

FEBRUARY 23, 2006

ENERGY & ENVIRONMENT COMMITTEE  
REPORT NO. 4

ALL MEMBERS PRESENT EXCEPT LEGISLATOR WHYTE.

- 1. RESOLVED, the following items are hereby received and filed.
  - a. COMM. 4E-26 (2006)  
**COUNTY EXECUTIVE:** Erie County sewer Consturction Projects – Annual Change Order Report (4-0)

2a. COMM. 28E-15 (2005) **AS AMENDED**  
**COUNTY EXECUTIVE**  
 RESOLUTION NO. \_\_\_\_\_

RESOLUTION DATED \_\_\_\_\_, 2006.

A RESOLUTION CALLING A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING A PROPOSED INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE ERIE COUNTY-SOUTHTOWNS SEWAGE TREATMENT AGENCY IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) \_\_\_\_\_, 2006.

(Adopted) \_\_\_\_\_, 2006

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No. 3 of the County of Erie, New York, has heretofore been established and created on April 9, 1963 (the “District”) to provide sewer services to the Village of Orchard Park, the north and central portions of the Town of Orchard Park, the northeast portion of the Town of Hamburg and the southerly portion of the Town of West Seneca, and

WHEREAS, the Erie County-Southtowns Sewage Treatment Agency (the “Southtowns Agency”) has heretofore been created pursuant to an inter-municipal agreement dated December 30, 1974, as amended, (the “Southtowns Agreement”) for the purpose of establishment, construction, operation, and maintenance of the Southtowns Advanced Wastewater Treatment Facility (the “Southtowns Treatment Facility”) for the benefit of Erie County Sewer District No. 3, the Hamburg Master Sewer District, Amsdell Heights, Locksley Park, Cloverbank, Benz and Taylor Road Sewer Districts being Sewer District

Nos. 21, 7, 10, 5, 4, 8, and 11 of the Town of Hamburg, Wanakah Sewer District No. 3, Mount Vernon Sewer District No. 2, the Village of Hamburg and the Village of Blasdell; and

WHEREAS, pursuant to the Southtowns Agreement the County, acting for and on behalf of Erie County Sewer District No. 3, was responsible for financing the total project costs for the Southtowns Treatment Facility; and

WHEREAS, in accordance with its responsibilities to maintain the Southtowns Treatment Facility pursuant to the Southtowns Agreement, the Southtowns Agency has duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed increase and improvement of the facilities of the District which report and estimate of cost have been approved by the Board of Managers of the Southtowns Sewer Treatment Agency on October 27, 2006 and filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe a proposed increase and improvement of the facilities of the District(Southtowns Sewage Treatment Agency), consisting of the replacement of three fuel oil tanks, as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$1,000,000, to be apportioned in accordance with the Southtowns Agreement among (i) Erie County Sewer District No. 3, (ii) the Town of Hamburg on behalf of the Hamburg Master Sewer District, Amsdell Heights, Locksley Park, Cloverbank, Benz and Taylor Road Sewer Districts being Sewer District Nos. 21, 7, 10, 5, 4, 8, and 11 of the Town of Hamburg, (iii) Wanakah Sewer District No. 3, (iv) Mount Vernon Sewer District No. 2, (v) the Village of Hamburg, and (vi) the Village of Blasdell; each in accordance with their respective proportionate shares of equivalent dwelling units in their service areas, as determined pursuant to the Southtowns Agreement; and

WHEREAS, pursuant to Section 258 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the construction of said increase and improvement of facilities of the District because the cost thereof to the Typical Property (as defined in the County Law) does not exceed the Average Estimated Cost to the Typical Properties for similar types of expenditures, as computed by the State Comptroller; and

WHEREAS, it is now desired to call a public hearing to consider said increase and improvement in accordance with the provisions of Section 254 of the County Law;

NOW, THEREFORE, BE IT

RESOLVED, BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK,  
AS FOLLOWS:

Section 1. A meeting of the County Legislature of the County of Erie, New York, shall be held at 92 Franklin Street, 4<sup>th</sup> Floor, Buffalo, New York, in said County, on the 6<sup>th</sup> day of April, 2006, at 1:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon the aforesaid proposed increase and improvement of facilities of Erie County-Southtowns Sewage Treatment Agency in said County, and for such other action on the part of said County Legislature in relation thereto as may be required by law or proper in the premises.

Section 2. The notice of such public hearing shall be in substantially the following form, to-wit:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a meeting of the County Legislature of the County of Erie, New York, shall be held at 92 Franklin Street, 4<sup>th</sup> Floor, Buffalo, New York, in said County, on the 6<sup>th</sup> day of April, 2006, at 1:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a proposed increase and improvement of facilities of the Southtowns Advanced Wastewater Treatment Facility in said County.

