

October 11, 2018

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 14

ALL MEMBERS PRESENT.

CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 17E-8 (2018)
LOUGHRAN: "Letter to Chair of Energy & Environment Committee Regarding Attendance of the Commissioners of the ECWA at the Next Scheduled Meeting"
(Chair's Ruling)
 - b. COMM. 17D-2 (2018)
COUNTY ATTORNEY: "Amicus Curiae Brief for the County of Erie - United States of America v. Tonawanda Coke Corporation"
(Chair's Ruling)
 - c. COMM. 18E-11 (2018)
COUNTY EXECUTIVE: "ECSD No. 8 - Engineer Term Contract Agreement"
(Chair's Ruling)
 - d. COMM. 18D-4 (2018)
DEPARTMENT OF ENVIRONMENT & PLANNING: "SEQR - Solicitation for Lead Agency Status - Unlisted Action"
(Chair's Ruling)
 - e. COMM. 18D-5 (2018)
DEPARTMENT OF ENVIRONMENT & PLANNING: "SEQR - Negative Declaration Notice of Determination of Non-Significance"
(Chair's Ruling)
2. COMM. 18E-8 (2018)
COUNTY EXECUTIVE
WHEREAS, the Division of Sewerage Management has determined that a number of capital projects have been completed and need to be closed; and

WHEREAS, these projects are in Erie County Sewer District Nos. 2, 3, 4, 5, and 6; and

WHEREAS, some of these projects have available funds that need to be applied to the related debt service accounts or to the original source of funds; and

WHEREAS, some of these projects have balances that need to be funded with capital reserves for final accounting and close out; and

WHEREAS, the transfer of funds necessary to facilitate these actions will not impact the approved 2018 Budget.

NOW, THEREFORE, BE IT

RESOLVED, that authorization is hereby provided to wholly close the following capital projects:

Fund	Project	SD #	Project Name	Return to Capital Reserve	Return to Operating	Apply to Debt Service	Needs Capital Reserve	Initial Bond Issuance	Initial Payment
430	C.00013	2	New Disinfect				\$141,188.12	Dec-05	
430	C.00028	2	Inc & Imp				\$304.62	Nov-94	
430	c.00003	3	Elma Pump St				\$32,343.32	Aug-04	
430	C.00014	3	Ext & Recon			\$5.11		Aug-04	
430	C.00018	3	Inc & Imp			\$2,017.53		Nov-94	
430	C.00066	3	Boston State Rd Ext			\$22,522.90		May-10	
430	C.00073	3	South Bflo PS		\$799.99				Jul-10
430	C.11302	3	STP Heat Exc	\$1,057.63					Sep-11
430	C.00030	4	Inc & Imp			\$232,680.81		Dec-03	
430	C.00070	4	ESCD 1 & 4 Merger study	\$502.84					Oct-07
430	C.00056	5	Inc & Imp				\$21,937.26	Dec-05	
430	C.00068	5	Amherst Merger Study	\$138.19					Jul-07
430	C.00037	6	Inc & Imp			\$3,576.37		Dec-03	
Grand Total				\$1,698.66	\$799.99	\$260,802.72	\$195,773.32		

and be it further

RESOLVED, that \$141,188.12 be transferred from Erie County Sewer District (ECSD) No. 2 Capital Reserve Account C.00008 to Capital Account C.00013, and that \$304.62 be transferred from Capital Reserve Account C.00008 to Capital Account C.00028; and be it further

RESOLVED, that \$32,343.32 be transferred from ECSD No. 3 Capital Reserve Account C.00007 to Capital Account C.00003, and that \$1,057.00, and any additional interest earned be transferred from Capital Account C.11302 to Capital Reserve C.00007; and be it further

RESOLVED, that \$502.84 be transferred from ECSD No. 4 Capital Account C.00070 to Capital Reserve Account C.00034; and be it further

