

July 6, 2009

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 10

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

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 8M-26 (2009)
SAM MAGAVERN: "Report - "Missing the Target: How Economic Dev. Programs Have Failed to Revive Buffalo's Most Challenged Neighborhoods""
(6-0)
 - b. COMM. 10E-2 (2009)
COUNTY EXECUTIVE: "Veto Message Concerning Local Law Intro. 1-1, "The Strategic Development Act""
(6-0)
 - c. COMM. 11M-19 (2009)
NYSDEC: "Copy of Notice of Public Meeting to be Held 6/12/09 - Tonawanda Community Air Quality Study"
(6-0)
 - d. COMM. 12E-21 (2009)
COUNTY EXECUTIVE: "ECSD #3 Engineering Term Agreement - CHA Work Order"
(6-0)
 - e. COMM. 12E-34 (2009)
COUNTY EXECUTIVE: "ECSD #2, 3 & 6 - Engineering Service Agreement"
(6-0)
 - f. COMM. 12M-2 (2009)
NYSDEC: "Fish and Wildlife Monthly Highlights - 3/16/09 - 4/15/09"
(6-0)
 - g. COMM. 12M-3 (2009)
NYSDEC: "Fact Sheet – Tecumseh Phase II Site - Available for Public Comment – Lackawanna"
(6-0)

- h. COMM. 12M-8 (2009)
ASSOCIATION OF ERIE COUNTY GOVERNMENTS: "Copy of Town of Brant Resolution Opposing EC Planning Board"
(6-0)
- i. COMM. 12M-9 (2009)
NYS FISH & WILDLIFE MANAGEMENT BOARD: "Agenda Items for Region 9 Board Meeting Held 6/4/09"
(6-0)
- j. COMM. 12M-10 (2009)
NY DEPARTMENT OF STATE: "Copy of Letter to Legislator Whyte Concerning the Establishment of an EC Planning Board"
(6-0)
- k. COMM. 12M-12 (2009)
PUSH BUFFALO PEOPLE UNITED FOR SUSTAINABLE HOUSING: "Copy of Letter to Legislator Whyte Concerning "Healthy Neighborhood Concept Plan""
(6-0)
1. COMM. 13D-2 (2009)
COMMISSIONER OF ENV. & PLANNING: "Project Description - Negative Declaration of Replacement of Vanderbilt Pump Station - Depew"
(6-0)
2. COMM. 11E-7 (2009)
COUNTY EXECUTIVE **AS AMENDED**
WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bids for the Erie County Sewer District No. 2, Lake Street and Point Breeze Pumping Station Project, Contract Nos. 79A, 79B, and 79D at 3:00 P.M. on June 25, 2009.

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount Bid</u>
Contract 79A General/Mechanical	LPCiminelli Construction Corp. 2421 Main Street Buffalo, N.Y. 14214	\$5,533,000.00
Contract 79B HVAC	MLP Plumbing & Mechanical Inc. 3198 Union Road Cheektowaga, N.Y. 14227	\$251,000.00

Contract 79D Electrical	O'Connell Electric Co. Inc. 929B Ransom Road Lancaster, N.Y. 14086	\$464,300.00
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and

WHEREAS, the aforementioned lowest responsible bidders have successfully performed similar work in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Lake Street and Point Breeze Pumping Stations Project, Contract Nos. 79A General/Mechanical, 79B HVAC and 79D Electrical be awarded as follows:

<u>Contract</u>	<u>Low Bidder</u>	<u>Amount Bid</u>
Contract 79A General/Mechanical	LPCiminelli Construction Corp. 2421 Main Street Buffalo, N.Y. 14214	\$5,533,000.00
Contract 79B HVAC	MLP Plumbing & Mechanical Inc. 3198 Union Road Cheektowaga, N.Y. 14227	\$251,000.00

<u>Contract</u>	<u>Low Bidder</u>	<u>Amount Bid</u>
Contract 79D Electrical	O'Connell Electric Co. Inc. 929B Ransom Road Lancaster, N.Y. 14086	\$464,300.00

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the Contracts with the aforementioned lowest responsible bidders subject to approval as to form by the County Attorney and certification of availability of funds by the Comptroller's Office; and be it further

RESOLVED, that the Comptroller is authorized and directed to allocate \$6,248,300.00 from Sewer Capital, Erie County Sewer District No. 2, Account C.00004 for Contract Nos.79A, 79B, and 79D; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one certified copy each of this Resolution to the County Executive, Director of Budget, Comptroller's Office, Eric Ziobro, Assistant County Attorney and two (2) certified copies to Michael J. Quinn, P.E., Department of Environment and Planning, Rath Building, 10th Floor.
(6-0)

