – HS #C969110).

Moved by: Mr. Curran  
Seconded by: Mr. Graves

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 52-15**

**RE-APPROPRIATION OF UNSPENT STATE HOMELAND SECURITY PROGRAM (SHSP)  
GRANT MONEY FOR 2014 FOR CONTRACT #C969140**

Offered by: Public Safety and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$52,500, SHSP grant money not spent in 2014 (Project #SH14-1002-D00 SHSP, Contract #C969140), shall be appropriated to the following Accounts:

A3647.447	Public Safety Contract - Purchase GIS Aerial Photography Package of Allegany; County to Update 2006 Version	\$41,500
A3647.447	Public Safety Contract – Personal Protective Equipment for Fire Service	10,000
A3647.447	Public Safety Contract – PDA Sustainment of Connectivity Plan for Emergency Manager	<u>1,000</u>
	TOTAL	\$52,500

with a like sum credited to Revenue Account No. A3647.3306.EM14 (State Aid – HS Contract #C969140).

Moved by: Mr. Curran  
Seconded by: Ms. Root

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 53-15**

**RE-APPROPRIATION OF UNSPENT STATE HOMELAND SECURITY PROGRAM (SHSP)  
GRANT MONEY FOR 2014 FOR CONTRACT #T969120**

Offered by: Public Safety and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$40,790, SHSP grant money not spent in 2014 (Project #SH12-1001-D00 SHSP, Contract #T969120), shall be appropriated to the following accounts:

A3649.451	Public Safety Contract – Mobile Data Terminals	\$30,000
A3649.451	Public Safety Contract – Personal Protective Equipment	10,000
A3649.451	Public Safety Contract – Connectivity Service for Personal Digital Assistant	<u>790</u>
	TOTAL	\$40,790

with a like sum credited to Revenue Account No. A3649.3306.EM12 (State Aid – HS #T969120).

Moved by: Mr. Curran  
Seconded by: Mr. Pullen

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 54-15**

**RE-APPROPRIATION OF UNSPENT STATE HOMELAND SECURITY GRANT (SHSP)  
GRANT MONEY FOR 2014 FOR CONTRACT #T969130**

Offered by: Public Safety and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$21,500, SHSP grant money not spent in 2014 (Project #SH13-1050-E00 SHSP, Contract #T969130), shall be appropriated to Account No. A3645.448 (Emergency Services – Incident Command Cargo Trailer and Generator) with a like sum credited to Revenue Account No. A3645.3306.EM13 (State Aid – 2013 HS #T969130).

Moved by: Mr. Curran  
Seconded by: Mr. Graves

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

Comments made regarding Resolution No. 54-15 included: Legislator O'Grady asked if the County already had an Incident Command trailer. Undersheriff Kevin Monroe replied that this is an additional trailer for Fire Service.

### **RESOLUTION NO. 55-15**

#### **TRANSFER OF FUNDS WITHIN PUBLIC HEALTH ACCOUNTS**

Offered by: Human Services Committee

#### **RESOLVED:**

1. That the sum of \$1,200 is transferred from Account No. A4071.456 (Cancer Services – Health Contracts) to Account No. A4071.201 (Cancer Services – Equipment) for the purchase of a white board.

Moved by: Mr. LaForge  
Seconded by: Mr. Pullen

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

Comments made regarding Resolution No. 55-15 included: Legislator Burt remarked that he had questioned the cost of \$1,200 for a white board. He wanted the public to know that the \$1,200 included more than just a white board. A laminator as well as three side units for desks were included.

### **RESOLUTION NO. 56-15**

#### **BUDGET ADJUSTMENT WITHIN COMMUNITY SERVICES ACCOUNTS**

Offered by: Human Services and Ways & Means Committees

#### **RESOLVED:**

1. That the sum of \$72,652 shall be appropriated to Account No. A4314.456 (Arc CSS) with a like sum credited to Revenue Account No. A4314.3490.1014 (State Aid – MH CSS) due to recent adjustments outlined in the latest State Aid letter.

