

ELEVENTH DAY

TUESDAY, MAY 25, 2021

Legislature met pursuant to Special Meeting Notice

President Dr. Joe Carbone in the Chair.

ROLL CALL

Present – Legislators Allkofer*, Ancello*, Barnhart*, Bauroth*, Baynes*, Boyce*, Brew*, Carbone, Colby*, Delehanty*, DiFlorio*, Dondorfer*, Felder*, Flagler-Mitchell*, Hasman*, Hebert*, Keophetlasy*, LaMar*, Lee, Jr.*, Maffucci*, Marianetti*, Morelle, Jr.*, Roman*, Smith*, Taylor*, Terp*, Wilcox*, Wilt*, Yudelson* – 29

* Legislator Participated in the Meeting via Teleconference in Accordance with Executive Order 202.1 and 202.103, issued by Governor Andrew M. Cuomo.

SUSPENSION OF THE RULES

Intro. 236
M. 57
27-0

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 MAY 25, 2021.

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.

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

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 202.103. 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.

President Carbone stated that Legislature will consider two motions for approval, followed by a motion to recess the Special Meeting and convene a Committee of the Whole. In doing so, the Legislature will discharge those items currently referred to Committee and commit them to the Committee of the Whole.

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. 21-0209)

May 25, 2021

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 Tuesday, May 25, 2021 at 5:30 p.m. in the Chambers of the Legislature, 406 County Office Building, with Legislators participating remotely via Zoom and public viewing available through a link found at www.monroecounty.gov/legislature.

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 April 27, 2021;

Providing that Rules of the Monroe County Legislature be Suspended and Modified for the Special Meeting on May 25, 2021;

Providing that Local Law (Intro. No. 175 of 2021), Entitled “Operation of Off-Road Vehicles on Public Highways in Monroe County,” be Adopted as Amended;

Providing that the Veto by the County Executive of Resolution No. 169 of 2021, As Amended by Motion No. 53 of 2021, be Overridden;

Providing that File Nos. 21-0170 through 21-0173, 21-0175 through 21-0181, 21-0183 through 21-0205, and 21-0207 through 21-0208 be Discharged from the Agenda/Charter, Public Safety, Planning and Economic Development, Recreation and Education, Intergovernmental Relations, Transportation, Human Services, Environment and Public Works, and Ways and Means Committees; Providing that the Legislature Convene a Committee of the Whole; Providing that File Nos. 21-0170 through 21-0173, 21-0175 through 21-0181, 21-0183 through 21-0205, and 21-0207 through 21-0208 be Committed to the Committee of the Whole.

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

From the County Executive – ADAM J. BELLO

Veto of Local Law (Intro. No. 368 of 2020), Entitled "Amending Monroe County Charter Relating to Term of Office of Members of County Legislature" Read and Print. (File No. 21-0208)

May 21, 2021

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

Dear Mr. Moffitt:

This is in response to your letter of May 14, 2021, in which you presented, among other matters, Resolution No. 169 of 2021, "Authorizing Allocation of Emergency Grant Funding to Support Arts Organizations Negatively Impacted by COVID-19 Pandemic," which was certified by you as having been adopted by the Monroe County Legislature at its meeting on May 11, 2021. Pursuant to Monroe County Charter § C2-7, with this letter I am providing notice to the Legislature that I have vetoed Resolution No. 169 and am returning the vetoed Resolution to you.

First, this Resolution is deeply flawed from a legal and technical perspective. The New York State Constitution generally prohibits the County from simply providing grants to private organizations. There are ways to provide such grants to arts organizations, either from funding sources permitting such expenditures or under the parameters outlined in County Law § 224, but this legislation does not fit within these exceptions. In fact, the legislation provides no details on the legal authority for the program or how the program will be administered; instead it generally authorizes unspecified "grant agreements, contracts, or applications." The failure to implement a legally compliant grant process exposes the County to audit and litigation risk, and exposes grant recipients to the risk of litigation seeking to claw back improperly paid funds.

Additionally, in several instances, the Resolution fails to identify an appropriate entity with whom the County could contract. In some cases, the Resolution fails to identify a legally incorporated entity: for example, the Irondequoit Arts Club, added to the Resolution via an on-the-fly amendment by President Carbone, is not a duly incorporated entity and therefore lacks the legal capacity to enter into a contract or receive County funds. In other instances, the Resolution appears to identify the incorrect entity to receive funding: for example, it is my understanding that Rochester Latino Theatre accepts funds through a fiduciary agent, and does not accept funds directly. All of this demonstrates a lack of due diligence in identifying grant recipients and ensuring they are eligible to receive County funding.

