

**TWENTY SIXTH DAY**

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**THURSDAY, December 10, 2020**

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Legislature met pursuant to Special Meeting Notice

President Dr. Joe Carbone in the Chair.

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**ROLL CALL**

Present – Legislators Allkofer\*, Ancello\*, Barnhart\*, Bauroth\*, Baynes\*, Boyce\*, Brew\*, Carbone, Colby\*, Delehanty\*, DiFlorio\*, Dondorfer\*, Felder\*, Flagler-Mitchell\*, Hasman\*, Hebert\*, Keophetlasy\*, LaMar\*, Lee\*, Maffucci\*, Marianetti\*, Morelle, Jr.\*, Roman\*, Smith\*, Taylor\*, Terp\*, Wilt\*, Yudelson\* – 28

Absent – Wilcox – 1

*(Note: The meeting was left open and Legislator Wilcox called-in to record his votes.)*

\* Legislator Participated in the Meeting via Teleconference in Accordance with Executive Order 202.1 and 202.72, issued by Governor Andrew M. Cuomo on March 12, 2020.

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**SUSPENSION OF THE RULES**

Intro. 483  
M. 126

Brew & DiFlorio  
Motion to Suspend the Rules of the Monroe County Legislature as follows:

PROVIDING THAT RULES OF THE MONROE COUNTY LEGISLATURE BE  
SUSPENDED AND MODIFIED FOR THE SPECIAL MEETING ON  
DECEMBER 10, 2020

Be It Moved, that Article II, Section 545-6 of the Rules of the Monroe County Legislature, be, and hereby is suspended and modified by prohibiting public in-person access to the Special Meeting in favor of video viewing or listening to, and recording and later transcription of such proceeding.

20-9

*(Legislators Barnhart, Bauroth, Baynes, Hasman, Maffucci, Morelle, Jr., Roman, Wilcox, and Yudelson Voted in the Negative.)*

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The meeting formally opened. President Carbone requested a moment of silent prayer. The Pledge of Allegiance to the Flag was led by Legislator Frank Allkofer.

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**ANNOUNCEMENT**

President Carbone stated that the sole purpose of this meeting, pursuant to Section C2-9C (1) of the County Charter and Section 545-5 of the Rules of the Legislature of the County of Monroe, was to consider the items listed on the official meeting notice. The Clerk of the Legislature gave notification of this special meeting to legislators and the media pursuant to Rule 545-5 of the Rules of the Monroe County Legislature. President Carbone stated the meeting has been closed to the public and all Legislators are participating via video or teleconference in accordance with Executive Order 202.1 and 202.72 . President Carbone also noted that keeping with the Legislature’s tradition of openness, the meeting is being live-streamed on YouTube through the Legislature’s official channel.

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**PETITIONS AND COMMUNICATIONS**

**From the President of the Legislature – DR. JOE CARBONE**

**Regarding Calling a Special Meeting of the Legislature.**

Read and Print. (File No. 20-0433)

December 10, 2020

Mr. Jack Moffitt, Clerk  
Monroe County Legislature  
407 County Office Building  
Rochester, New York 14614

RE: Special Meeting of the Monroe County Legislature

Dear Mr. Moffitt:

Pursuant to the authority vested in me as President of the Legislature by Section C2-9C (1) of the County Charter and Section 545-5 of the Rules of the Monroe County Legislature, I hereby direct you to call a Special Meeting of the Legislature for Thursday, December 10, 2020 at 5:15 p.m. in the Chambers of the Legislature, 406 County Office Building.

The business to be conducted at the special meeting will be the following:

PROVIDING THAT RULES OF THE MONROE COUNTY LEGISLATURE BE SUSPENDED AND MODIFIED FOR THE SPECIAL MEETING ON DECEMBER 10, 2020;

PROVIDING THAT THE AMENDMENT (MOTION NO. 123 of 2020) MADE TO THE 2021 MONROE COUNTY BUDGET THAT WAS OBJECTED TO BY THE COUNTY EXECUTIVE, BE RECONSIDERED AND APPROVED; and

PROVIDING THAT THE AMENDMENT (MOTION NO. 124 of 2020) MADE TO THE 2021 MONROE COUNTY BUDGET THAT WAS OBJECTED TO BY THE COUNTY EXECUTIVE, BE RECONSIDERED AND APPROVED.

Please give notice of this Special Meeting of the County Legislature to the members of the Legislature in accordance with the provisions of Section C2-9C (2) of the County Charter. Thank you for your assistance.

Sincerely,  
Dr. Joe Carbone  
Monroe County Legislature  
President

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**From the County Executive – ADAM J. BELLO**

**Objections to Changes to the Monroe County Budget Made via Motion No. 123 of 2020 and Motion No. 124 of 2020.**

Read and Print. (File No. 20-0432)

December 10, 2020

Mr. Jack Moffitt  
Clerk of the Legislature  
Monroe County Legislature  
407 County Office Building  
Rochester, New York 14614

Dear Mr. Moffitt:

I received your letter certifying that the Legislature approved certain changes to the 2021 Monroe County budget at its meeting on December 8, 2020. Pursuant to § C4-4(C) of the Monroe County Charter, I am hereby notifying you of my objections to the changes to the budget and returning the budget changes to you.

