

November 12, 2009

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 13

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR MILLS.
CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 21E-27 (2008)
WHYTE: "Black Rock Canal Park"
(5-0)
 - b. COMM. 23-1 (2008)
WHYTE: "Creation of a Seasonal Parks Sheriff's Division and/or the Reinstatement of Park Rangers"
(5-0)
 - c. COMM. 8M-21 (2009)
BUFFALO OLMSTED PARKS CONSERVANCY: "Proposed Utilization of Olmsted Reserve Fund"
(5-0)
 - d. COMM. 12M-1 (2009)
NIAGARA ERIE REGIONAL COALITION: "Legislature Budget Accountability Act Report"
(5-0)
 - e. COMM. 18M-4 (2009)
US EPA: "Community Update Concerning Air Quality Study and Evaluation of the Tonawanda Coke Facility"
(5-0)
 - f. COMM. 19E-10 (2009)
COUNTY EXECUTIVE: "ECDS #3 and #6 - Energy Performance Contract - Change Order No. 1"
(5-0)
 - g. COMM. 19M-1 (2009)
NYSDEC: "Fact Sheet - Brownfield Cleanup Program - Notification for Public Comments"
(5-0)

- h. COMM. 20M-4 (2009)
DELAWARE COUNTY BOARD OF SUPERVISORS: "Copy of Resolution Entitled "Encouraging Immediate Relief for Dairy Farmers and Supporting Changes at the Federal Level Establishing the Price of Fluid Milk at the Farm Gate""
(5-0)
- i. COMM. 21M-1 (2009)
NYSDEC: "Fact Sheet - Cleanup Activities Continuing at the Spaulding Composites Site"
(5-0)
- j. COMM. 21M-4 (2009)
NYSDEC: "Fish and Wildlife Monthly Highlights - 8/16/09 - 9/15/09"
(5-0)
- k. COMM. 21M-8 (2009)
NYSDEC: "Report on Environmental Investigation and Cleanup Activities at Niagara St. and Pennsylvania Ave. Site"
(5-0)
- e. COMM. 21M-9 (2009)
NYSDEC: "Report on Environmental Investigation and Cleanup Activities at NOCO #S41 Site"
(5-0)

2. COMM. 23E-11 (2008)
COUNTY EXECUTIVE AS AMENDED
RESOLUTION NO. _____

RESOLUTION DATED _____, 2009.

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. 4 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) _____, 2009.

(Adopted) _____, 2009

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. 4 of the County of Erie, New York, has heretofore been established and created on February

22, 1961 (the "District") to provide sewer services to the Villages of Depew and Lancaster and the Towns of Lancaster, West Seneca, Alden and Cheektowaga; 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 September 2, 2009 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 replacement of lateral, interceptor and trunk sewers, infrastructure improvements to various pump stations and the reconstruction of various other sewers in and for the District, 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 \$9,000,000, to be assessed against a benefited area which consists of the entire area of the District, as well as the contracting communities including Erie County Sewer District No. 1, West Seneca District No. 6, Cheektowaga Sewer District No. 3, and Lancaster town sewer districts, all in accordance with their respective proportionate shares of equalized assessed value in the District; 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 \$16.22 for the District; 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, 4th Floor, Buffalo, New York, in said County, on the 9th day of December, 2009, 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. 4 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, 4th Floor, Buffalo, New York, in said County, on the 9th day of December, 2009, 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. 4 in said County.

The increase and improvement of such facilities consisting of the replacement of lateral, interceptor and trunk sewers, infrastructure improvements to various pump stations and the reconstruction of various other sewers in and for the District, 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. 4 on September 2, 2009 (the "Report").

The maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$9,000,000, to be assessed against a benefited area which consists of the entire area of the District, as well as the contracting communities including Erie County Sewer District No. 1, West Seneca District No. 6, Cheektowaga Sewer District No. 3, and Lancaster town sewer districts, all in accordance with their respective proportionate shares of equalized assessed value in the District.