Second, the Resolution's authorization of the President of the Legislature to execute grant agreements, contracts, or applications bypasses the proper process for contracting built into our system of County government. All County contracts are reviewed by the department procuring the contracted services, the Division of Purchasing and Central Services, the Office of Management and Budget, and the Law Department. Once this process is complete, I confirm and execute contracts on behalf of the County.

The importance of this process is illustrated by the legal and technical mistakes outlined above which make it impossible for recipients to receive funding. Authorizing the Legislature to both appropriate funds and enter into funding agreements removes needed checks and balances that safeguard County funds, ensure they can be spent for the intended purpose, and protect the entities with which the County contracts. The Administration, not the Legislature, has the technical expertise to ensure that taxpayer funds are protected and therefore is responsible for drafting, executing, and administering County contracts.

Finally, the lack of transparency and methodology in selecting grant recipients is concerning. My Administration is

committed to ensuring Monroe County's arts policies are representative of the diversity of our arts community, align with regional strategies, and follow established best practices. The discussion during the May 11 meeting of the Legislature revealed that there was no methodology or selection criteria applied to determine award recipients. Further, there was no indication of how organizations were invited to be considered or how funding amounts were determined, and thus no assurance that the selection process was fair or transparent. Indeed, several organizations report that they were not even contacted regarding this program and were not aware of why they were awarded funds or how the amount of funding was determined. Public funds should not be spent in such a haphazard manner.

Our local arts organizations are an essential part of the fabric of our community. I am committed to supporting local artists and ensuring that the arts community receives adequate funding, particularly as we seek to recover from the pandemic. As such, in the coming days I will be announcing a new initiative that will provide arts organizations with grant funding to address the financial hardships they have experienced over the past year. This funding will be provided in a manner that is fair, transparent, and legally sound, standards that this Resolution fails to meet. Should the Monroe County Legislature choose to cure the aforementioned defects to provide grant funding to arts organizations in Monroe County out of the Community Contingency Fund, the County Law Department stands ready to provide any necessary support to ensure any future Resolution meets the legal and technical requirements for such a program.

For the reasons stated above, I have vetoed Resolution No. 169.

Sincerely,
Adam J. Bello
Monroe County Executive

OTHER COUNTY OFFICIALS

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

Read and Print. (File No. 21-0210)

May 25, 2021

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 Tuesday, May 25, 2021 at 5:30 p.m. in the Chambers of the Legislature, 406 County Office Building, with Legislators participating remotely via Zoom and public viewing available through a link found at www.monroecounty.gov/legislature.

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 May 25, 2021;

Providing that Local Law (Intro. No. 175 of 2021), Entitled "Operation of Off-Road Vehicles on Public Highways in Monroe County," be Adopted as Amended;

Providing that the Veto by the County Executive of Resolution No. 169 of 2021, As Amended by Motion No. 53 of 2021, be Overridden;

Providing that File Nos. 21-0170 through 21-0173, 21-0175 through 21-0181, 21-0183 through 21-0205, and 21-0207 through 21-0208 be Discharged from the Agenda/Charter, Public Safety, Planning and Economic Development, Recreation and Education, Intergovernmental Relations, Transportation, Human Services, Environment and Public Works, and Ways and Means Committees; Providing that the Legislature Convene a Committee of the Whole; Providing that File Nos. 21-0170 through 21-0173, 21-0175 through 21-0181, 21-0183 through 21-0205, and 21-0207 through 21-0208 be Committed to the Committee of the Whole.

Sincerely,
Jack Moffitt
Clerk of the Legislature

PUBLIC FORUM

An Open Forum was conducted. No written comments were submitted or read, and the Open Forum concluded at 5:38 P.M.