The amendment purporting to change the list of authorized positions for the Board of Elections is unlawful. Section 3-300 of the New York State Election Law provides that it is the duty of the Board of Elections, not the County Legislature, to set the number of BOE employees, assign their duties, and establish their titles and salaries. New York's highest court, the Court of Appeals, has confirmed that Election Law § 3-300 vests local Boards of Elections "with complete and exclusive control of their personnel and the performance of their duties." *County of Erie v. CSEA Local 815*, 19 N.Y.3d 1070, 1071 (2012) (quoting *County of Chautauqua v. Chautauqua Co. Employees Unit 6300*, 181 A.D.2d 1052 (4th Dep't 1992)). Based on this exclusive control, courts have rejected claims that a County Legislature has the authority to set the number of positions or salaries for the Board of Elections. *Mohr v. Giambra*, 7 Misc.3d 723 (Sup. Ct. Erie Co. 2005), affirmed 27 A.D.3d 1185 (4th Dep't 2006). In short, the County Legislature is tasked with appropriating funds for the Board of Elections, but has no role with respect to the assignment of its personnel. A copy of an opinion from counsel to the New York State Board of Elections confirming the flaws in this amendment is enclosed.

This year more than ever we have seen the importance of the work done by our Board of Elections. The passage of an eleventh-hour amendment, introduced with no notice to the Election Commissioners and subject only to a truncated debate, does not do justice to the Board's efforts. It is reckless and irresponsible for the Legislature to interfere with the staffing needs identified by the Election Commissioners, and such interference threatens the bipartisan and independent nature of the Board of Elections.

I also object to the amendment creating a \$2.5 million contingency fund within the County Legislature's budget. First, this amendment is not necessary to respond to the pandemic. The County is capable of making adjustments to the budget throughout the year to respond to changing circumstances, as demonstrated this year, and I will work with the Legislature to do so as needed. Second, I do not think the creation of such a large fund without a specific purpose is consistent with sound budgeting practice or provides the transparency to which taxpayers are entitled.

For these reasons, pursuant to § C4-4(C) of the Monroe County Charter, I object to both changes to the 2021 Monroe County Budget, Motion No. 123 and Motion No. 124 of 2020.

Sincerely,  
Adam J. Bello  
Monroe County Executive

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**OTHER COUNTY OFFICIALS**

**Jack Moffitt, Clerk of the Legislature – Regarding Calling a Special Meeting of the Monroe County**

**Legislature.**

Read and Print. (File No. 20-0434)

December 10, 2020

The Honorable  
Monroe County Legislature  
39 West Main Street  
Rochester, NY 14614

Re: Special Meeting of the Monroe County Legislature

Honorable Legislators:

At the direction of Dr. Joe Carbone, President of the Monroe County Legislature, a Special Meeting of the Monroe County Legislature is hereby called pursuant to Section C2-9(C)(1) of the Monroe County Charter and Section 545-5 of the Rules of the Legislature for Thursday, December 10, 2020 at 5:15 p.m. in the Chambers of the Legislature, 406 County Office Building.

The business to be conducted at the special meeting will be the following:

PROVIDING THAT RULES OF THE MONROE COUNTY LEGISLATURE BE SUSPENDED AND MODIFIED FOR THE SPECIAL MEETING ON DECEMBER 10, 2020;

PROVIDING THAT THE AMENDMENT (MOTION NO. 123 of 2020) MADE TO THE 2021 MONROE COUNTY BUDGET THAT WAS OBJECTED TO BY THE COUNTY EXECUTIVE, BE RECONSIDERED AND APPROVED; and

PROVIDING THAT THE AMENDMENT (MOTION NO. 124 of 2020) MADE TO THE 2021 MONROE COUNTY BUDGET THAT WAS OBJECTED TO BY THE COUNTY EXECUTIVE, BE RECONSIDERED AND APPROVED.

Sincerely,  
Jack Moffitt  
Clerk of the Legislature

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**PUBLIC FORUM**

An Open Forum was conducted. No participants addressed the Legislature and the open forum.

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**MOTIONS, RESOLUTIONS AND NOTICES**

*(Note: The Clerk of the Legislature read Section C4-4(D) of the Monroe County Charter into the record.)*

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| 1. Brew &<br>DiFlorio<br>Intro. 484<br>M. 127<br>20-9 | 20-0336 | Providing that the Amendment (Motion No. 123 of 2020) Made to the 2021 Monroe County Budget that was Objected to by the County Executive, Be Reconsidered and Approved |
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*(Legislators Barnhart, Bauroth, Baynes, Hasman, Maffucci, Morelle, Jr., Roman, Wilcox and Yudelson Voted in the Negative.)*

2. Flagler-Mitchell & LaMar  
Intro. 485  
M. 128  
20-9
- 20-0336 Providing that the Amendment (Motion No. 124 of 2020) Made to the 2021 Monroe County Budget that was Objected to by the County Executive, Be Reconsidered and Approved
- (Legislators Barnhart, Bauroth, Baynes, Hasman, Maffucci, Morelle, Jr., Roman, Wilcox and Yudelson Voted in the Negative.)*

*(Note: President Carbone declared the 2021 Monroe County Budget, and such changes objected to by the County Executive, to have been adopted.)*

*(Note: President Carbone noted that by law, the only item the Legislature can act upon after the adoption of the Budget is the Capital Budget. He informed the Legislature that it could not transact any other business because a timely Capital Budget had not yet been submitted.)*

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**UNFINISHED BUSINESS**

*None*

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*(Note: The meeting was left open to allow Legislator Wilcox to record his votes. He recorded his votes with the Clerk of the Legislature at 7:06 P.M.)*

Upon Motion by Legislator Brew, the Legislature Adjourned at 6:39 P.M. until such time the County Executive submits a 2021 Capital Budget or **Tuesday, January 12, 2021 at 6:00 P.M.**

**JACK MOFFITT**  
Clerk of the Legislature