There would be no additional costs to properties serviced by the District. The existing estimated hook-up fees for parcels in the District which are not already hooked up to the sewer system are \$2.00 for parcels with existing structures and \$202.00 for new structures, and the annual cost of such expenditures to the Typical Property (as defined in the County Law) is \$16.22 for the District. 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,
, 2009.

BY ORDER OF THE COUNTY
LEGISLATURE OF THE COUNTY OF
ERIE, NEW YORK

Robert M. Graber
Clerk, County Legislature

(5-0)

3. COMM. 17E-42 (2009)

COUNTY EXECUTIVE

WHEREAS, the 2010 Assessment Rolls for Erie County Sewer District Nos. 1-6 and 8 describing each lot or parcel of land have been prepared by the Division of Sewerage Management; and

WHEREAS, the Division of Sewerage Management has also assessed the estimate of expenditures and proportioned them to the lots and parcels of land as nearly as may be to the benefit which each lot or parcel will derive therefrom; and

WHEREAS, the Clerk of the Legislature had a Notice of Public Hearing published in the official County newspapers prior to the date of the Public Hearing which informed the public that the Assessment Rolls would be open for public inspection on and after the first day of October, 2009; and

WHEREAS, said Public Hearing was held in the Chamber of the Erie County Legislature, 92 Franklin Street, 4th Floor, Buffalo, New York, at 1:30 p.m., local time on Wednesday, November 4, 2009 and that all persons desiring to be heard were duly heard and that all objections have been heard and considered; and

WHEREAS, said Assessment Rolls, estimate of expenditures, and Public Hearing were carried out in accordance with Article 5A, Sections 270 and 271 of County Law.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby affirm and adopt the 2010 Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5, 6 and 8; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send a certified copy of this resolution to the County Executive, Erie County Comptroller, Eric Ziobro, Assistant County Attorney and Michael J. Quinn, P.E., Deputy Commissioner, Department of Environment & Planning.
(5-0)

4. COMM. 20E-8 (2009)

COUNTY EXECUTIVE

WHEREAS, Erie County and Niagara County are co-recipients of a \$232,627.00 New York State Shared Municipal Services Incentive (SMSI) Grant (2007-2008 program year); and

WHEREAS, Erie County's participation in this grant program was supported by the Erie County Legislature in a resolution dated December 13, 2007 (Comm. 26E-7); and

WHEREAS, Niagara County, as the lead agent for all financial transactions for the SMSI grant, has provided the entire 10% local match requirement for both Niagara and Erie Counties; and

WHEREAS, Erie County must reimburse Niagara County \$15,763.80 for Erie County's share of the 10% local match for the SMSI grant; and

WHEREAS, funds for the \$15,763.80 payment to Niagara County are available in Environment & Planning, Fund 110, Cost Center 1620010, Account 516020, Professional Services Contracts & Fees.

NOW, THEREFORE, BE IT

RESOLVED, that upon receipt of an invoice from Niagara County, Erie County is authorized to reimburse Niagara County \$15,763.80 as Erie County's share of the local matching requirement for the 2007- 2008 Shared Municipal Services Incentive Grant; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Commissioner of the Department of Environment and Planning; the County Comptroller; the County Attorney; and the Director of the Division of Budget and Management.
(5-0)

5. COMM. 20E-10 (2009)

COUNTY EXECUTIVE

WHEREAS, the Erie County Sewer District No. 3 Board of Managers and the Erie County Legislature have previously authorized construction of a network of sanitary sewers and pumping stations in the Town of Hamburg; and

WHEREAS, Erie County Sewer District No. 3 needs to acquire a fee taking of 1.475 acres and a permanent 0.271 acre and a temporary 0.291 acre easement (SBL 150.20-1-4.1) adjacent to the Milestrip Road Pumping Station for the future construction of a wet weather relief pumping station and sanitary sewers to enable the elimination of the seven (7) existing pumping stations and the Blasdell Wastewater Treatment Plant; and