MOTIONS, RESOLUTIONS AND NOTICES

1. Felder & Flagler-Mitchell
Intro. 237
M. 58

Intro. 238
M. 59
- 21-0164.LL Providing that Local Law (Intro. No. 175 of 2021) entitled, "Operation of Off-Road Vehicles on Public Highways in Monroe County," be Adopted as Amended

Barnhart/Morelle, Jr. (*Motion to Amend*)
PROVIDING THAT LOCAL LAW (INTRO. NO. 175 OF 2021, AS AMENDED BY MOTION NO. 47 OF 2021) ENTITLED, "OPERATION OF OFF-ROAD VEHICLES ON PUBLIC HIGHWAYS IN MONROE COUNTY," BE AMENDED

BE IT MOVED, that Local Law (Intro. No. 175 of 2021, as amended by Motion No. 47 of 2021), entitled "**OPERATION OF OFF-ROAD VEHICLES ON PUBLIC HIGHWAYS IN MONROE COUNTY,**" be amended as follows:

Section 1. Part IV, General Local Laws of the Administrative Code and Charter of Monroe County, is hereby amended to add a new chapter to include the following Local Law:

CHAPTER 314, OPERATION OF OFF-ROAD VEHICLES ON PUBLIC HIGHWAYS IN MONROE COUNTY

§ 314-1 **Title.** This chapter shall be known as the law "Operation of Off-Road Vehicles on Public Highways in Monroe County."

§ 314-2 **Legislative Intent.** The Legislature hereby finds that:

A. The use of off-road vehicles on public highways are a threat to the safety of pedestrians, motorists, and bicyclists.

B. Law enforcement has requested assistance from the Legislature, in the form of a local law, giving law enforcement the power to impound illegally operated off-road vehicles.

C. Many off-road vehicle operators and passengers are not equipped with proper

protective gear.

D. The health, safety and well-being of the citizens of Monroe County is furthered by curtailing the illegal and unsafe use of off-road vehicles on public highways.

§ 314-3 **Definitions**

A. Off-Road Vehicle. Includes All-Terrain Vehicles (ATVs) as defined in Section 2281(1) of the New York State Vehicle and Traffic Law, all off-highway motorcycles as defined by Section 125-a of the New York State Vehicle and Traffic Law, and motocross or dirt bikes, dune buggies, go-carts, and any and all other types of motorized trail bikes or vehicles with a primary intention for off-road use but not including non-motorized bikes.

B. Operate. To ride in or on, other than as a passenger, or use or control the operation of an off-road vehicles in any manner regardless of if said off-road vehicle is underway.

C. Public Highway. Any highway, road, alley, street, avenue, public place, public driveway, or any other public way.

§ 314-4 **Unlawful Conduct and Hazardous Operation of Off-Road Vehicles.**

A. Unless otherwise permitted by Article 48-c of the New York State Vehicle and Traffic Law or other applicable law, it shall be unlawful to operate an off-road vehicle on any public highway in Monroe County.

B. No person shall operate an ATV or any vehicle on the roadways of the County of Monroe unless it is covered by liability insurance; nonetheless, said ATV, or any vehicle that is not street legal may be operated by authorized government officials, the Monroe County Sheriff's Office, the Rochester Police Department, the New York State Police, the Federal Bureau of Investigation or the Bureau of Alcohol, Tobacco, Firearms and Explosives, in furtherance of their official duties.

§ 314-5 **Operation of Off-Road Vehicles in County Parks.** Chapter 323 of the General Local Laws of Monroe County shall continue to govern the use of off-road vehicles in Monroe County parks.

§ 314-6 **Required Protective Gears:**

A. Operators and passengers must wear a United States Department of Transportation (USDOT) approved helmet while riding an ATV.

§ 314-7 **Penalties:**

A. In addition to any other applicable penalties permitted by law, a police officer or peace officer may immediately impound any off-road vehicle that has been operated in breach of § 314-4 or § 314-6.

B. Any off-road vehicle impounded pursuant to this section shall be stored by the pertinent police department or enforcement agency pending identification of the owner.

1. Proof of Ownership. Acceptable proof of ownership are:

- a. For a new off-road vehicle – the Manufacturer's Certificate or Statement of Origin (MCO or MSO), an out-of-state title certificate or registration certificate; or,

b. For a used off-road vehicle – a completed “Certification of Sale or Transfer” (MV-51) plus the MCO or MSO; or, a New York State transferable registration signed over to the current operator by the previous owner;

c. If an off-road vehicle has never been registered and current operator/owner do not have these acceptable documents, one must complete and submit a “Statement of Ownership” through the Department of Motor Vehicle (MV-51B).

1. Law Enforcement shall record the Vehicle Identification Number (VIN) and provide the same to the alleged owner upon request.