3. INTRO 12-3 (2009)
MILLS, KOZUB, WALTER, KONST, REYNOLDS & RATH
WHEREAS, agriculture is the largest industry in New York State; and

WHEREAS, currently, due to its seasonal nature, New York State farms are not subject to mandatory overtime pay and unemployment insurance; and

WHEREAS, New York State Senate Bill S. 5212 would impose time and a half pay for overtime and unemployment insurance on farms; and

WHEREAS, passing the bill would greatly increase labor costs and greatly increase the need for migratory workers, which would have the effect of further burdening the already limited H2A visa system; and

WHEREAS, such a measure would prevent farmers from getting all of their produce to market, increasing a reliance on produce grown outside of New York State and outside of the United States, where the USDA has limited monitoring authority.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature calls upon our elected representatives in New York State government to oppose Senate Bill S. 5212 and any companion bill in the New York State Assembly; and be it further

RESOLVED, that a certified copy of this resolution be forwarded to Governor David Paterson, Assembly Speaker Sheldon Silver, the Senate Majority Leader and the local delegation to the New York State Legislature.
(6-0)

4. COMM. 12E-25 (2009)
COUNTY EXECUTIVE
WHEREAS, the Erie County Department of Parks, Recreation and Forestry purchased boat docks in 1988; and

WHEREAS, the docks never achieved the desired amount of usage envisioned and were taken out of service several years ago; and

WHEREAS, the EC Parks Department has been trying for more than a year to find a user interested in purchasing these docks without success; and

WHEREAS, the City of Buffalo has a use for boat docks and has expressed an interest in acquiring the docks at Isle View Park; and

WHEREAS, the City of Buffalo has agreed to remove the docks from Isle View Park at no cost to the County; and

WHEREAS, the docks are currently of no use to the EC Parks Department, and have served as nothing but an eyesore for many years; and

WHEREAS, the docks are of little or no value to the County of Erie.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County Executive is authorized to gift up to six docks currently located at Isle View Park to the City of Buffalo; and be it further

RESOLVED, that the clerk of the legislature be instructed to forward certified copies of this resolution to the Department of Parks, Recreation and Forestry, the Erie County Executive, the Office of the Comptroller, the Division of Budget, Management and Finance, the Division of Purchase and the Erie County Department of Law.
(6-0)

5. COMM. 12E-29 (2009)
COUNTY EXECUTIVE

WHEREAS, the County of Erie advertised for and received responses to a request for qualifications from energy service companies interested in completing energy performance contracts to implement facility improvement measures for the County; and

WHEREAS, the selected performance contractors will evaluate assigned facilities and determine programs in which capital improvements may be fully funded by the savings derived from those improvements; and

WHEREAS, per New York State Energy Law Article 9, said savings are guaranteed; and

WHEREAS, a review committee was established that evaluated the responses to the request for qualifications and has rated two firms, Siemens Building Technologies and Wendel Energy Services, as the most qualified to complete energy performance contracting services for the County; and

WHEREAS, the review committee recommends retaining Siemens Building Technologies and Wendel Energy Services to complete general energy performance contracting services for projects identified by the various County Departments/ Divisions.

NOW, THEREFORE, BE IT,

RESOLVED, that the Siemens Building Technologies and Wendel Energy Services be retained to complete general energy performance contracting services for the County; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with Siemens Building Technologies, 85 Northpointe Parkway, Suite 8, Amherst, New York 14228 and Wendel Energy Services, LLC, 140 John James Audubon Parkway, Suite 201, Amherst, New York 14228 to complete general energy performance contracting services for the County, subject to approval as to content by the Commissioner of the Department of Environment and Planning and approval as to form by the County Attorney's office; and be it further

RESOLVED, that cost and funding information for specific energy performance projects identified by County Departments/ Divisions shall be submitted for review and approval by the Erie County Legislature; and be it further

RESOLVED, that the Clerk of the Legislature send two (2) certified copies each of this resolution to Michael Quinn, P.E., Department of Environment and Planning and Gerard Sentz, P.E., Department of Public Works, and one (1) certified copy each to the County Executive, the Erie County Comptroller, the Erie County Director of Budget and Management, and Eric Ziobro, Assistant County Attorney.