Moved by: Mr. LaForge  
Seconded by: Mr. Graves

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 57-15**

**VEHICLE BUDGET ADJUSTMENT FOR PASS-THRU FUNDING WITHIN  
COMMUNITY SERVICES CONTRACTUAL ACCOUNTS**

Offered by: Human Services and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$20,400 shall be appropriated to Account No. A4220.458 (Council on Alcoholism and Substance Abuse - Contractual) with a like sum credited to Revenue Account No. A4220.3486.00 (State Aid – Allegany Council/Substance Abuse).

Moved by: Mr. LaForge  
Seconded by: Ms. Root

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 58-15**

**BUDGET ADJUSTMENT WITHIN PROBATION DEPARTMENT ACCOUNTS**

Offered by: Public Safety and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$7,100 is transferred from Revenue Account No. A3140.3310.05 (State Aid – Probation SORA) to Revenue Account No. A3140.1580.06 (Sex Offender Fees - OVW).

Moved by: Mr. Curran  
Seconded by: Mr. Graves

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 59-15**

**ACCEPTANCE OF COLA FUNDS FOR THE CANCER SERVICES PROGRAM;  
APPROPRIATION OF FUNDS**

Offered by: Human Services and Ways & Means Committees

**RESOLVED:**

1. The sum of \$10,226 in COLA funds for the County Health Department Cancer Services Program is accepted.

2. The sum of \$10,226 shall be appropriated to the following accounts:

A4071.201	Cancer Screening – Office Equipment	\$2,814
A4071.407	Cancer Screening – Office Supplies	216
A4071.419	Cancer Screening – Printing/Microfilming	680
A4071.422	Cancer Screening – Gasoline/Oil	500
A4071.424	Cancer Screening – Legal Advertising	2,327
A4071.802	Cancer Screening – Retirement	1,473
A4071.803	Cancer Screening – FICA	609
A4071.804	Cancer Screening – Workers Comp	120
A4071.805	Cancer Screening – Disability	14
A4071.806	Cancer Screening – Hosp/Med Ins	<u>1,473</u>
	TOTAL	\$10,226

with a like sum credited to Revenue Account No. A4071.340100 (State Aid – Cancer Screening).

Moved by: Mr. LaForge  
Seconded by: Mr. Pullen

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

Comments made regarding Resolution No. 59-15 included: Legislator Pullen commended Department of Health Director Lori Ballengee for her hard work.

### **RESOLUTION NO. 60-15**

#### **ACCEPTANCE AND APPROPRIATION OF FUNDS FROM NEW YORK STATE FOR INTENSIVE INTERVENTION SERVICES**

Offered by: Human Services and Ways & Means Committees

#### **RESOLVED:**

1. That the sum of \$95,000 from New York State to provide Intensive Intervention Services as a result of the closure of the St. James Psychiatric Care Unit, is accepted.

2. That the accepted sum of \$95,000 shall be appropriated to Account No. A4313.464A (Mental Health Contracts – Contractual) with a like sum credited to Revenue Account No. A4314.3490.175A (State Aid – MH ARA Adult Care).

Moved by: Mr. LaForge  
Seconded by: Ms. Root

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

Comments made regarding Resolution No. 60-15 included: Legislator Decker remarked that when his wife was working in Rochester, she witnessed the closing of the Rochester Psychiatric Center. He said the State came in and closed the doors. Some of those people became homeless.

**RESOLUTION NO. 61-15**

**ACCEPTANCE AND APPROPRIATION OF FUNDS FROM ACCORD CORPORATION  
FOR ACT II BATTERERS PROGRAM**

Offered by: Public Safety and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$6,825 from ACCORD Corporation for the continuation of the ACT II Batterers' Program is accepted.

2. That the sum of \$6,825 is appropriated to Account No. A3117.449 (ACT II Batterers' Program – Contractual Expenses) with a like sum credited to Revenue Account A3117.2230.00 (ACT II Batterers' Program – Public Safety Service for Other Govts.).