2. Off-Road Vehicles Without Required Registration

a. If registration of off-road vehicle is not so required, other indicia of ownership may be utilized to identify the proper off-road vehicle owner.

C. Such owner shall be sent notice of such impoundment by certified mail within five days after the impoundment.

D. The law enforcement agency shall not be liable for any damages arising out of the provision of an erroneous name or address of such owner.

E. The owner of the impounded off-road vehicle may redeem the same upon satisfactory proof of ownership and payment of a redemption fee of \$500 to the impounding police department if it is the first time such vehicle has been impounded pursuant to this Local Law, or \$2,000 if such vehicle has previously been impounded pursuant to this Local Law. Such impounded off-road vehicle may only be released to the owner of the off-road vehicle or to his or her agent as evidenced by a written, notarized agent agreement or duly executed power of attorney.

F. At no time shall this Local Law apply to the operation of an off-road vehicle as an emergency vehicle by any authorized emergency, police or civil department.

G. Each law enforcement agency shall keep a record of all Off-Road Vehicles it confiscates under this Chapter, including the owners’ age, race and gender, and any fines paid, and submit a quarterly report of these records to the Monroe County Legislature.

§ 314-8 **Severability.** If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgement shall be rendered.

Section 2. This local law shall take effect after filing with the Secretary of State pursuant to Section 27 of New York Municipal Home Rule Law and the Monroe County Charter.

Added language by this motion is underlined
Deleted language by this motion is stricken

- M. 59
10-19F
Motion to Amend
(Legislators Barnhart, Bauroth, Baynes, Hasman, LaMar, Maffucci, Morelle, Jr., Roman, Wilcox and Yudelson Voted in the Positive.)
- Intro. 239
M. 60
8-21F
Baynes/Roman *(Motion to Table)*
PROVIDING THAT INTRO. NO. 237 OF 2021 BE TABLED
Be It Moved, that Intro. No. 237 of 2021 be, and hereby is, tabled.
(Legislators Barnhart, Bauroth, Baynes, Hasman, Maffucci, Roman, Wilcox and Yudelson Voted in the Positive.)
- Intro. 237
M. 58
29-0
Motion to Adopt
- Intro. 175
Local Law TBD
29-0
Local Law
2. Brew &
DiFlorio
Felder
Flagler-Mitchell
Keophetlasy
LaMar
Lee
Intro. 240
M. 61
Providing that the Veto by the County Executive of Resolution No. 169 of 2021, As Amended by Motion No. 53 of 2021, be Overridden
- Intro. 241
M. 62
20-8
Felder/Flagler-Mitchell *(Call the Question)*
PROVIDING THAT THE QUESTION BE CALLED ON INTRO. NO. 240 OF 2021
Be It Moved that the question be, and hereby is called on Intro. No. 240 of 2021.
(Legislators Barnhart, Baynes, Hasman, Maffucci, Morelle, Jr., Roman, Wilcox and Yudelson Voted in the Negative; Legislator Bauroth Abstained.)
- Intro. 240
M. 61
20-9
Main Motion
(Legislators Barnhart, Bauroth, Baynes, Hasman, Maffucci, Morelle, Jr., Roman, Wilcox and Yudelson Voted in the Negative.)
3. Brew &
DiFlorio
Intro. 242
M. 63
29-0
Providing that File Nos. 21-0170 through 21-0173, 21-0175 through 21-0181, 21-0183 through 21-0205, and 21-0207 through 21-0208 be Discharged from the Agenda/Charter, Public Safety, Planning and Economic Development, Recreation and Education, Intergovernmental Relations, Transportation, Human Services, Environment and Public Works, and Ways and Means Committees; Providing that the Legislature Convene a Committee of the Whole; Providing that File Nos. 21-0170 through 21-0173, 21-0175 through 21-0181, 21-0183 through 21-0205, and 21-0207 through 21-0208 be Committed to the Committee of the Whole

RECESS

A recess was declared by President Carbone at 6:33 p.m. to allow for a meeting of the **Committee of the Whole**.

RECONVENING LEGISLATURE

President Carbone reconvened the recessed special meeting of May 25, 2021 and proceeded under the Usual Order of Business.

UNFINISHED BUSINESS

Upon Motion by Legislator Brew, the Legislature Adjourned at 8:24 P.M. until **Tuesday, June 8, 2021 at 6:00 P.M.**

JACK MOFFITT
Clerk of the Legislature