6. COMM. 13E-6 (2009)
COUNTY EXECUTIVE

WHEREAS, through American Recovery and Reinvestment Act of 2009, the United States Department of Energy (USDOE) will provide over \$2.7 billion to U.S. states, territories, local governments, and Indian tribes under the Energy Efficiency and Conservation Block Grant (EECBG) Program; and

WHEREAS, through the allocation formula established for EECBG, the USDOE has made \$2,903,000 available to Erie County government to develop an Energy Efficiency and Conservation Strategy and implement projects that will reduce energy use and green house gas emissions within county operations and the community; and

WHEREAS, the Erie County Departments of Environment and Planning (DEP) and Public Works (DPW) have collaborated to develop priority County initiatives and projects that are eligible for funding, compiled these projects using the prescribed federal format and forms and submitted an application to the USDOE requesting the \$2,903,000 in available funding to meet its June 25, 2009 deadline; and

WHEREAS, Ecology and Environment, Inc., an internationally recognized environmental consultant with headquarters based in Erie County, has extensive experience assisting communities nationwide in adopting and implementing energy conservation and greenhouse gas reduction efforts. Its environmental consulting services are available to the County through the New York State Office of Government Services (OGS) Contract # PS59746. It has assisted with the EECBG application process, and will be provided a contract to assist with the development of the overall strategy and implementation of several of the program initiatives; and

WHEREAS, C. J. Brown Energy, P.C., a locally based energy performance contractor that has done extensive work performing energy audits and upgrades on Erie County facilities and whose services are available to the county through authorization DPW received from the Erie County Legislature by resolution (Comm14E-19) passed July 17, 2008 to engage the professional services of several consultants, will be provided a contract to coordinate the specific energy conservation studies on Erie County buildings that will be funded through the EECBG; and

WHEREAS, the funding available for personnel services and fringe benefits will cover the services of three existing environmental staff members in the Department of Environment and Planning, whose funding from existing grants will expire by the end of 2009; and

WHEREAS, the new grant resources would also enable the Department of Environment and Planning to add six additional hours per week to the existing part time schedule (currently 24 hrs/week) of an existing County line Environmental Compliance Specialist RPT (JG 12) to enable her to assist with this new grant effort over the next three years.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into the necessary agreements with the USDOE to accept and implement the Erie County Energy Efficiency and Conservation Block Grant Program (grant period: 09/01/09 to 09/30/12) in an amount not to exceed \$2,903,000 in grant resources; and be it further

RESOLVED, that upon receipt of a formal award letter and contract from the U.S. Department of Energy the County Executive is authorized to enter into the necessary agreements with Ecology and Environment, Inc. to provide consultant services consistent with the terms of the existing New York State

OGS Contract #PS59746 to assist with the development and implementation of the Erie County Energy Conservation Strategy in an amount not to exceed \$250,000 in grant resources; and be it further

RESOLVED, that upon receipt of a formal award letter and contract from the U.S. Department of Energy the County Executive and Department of Public Works is authorized to enter into the necessary agreements with C. J. Brown Energy, P.C., to provide consultant services in an amount not to exceed \$950,000; and be it further

RESOLVED, that the revenue from the Erie County Energy Efficiency and Conservation Block Grant Program is hereby appropriated in the Department of Environment and Planning, Business Area 162, Fund 281, as follows:

<u>REVENUE:</u>	<u>Grant:</u>	<u>162EECBG ENE0912</u>	
414000	Federal Aid		<u>\$2,903,000</u>
TOTAL REVENUE			\$2,903,000
<u>APPROPRIATIONS:</u>			
<u>Account</u>	<u>Description</u>		<u>Budget</u>
500000	Full-Time Salaries		312,000
500020	Regular Part Time Salaries		124,800
502000	Fringe Benefits		210,144
510000	Local Travel and Mileage		1,100
510200	Training and Education		5,000
530000	Other Expenses		19,793
506200	Maintenance and Repair Supplies		28,000
516020	Contractual Services		270,000
575000	InterFund Expense – Non Subsidy		1,900,000
916200	ID Dept. Environment and Planning Services		32,163
TOTAL APPROPRIATIONS:			\$2,903,000

and be it further

RESOLVED, that upon receipt and final approval from the granting agency the Budget Director has the authority to establish Pay-As-You-Go Projects within the Department of Public Works, Fund 410, in an amount not to exceed \$1,900,000; and be it further

RESOLVED, that the following three positions will be created in the newly established Erie County Energy Efficiency and Conservation Block Grant Budget:

Solid Waste Recycling Specialist (JG 12) (1) Position
 B100 Number: 0000004806
 Budgeted Annual Salary: \$62,400

Jr. Environmentalist (JG 7)
 (2) Positions – one Full Time and one RPT
 B100 Number: 0000004808
 Budgeted Annual Salary: \$41,600

and be it further

RESOLVED, that the authorizations provided by this resolution are contingent upon receipt of an award letter and contract form the U.S. Department of Energy; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive; the Director of the Division of Budget and Management; Holly A. Sinnott, Commissioner of Environment and Planning; William M. Murray, Esq., Deputy Commissioner of Environment and Planning; Tom Hersey, Coordinator – Pollution Prevention Program; the Commissioner of Public Works, the County Comptroller; the Commissioner of Personnel; and the County Attorney.
 (6-0)