RESOLVED, that \$21,937.26 be transferred from ECSD No. 5 Capital Reserve Account C.00005 to Capital Account C.00056, and that \$138.19 be transferred from Capital Account C.00068 to Capital Reserve Account C.00005; and be it further

RESOLVED, that \$5.11 be transferred from ECSD No. 3 Capital Account C.00014 to Capital Debt Service C.00014 and that \$22,522.90 be transferred from Capital Account C.00066 to Capital Debt Service C.00066, and that \$2,017.53 be transferred from Capital Account C.00018 to Capital Debt Service C.00018; and be it further

RESOLVED, that \$799.99 be transferred from ECSD No. 3 Capital Account C.00073 to Fund Center 183, Fund 220, Account 486010; and be it further

RESOLVED, that \$232,680.81 be transferred from ECSD No. 4 Capital Account C.00030 to Capital Debt Service C.00030; and be it further

RESOLVED, that \$3,576.37 be transferred from ECSD No. 6 Capital Account C.00037 to Capital Debt Service C.00037; and be it further

RESOLVED, that amounts transferred into Capital Debt Service accounts be applied to future debt payments in 2019 or later; and be it further

RESOLVED, that authorization is hereby provided to the Division of Budget and Management and the Comptroller's Office to make any and all budgetary and financial entries required to implement this resolution, including any adjustments needed to account for interest earned in any of the project accounts; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy each of this Resolution to the County Executive, the Erie County Comptroller, and the Director of Budget and Management; and two (2) certified copies be sent to Joseph L. Fiegl, P.E. Department of Environment and Planning, Division of Sewerage Management.
(4-0) Legislators Baskin & Burke not present for vote.

3. COMM. 18E-9 (2018)

COUNTY EXECUTIVE

WHEREAS, pursuant to proceedings had and taken in accordance with the provisions of Article 5A of the County Law and more particularly a resolution of this County Legislature dated September 20,

2018, an increase and improvement of facilities of Erie County Sewer District No. 5 (the District") has been approved at a total estimated maximum cost of \$1,000,000 (the "Projects"); now therefore be it

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. The County of Erie, New York (herein called "County"), is hereby authorized to undertake the Projects, consisting of improvements to the sanitary sewers, manholes, and other collection system assets, improvements to the Transit Valley and Bryant and Stratton Pumping Stations, and preparation of a capacity analysis to evaluate current flows and future service requirements; all as more fully described in the report and estimate of cost approved by the Board of Managers of the District on April 9, 2018 and filed with the County Legislature pursuant to Section 268 of the County Law. The total estimated maximum cost of said specific objects or purposes, including preliminary costs and costs incidental thereto and to the financing thereof, is \$1,000,000 and said amount is hereby appropriated therefor pursuant to the duly adopted 2018 Capital Budget for the County. The plan of financing includes the issuance of \$1,000,000 aggregate principal amount of bonds of the County to finance said appropriation, the levy and collection of taxes on all the taxable real property in the County to pay the principal of said bonds and the interest thereon as the same shall become due and payable, the said principal and interest to be reimbursed to the County by the assessment and levy on the real property in the District, all in accordance with their respective proportionate shares of equalized assessed value in the District.

Section 2. Bonds of the County in the principal amount of \$1,000,000, or so much thereof as may be necessary, are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law") to finance said appropriation.

Section 3. The period of probable usefulness for the specific objects or purposes for which said \$1,000,000 bonds herein authorized are to be issued, within the limitations of §11.00 a. 4 of the Law, is forty (40) years.