WHEREAS, an independent appraisal has been prepared of the fee taking and easement area for Erie County Sewer District No. 3.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County Sewer District No. 3 be authorized to acquire said fee taking and easements adjacent to the Milestrip Road Pumping Station owned by the Ford Motor Company (SBL No. 150.20-1-4.1) for the sum not to exceed \$16,500.00; and be it further

RESOLVED, that the Comptroller be authorized and directed to allocate the sum not to exceed \$16,500.00 from Erie County Sewer District No. 3, Sewer Capital C.00012; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive, Director of Budget and Management, Erie County Comptroller, Eric Ziobro, Assistant County Attorney and two certified copies of this resolutions to Michael Quinn, Department of Environment and Planning.
(5-0)

6. **COMM. 21E-5 (2009)**
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has the responsibility for carrying out the federal Community Development Block Grant, HOME Investment Partnership, and Emergency Shelter Grant Programs; and

WHEREAS, said Programs require financial oversight, vendor payment processing, coordination of federal and County accounting systems; and

WHEREAS, said Programs have an annual budget of over \$7.0 million; and

WHEREAS, the execution of a personal services contract with the former Chief Account Clerk within the Community Development Block Grant budget provides an opportunity to realize a cost savings of \$23,300 in the grant program.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute a Personal Services Contract with Nancy Gorrell, residing at 3280 Stony Point Road, Grand Island, New York 14072 for the purpose of undertaking accounting services within the federally funded Community Development Block Grant Program; and be it further

RESOLVED, that the agreement shall include an authorized contract amount not to exceed \$21,000; and be it further

RESOLVED, that the requirement for request for proposals in Section 19.08 of the Erie County Administrative Code are hereby waived since the engagement is a continuation of work activities undertaken through the original County service of Nancy Gorrell as a Chief Account Clerk; and be it further

RESOLVED, that the source of funds shall be money available within the Erie County Community Development Block Grant, in Project J.00507, WBS element J.00507.1.9; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive's Office; the Comptroller's Office; the Director of the Division of Budget and Management; the County Attorney; the Commissioner of the Department of Environment and Planning, Rath Building, 10th Floor.
(5-0)

7. **COMM. 21E-17 (2009)**
COUNTY EXECUTIVE

WHEREAS, the Village of Depew and Erie County have identified mutual benefits to the transfer of ownership of the Village's Vanderbilt Force Main to Erie County; and

WHEREAS, the County of Erie/Erie County Sewer District No. 4 has plans to upgrade the Vanderbilt Pumping Station and the Village's Force Main is vital to that upgrade; and

WHEREAS, an intermunicipal agreement is necessary to transfer ownership of the Village of Depew's Vanderbilt Force Main to Erie County/Erie County Sewer District No. 4.

NOW, THEREFORE, BE IT

RESOLVED, that an intermunicipal agreement between the County, on behalf of Erie County Sewer District No. 4 and the Village of Depew for the purpose of transferring the ownership of the Village of Depew's Vanderbilt Force Main and appurtenances to Erie County Sewer District No. 4 be approved; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute said intermunicipal agreement subject to approval as to form by the County Attorney and as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Michael J. Quinn, P.E., Department of Environment and Planning and one certified copy to the County Executive, the Erie County Comptroller, the Director of Budget and Management and Eric Ziobro, Assistant County Attorney, and Barbara A. Alberti, Mayor, Village of Depew.
(5-0)

8. **COMM. 21E-18 (2009)**
COUNTY EXECUTIVE

WHEREAS, the Department of Environment and Planning has proposed continuation of an Open Item in the Legislature's Energy and Environment Committee to reduce the time required for approval of bond authorization for sewer construction projects.

NOW, THEREFORE, BE IT

RESOLVED, that an Open Item be established in the Energy and Environment Committee of this Legislature for the purpose of considering prerequisite resolutions pertaining to Bond Authorizations and other documents regarding the Erie County Sewer Districts; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive, the Erie County Comptroller, the Director of Budget, Assistant County Attorney and Michael J. Quinn, P.E., Deputy Commissioner, Department of Environment and Planning.
(5-0)

DANIEL M. KOZUB
CHAIR