The increase and improvement of such facilities consisting of the replacement of three fuel oil tanks, as more fully described in the report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning) which has been filed with the County Legislature and which has been approved by the Board of Managers of the Southtowns Sewer Management Agency on October 27, 2006 (the "Report").

The maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$1,000,000, to be apportioned in accordance with the Southtowns Agreement among (i) Erie County Sewer District No. 3, (ii) the Town of Hamburg on behalf of the Hamburg Master Sewer District, Amsdell Heights, Locksley Park, Cloverbank, Benz and Taylor Road Sewer Districts being Sewer District Nos. 21, 7, 10, 5, 4, 8, and 11 of the Town of Hamburg, (iii) Wanakah Sewer District No. 3, (iv) Mount Vernon Sewer District No. 2, (v) the Village of Hamburg, and (vi) the Village of Blasdell; each in accordance with their respective proportionate shares of equivalent dwelling units in their service areas, as determined pursuant to the Southtowns Agreement.

The expenditures for such additional increase and improvement of facilities will not cause additional costs for property owners in the District for hook-up fees, and the annual cost of such expenditures to the Typical Property (as defined in the County Law) is \$1.46. The County Legislature has heretofore caused to be prepared and filed for public inspection with the Clerk of the Erie County Legislature, a detailed explanation of how such costs were computed, as incorporated in said report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning).

(3-0)

2b. COMM. 28E-15 (2005)  
**COUNTY EXECUTIVE**

**AS AMENDED**

RESOLUTION NO. \_\_\_\_\_

RESOLUTION DATED \_\_\_\_\_, 2006.

A RESOLUTION CALLING A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING A PROPOSED INCREASE AND IMPROVEMENT OF THE FACILITIES OF THE ERIE COUNTY SEWER DISTRICT NO. 3 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) \_\_\_\_\_, 2006.

(Adopted) \_\_\_\_\_, 2006

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No. 3 of the County of Erie, New York, has heretofore been established and created on April 9, 1963 (the "District") to provide sewer services to the Village of Orchard Park, most of the Town of Orchard Park, and parts of the Towns of West Seneca and Hamburg; and

WHEREAS, since the 1970s extensions to the District known as the Boston Valley, Armor-McKinley, Blasdell, Hamburg and Holland Extensions were formed; and

WHEREAS, the District and all extensions thereof were consolidated in 2003; and

WHEREAS, the Board of Managers of the District has duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed increase and improvement of the facilities of the District which report and estimate of cost have been approved by the Board of Managers of the District on December 7, 2005 and filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe a proposed increase and improvement of the facilities of the District, consisting of the installation of approximately 5,500 linear feet of 8 inch diameter polyvinyl chloride (PVC) pipe, as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$592,000, to be apportioned among real properties in the District in accordance

with (i) their respective proportionate shares of sewerred units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 3; and

WHEREAS, pursuant to Section 258 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the construction of said increase and improvement of facilities of the District because the cost thereof to the Typical Property (as defined in the County Law) does not exceed the Average Estimated Cost to the Typical Properties for similar types of expenditures, as computed by the State Comptroller and such cost is \$1.00; and

WHEREAS, it is now desired to call a public hearing to consider said increase and improvement in accordance with the provisions of Section 254 of the County Law;

NOW, THEREFORE, BE IT

RESOLVED, BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. A meeting of the County Legislature of the County of Erie, New York, shall be held at 92 Franklin Street, 4<sup>th</sup> Floor, Buffalo, New York, in said County, on the 6<sup>th</sup> day of April, 2006, at 1:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon the aforesaid proposed increase and improvement of facilities of Erie County Sewer District No. 3 in said County, and for such other action on the part of said County Legislature in relation thereto as may be required by law or proper in the premises.

Section 2. The notice of such public hearing shall be in substantially the following form, to-wit:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a meeting of the County Legislature of the County of Erie, New York, shall be held at 92 Franklin Street, 4<sup>th</sup> Floor, Buffalo, New York, in said County, on the 6<sup>th</sup> day of April, 2006, at 1:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a proposed increase and improvement of facilities of Erie County Sewer District No. 3 in said County.

The increase and improvement of such facilities consisting of the installation of approximately 5,500 linear feet of 8 inch diameter polyvinyl chloride (PVC) pipe, as more fully described in the report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning) which has been filed with the County Legislature and which has been approved by the Board of Managers of Erie County Sewer District No. 3 on December 7, 2005 (the "Report").

The maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$592,000, to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewerred units in the District, (ii) applicable flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 3.

The expenditures for such additional increase and improvement of facilities will not cause additional costs for property owners in the District for hook-up fees, and the annual cost of such expenditures to the Typical Property (as defined in the County Law) is \$1.00. The County Legislature has heretofore caused to be prepared and filed for public inspection with the Clerk of the Erie County Legislature, a detailed explanation of how such costs were computed, as incorporated in said report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning).

Dated: Buffalo, New York,  
\_\_\_\_\_, 2006.

BY ORDER OF THE COUNTY  
LEGISLATURE OF THE COUNTY OF  
ERIE, NEW YORK  
By \_\_\_\_\_  
Clerk, County Legislature

Section 3. The Clerk of said County Legislature is hereby authorized and directed to cause a copy of the Notice of Public Hearing as set forth in Section 2 hereof to be published once in the "Front Page" and in the "Amherst Bee", the official newspapers of said County and in "Hamburg Sun" a newspaper of general circulation, not less than ten nor more than twenty days before the date set herein for said public hearing. The Clerk is hereby further authorized and directed to file a certified copy of the Notice of Public Hearing with the Comptroller of the State of New York on or about the date of the publication of the Notice of Public Hearing.

Section 4. This resolution shall take effect immediately.  
(3-0)

3. COMM. 4E-16 (2005)  
**COUNTY EXECUTIVE**

WHEREAS, the County of Erie has secured the services of Malcolm Pirnie, Inc. to provide engineering services to Erie County Sewer District No. 3; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all engineering services have been completed; and

WHEREAS, the Erie County Division of Sewerage Management has recommended the formal close-out of the engineering agreement dated January 13, 2004 with Malcolm Pirnie, Inc. in the amount of \$211,468.59.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement dated January 13, 2004 between Erie County Sewer District No. 3 and Malcolm Pirnie, Inc. be formally closed-out in the final amount of \$211,468.59; and be it further,

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to cancel any remaining contract encumbrances in the various Sewer Capital Accounts, between Erie County Sewer District No. 3 and Malcolm Pirnie, Inc.; and be it further,

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Thomas J. Whetham, P.E., Department of Environment and Planning; and one (1) certified copy each Joel Giambra, County Executive; Ken Vetter, Director of Budget and Management; Mark C. Poloncarz Erie County Comptroller; and Gregory Dudek, Assistant County Attorney.  
(3-0)

4. COMM. 4E-27 (2005)  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management needs to retain an Engineer to provide services for the development of a Division wide Capital Improvements Plan; and

WHEREAS, the Department of Environment and Planning has recommended the firm of Malcolm Pirnie, Inc., 40 Centre Drive, Orchard Park, New York 14127.

NOW, THEREFORE BE IT

RESOLVED, that the engineering firm of Malcolm Pirnie, Inc. be retained at a cost not to exceed \$500,000.00; and be it further

RESOLVED, that the County Executive, be and hereby is, authorized to execute an agreement with the firm of Malcolm Pirnie, Inc., 40 Centre Drive, Orchard Park, New York 14127, to provide the needed engineering services subject to approval as to form by the County Attorney's Office and approval as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Director for Budget Management and Finance and the County Comptroller be authorized to modify the Sewer Capital and 2006 Operating Fund Budgets and transfer \$500,000.00 for the Agreement to the District wide sewer Capital project (C.00065) with funding from available fund balance from each District and the Southtowns Agency as follows:

<b>SEWER DISTRICT</b>	<b>District Cost Center</b>	<b>402190 Use of Fund Balance</b>	<b>570000 Trans Out/ Trans In</b>	<b>486000</b>
1 – 12%	1811010	\$60,000.00	\$60,000.00	
2 – 17%	1821010	85,000.00	85,000.00	
3 – 10%	1831030	50,000.00	50,000.00	
4 – 19%	1841040	95,000.00	95,000.00	
5 – 4%	1811050	20,000.00	20,000.00	
6 – 12%	1861010	60,000.00	60,000.00	
Stowns–26%	1831010	130,000.00	130,000.00	
<b>Total</b>		<b>\$500,000.00</b>	<b>\$500,000.00</b>	

and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of the resolution to Thomas J. Whetham, P.E., Deputy Commissioner, Department of Environment and Planning, and one (1) certified copy each to Joel A. Giambra, County Executive; Mark C. Poloncarz, Erie County Comptroller; Gregory Dudek, Assistant County Attorney; and Kenneth J. Vetter, Director of Budget, Management and Finance.  
(2-0) Legislator Mills abstained.

**THOMAS J. LOUGHRAN**  
**CHAIRMAN**