Section 4. Current funds are not required to be provided as a down payment prior to the issuance of the bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 5. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of said improvements, prior to the issuance of the bonds or bond anticipation notes herein authorized, out of any available funds of the County on an interim basis, which respective amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County pursuant to this Resolution, in the respective maximum amounts of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 6. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to the issuance of bonds having substantially level or declining annual debt service, §30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals thereof, and of §§50.00, 56.00 to 60.00 and 168.00 of said Law, the powers and duties of the County Legislature relative to authorizing the issuance of any notes in anticipation of the sale of the respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 7. Each of the bonds authorized by this Resolution and any bond anticipation notes issued in anticipation of the sale thereof shall contain the recital of validity prescribed by §52.00 of said Local Finance Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the County of Erie, payable as to both principal and interest by general tax upon all the taxable real property within the County. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and provision shall be made annually in the budgets of the County by appropriation for (a) the amortization and redemption of the notes and bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 8. The validity of the bonds authorized by this Resolution and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

(a) such obligations are authorized for an object or purpose for which the County is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of the publication of this Resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity, is commenced within twenty days after the date of such publication, or

(c) such obligations are authorized in violation of the provisions of the Constitution.

Section 9. This Resolution shall take effect immediately upon approval by the County Executive.

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

Section 1. The Clerk of the Erie County Legislature is hereby directed to publish the foregoing bond resolution, in summary, “*Amherst Bee*” and in the “*Challenger*”, the official newspapers of said

County, and in the “*Clarence Bee*”, for such publication, together with a notice in substantially the form prescribed in Section 81.00 of the Local Finance Law of the State of New York.

Section 2. This resolution shall take effect immediately.

(4-0) Legislators Baskin & Burke not present for vote.

4. COMM. 18E-10 (2018)
COUNTY EXECUTIVE

WHEREAS, the Division of Sewerage Management identified that additional funds may be needed to pay for water usage charges in Erie County Sewer District (ECSD) Nos. 2 and 3 for the remainder of the 2018 fiscal year; and

WHEREAS, the Division of Sewerage Management analyzed the budget and expenses and determined that a surplus will exist in ECSD No. 2 account 506200 – Maintenance & Repair; and

WHEREAS, the Division of Sewerage Management analyzed the budget and expenses and determined that a surplus will exist in ECSD No. 3 account 505600 – Auto, Truck, & Heavy Equipment Supplies; and

WHEREAS, a transfer of funds from accounts with surplus funds will allow ECSD No. 2 and 3 to maintain daily operations with no net impact on the 2018 budget.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby approve the following transactions within the accounts of ECSD No. 2:

DIVISION OF SEWERAGE MANAGEMENT
ERIE COUNTY DISTRICT NO. 2
FUND CENTER – 18210

<u>INCREASE:</u>	<u>AMOUNT:</u>
515000 Utility Charges	<u>\$10,000</u>
Total	<u>\$10,000</u>

<u>DECREASE:</u>	<u>AMOUNT</u>
506200 Maintenance & Repair	<u>\$10,000</u>
Total	<u>\$10,000</u>

and be it further

RESOLVED, that the Erie County Legislature does hereby approve the following transactions within the accounts of ECSD No. 3:

DIVISION OF SEWERAGE MANAGEMENT
ERIE COUNTY DISTRICT NO. 3
FUND CENTER – 18310

<u>INCREASE:</u>	<u>AMOUNT:</u>
515000 Utility Charges	<u>\$15,000</u>
Total	<u>\$15,000</u>

<u>DECREASE:</u>	<u>AMOUNT</u>
505600 Auto, Truck, & Heavy Equipment Supplies	<u>\$15,000</u>
Total	<u>\$15,000</u>

and be it further

RESOLVED, that the County Comptroller and/or Director of Budget and Management is hereby authorized to make any required budgetary adjustments to implement the actions and appropriations in this resolution; 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, the Erie County Comptroller, and the Director of Budget and Management; and two (2) certified copies be sent to Joseph L. Fiegl, P.E. Department of Environment and Planning, Division of Sewerage Management.
(4-0) Legislators Baskin & Burke not present for vote.

5. COMM. 18E-14 (2018)
COUNTY EXECUTIVE
WHEREAS, Article 5-A, Sections 270 and 271 of County Law requires your Honorable Body to hold a Public Hearing on the Sewer District Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5, 6 and 8; and

WHEREAS, notice of said Public Hearing shall be published at least once in the official County newspapers prior to holding the Public Hearing.