Moved by: Mr. Curran  
Seconded by: Mr. Healy

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**RESOLUTION NO. 62-15**

**ACCEPTANCE AND APPROPRIATION OF TECHNICAL RESCUE AND URBAN SEARCH  
AND RESCUE GRANT FUNDS**

Offered by: Public Safety and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$98,946 for the FY 2014 Technical Rescue and Urban Search and Rescue (USAR) grant is accepted.

2. That the sum of \$98,946 shall be appropriated to Account No. A3653.207 (Emergency Services – Equipment) with a like sum credited to Revenue Account No. A3653.3306.EM14 (State Aid – 2014 SHSP #969149 Swift Water Team).

Moved by: Mr. Curran  
Seconded by: Mr. Jessup

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

Comments made regarding Resolution No. 62-15 included: Legislator O'Grady stated that he questioned how effective a County-wide rescue team was going to be. It's a lot of money to be spending. Legislator Graves remarked that Emergency Services Director Jeff Luckey did a great job on this. He stated that there are volunteers that are trained and that this is a good thing to have with the number of people who kayak on the Genesee River. Legislator Pullen stated that he was thankful for the individuals who have volunteered to do this. He feels we should adequately protect the volunteers. Legislator Healy stated that he feels we need to support our volunteers. It's nice when that support doesn't cost us anything. Legislator Burt remarked that he initially agreed with Legislator O'Grady, but that Mr. Luckey had done a great job explaining to him how this could help solve emergency issues resulting from flooding. Legislator Burt offered his support of the resolution.

### **RESOLUTION NO. 63-15**

#### **APPROVAL OF INTER-MUNICIPAL AGREEMENT WITH CATTARAUGUS COUNTY TO PROVIDE LEAD POISONING PREVENTION PROGRAM SERVICES; APPROPRIATION OF FUNDS**

Offered by: Human Services and Ways & Means Committees

#### **RESOLVED:**

1. That the Inter-Municipal Agreement between Allegany County and Cattaraugus County for the provision of a Lead Poisoning Prevention Program and Comprehensive Elevated Blood Lead Investigation Services for the period January 1, 2015 through December 31, 2017, in an amount not to exceed \$3,000 per year, is approved.

Moved by: Mr. LaForge  
Seconded by: Mr. Graves

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

Comments made regarding Resolution No. 63-15 included: Legislator Burt noted that there was a typo on page 49 of the agreement. County Attorney Tom Miner stated that the agreement Legislator Burt was referring to actually goes with the next resolution. Legislator Pullen gave a summary of the Lead Poisoning Prevention Program saying that lead poisoning tends to be a problem with infants because they like to put things in their mouths. This type of program can help to prevent mental retardation and other problems that go along with lead poisoning. The program can have a real impact.

### **RESOLUTION NO. 64-15**

#### **APPROVAL OF AGREEMENT WITH APPROVED PROVIDER OF PROGRAMS, SEIT AND/OR EVALUATIONS FOR PRESCHOOLERS WITH DISABILITIES**

Offered by: Human Services and Ways & Means Committees

#### **RESOLVED:**

1. That the Agreement titled "County of Allegany Contract for Approved Providers of Programs, SEIT and/or Evaluations for Preschoolers with Disabilities" with Southtowns Children's SLP, PT & OT Associates, PLLC, for the period September 1, 2014, to August 31, 2015, is approved.

2. That the Chairman of this Board is authorized to execute such Agreements.

Moved by: Mr. LaForge  
Seconded by: Mr. Graves

Adopted: Roll Call  
12 Ayes, 0 Noes, 3 Absent

**AUDITS:**

A motion was made by Legislator Jessup, seconded by Legislator Graves, and carried, that the audits be acted upon collectively and by totals.

A motion was made by Legislator Root, seconded by Legislator Graves, and adopted on a roll call vote of 12 Ayes, 0 Noes, 3 Absent, that the audit of claims, totaling \$2,700,359.85, including prepaid expenses, be approved for payment as recommended by the County Administrator. (*Allegany County's Local Dollar Share of the NYS Medicaid Program paid year-to-date is \$1,352,302.*)

**ADJOURNMENT:** The meeting was adjourned at 2:47 p.m. on a motion made by Legislator Graves, seconded by Legislator Burt, and carried.