7. COMM. 13E-7 (2009)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning (DEP) coordinates the activities of the Western New York Stormwater Coalition (WNYSC); and

WHEREAS, the DEP has assumed the role of lead agency and has pursued grant funding to support the work of the WNYSC since its inception; and

WHEREAS, the New York State Department of Environmental Conservation granted DEP \$479,200 to assist 43 municipal entities in Erie and Niagara Counties in their efforts to comply with the state's Phase II Stormwater requirements; and

WHEREAS, the Erie County Legislature authorized the County Executive to enter into an agreement with the New York State Department of Environmental Conservation and establish the existing grant budget (Comm. 20E-10 dated November 15, 2007); and

WHEREAS, it is necessary to revise the existing budget in accordance with the current project workplan and contractual requirements set forth by the granting agency; and

WHEREAS, the grant funding available for personnel services and fringe benefits will cover the services of an existing Solid Waste Recycling Specialist (JG 12); and

WHEREAS, the required County match will be met through in-kind expense contributions from Erie County staff and the WNYSC membership.

NOW, THEREFORE, BE IT

RESOLVED, that the grant budget for the Western New York Stormwater Coalition: MS4 Assistance Project is hereby revised in the Department of Environment and Planning, Business Area 162 (fund 281, SAP Grant #162WNYSCPEIDP0810) as follows:

REVENUE:

409000	State Aid – New York State Department of Environmental Conservation	<u>\$479,200</u>
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TOTAL REVENUE	<u>\$479,200</u>
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APPROPRIATIONS:

Account	Description	Current Budget	Revisions	Revised Budget
500000	Personnel Services	\$60,000	\$60,000	120,000
502000	Fringe Benefits	\$22,800	\$27,000	\$49,800
505000	Office Supplies	\$130,000	(\$125,500)	\$4,500
10000	Local Travel & Mileage	\$0	\$500	\$500
530000	Other Expenses	\$0	\$2,000	\$2,000
561410	Lab and Technical	\$1,400	\$1,100	\$2,500
516020	Professional Service Contract	<u>\$265,000</u>	<u>\$34,900</u>	<u>\$299,900</u>
		\$479,200	\$0	\$479,200

TOTAL APPROPRIATIONS	<u>\$479,200</u>
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and be it further

RESOLVED, that the following position will be transferred to the new grant from the Illicit Connection Trackdown and Evaluation Project grant (Fund 281; SAP Grant #162ILLICITCONN0708) upon consumption of the current budget:

Solid Waste Recycling Specialist (JG 12) Position
B-100 No. 0004752
Budgeted Annual Salary: \$59,266

and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to implement any budget adjustments as required to comply with State funding requirements; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive, the Director of Budget and Management; Holly Sinnott, Commissioner of Environment and Planning; William M. Murray, Esq., Deputy Commissioner of Environment and Planning; Tom Hersey, Coordinator –Pollution Prevention Program; the County Comptroller; the Commissioner of Personnel; and the County Attorney.
(6-0)

8. COMM. 13E-9 (2009)
COUNTY EXECUTIVE

RESOLVED, the Erie County Legislature confirms the appointment of the following individual to the ECSD No. 3 Board of Managers for the terms stated:

Name
Mr. Jerry Kapsiak
6100 S. Park Ave.
Hamburg, NY 14075

Term Expires
December 31, 2009

(6-0)

9. COMM. 13E-18 (2009)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bid for the Erie County Sewer District No. 3, Hamburg Master Pumping Station Wet Well Ventilation System and Stairway Replacement Project, Contract 38PS, at 2:00 P.M. on June 26, 2009.

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount Bid</u>
Contract 38PS	Hohl Industrial Services, Inc. 770 Riverview Boulevard Tonawanda, NY 14150	\$98,728.00

and

WHEREAS, the aforementioned lowest responsible bidder has successfully performed similar work in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Hamburg Master Pumping Station Wet Well Ventilation System and Stairway Replacement Project, Contract 38PS be awarded to Hohl Industrial Services, Inc., in the not-to-exceed amount of \$98,728.00; and be it further

RESOLVED, that the County Executive be, and hereby is authorized to execute the Contract with the aforementioned lowest, responsible bidder subject to approval as to form by the County Attorney and certification of availability of funds from the Bond Account C.00062; and be it further

RESOLVED, that the Comptroller is authorized and directed to allocate \$98,728.00 from Sewer Capital, Erie County Sewer District No. 3, Account C.00062 for Contract 38PS; 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.
(6-0)

**DANIEL M. KOZUB
CHAIR**