NOW, THEREFORE, BE IT

RESOLVED, that the Sewer District assessment rolls be open for public inspection after October 1, 2018 in the offices of the Division of Sewerage Management, 95 Franklin Street, Buffalo, New York 14202; and be it further

RESOLVED, that a Public Hearing be held in the Chambers of the Erie County Legislature, 92 Franklin Street, 4th Floor, Buffalo, NY, at 6:00 p.m., local time, on November 8, 2018 for the purpose of meeting to hear and consider any objections which may be made to the 2018 Sewer District Assessment Rolls (2019 Levy) 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 have published in the official County Newspapers, and the Buffalo News, a Notice of Public Hearing no later than the week of October 29, 2018; 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, the County Comptroller, Kristen Walder, Assistant County Attorney; and two (2) certified copies to Joseph L. Fiegl, P.E., Department of Environment and Planning, Rath Building, 10th Floor.
(5-0) Legislator Baskin not present for vote.

6. COMM. 18E-15 (2018)
COUNTY EXECUTIVE
WHEREAS, transfers are made on a monthly basis from Erie County Sewer District (ECSD) operating funds to debt service accounts to cover respective debt principal and interest payments; and

WHEREAS, the funds in the debt service accounts can only be utilized to make debt principal and interest payments; and

WHEREAS, excess funds were accumulated in these debt service accounts by certain transfers of operating funds that exceeded the total of debt principal and interest payments, balances that were carried over from the previous County accounting software SFG, and interest earned on these balances; and

WHEREAS, the debt service account balances in accounts C.00017, C.00020, and C.00023 exceed the outstanding debt balances of the respective accounts; and

WHEREAS, the capital project accounts for C.00017, C.00020, and C.00023 have been closed, and no future borrowings will be done in these accounts; and

WHEREAS, other debt service accounts in the respective district have outstanding future debt; and

WHEREAS, the Erie County Division of Sewerage Management is requesting a transfer of these funds to other debt service accounts within the respective ECSD; and

WHEREAS, the transfer of said funds will not impact the approved 2018 Budget.

NOW, THEREFORE, BE IT

RESOLVED, that \$100,000.00 be transferred to C.00029 from C.00017 (ECSD No. 5); and be it further

RESOLVED, that \$103,841.99 be transferred to C.00035 from C.00017 (ECSD No.5); and be it further

RESOLVED, that \$68,383.78 be transferred to C.00012 from C.00020 (ECSD No. 3); and be it further

RESOLVED, that \$40,674.17 be transferred to C.00012 from C.00023 (ECSD No. 3); and be it further

RESOLVED, the Erie County Comptroller and Director of Budget and Management be authorized to establish all budgeting accounts necessary to facilitate these transfers; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy each of this Resolution to the County Executive, the Erie County Comptroller, and the Director of Budget and Management; and two (2) certified copies be sent to Joseph L. Fiegl, P.E. Department of Environment and Planning, Division of Sewerage Management.

(5-0) Legislator Baskin not present for vote.

7. COMM. 18E-16 (2018)
COUNTY EXECUTIVE

WHEREAS, transfers are made on a monthly basis from Erie County Sewer District (ECSD) operating funds to debt service accounts to cover respective debt principal and interest payments; and

WHEREAS, the funds in the debt service accounts can only be utilized to make debt principal and interest payments; and

WHEREAS, excess funds were accumulated in these debt service accounts by certain transfers of operating funds that exceeded the total of debt principal and interest payments, balances that were carried over from the previous County accounting software SFG, and interest earned on these balances; and

WHEREAS, all debt payments funded by debt service accounts C.00019, C.00024, C.00026, C.00040, C.00043, C.00049, C.00052, C.00053, C.00054.1, C.00059, and C.00060 have been made; and

WHEREAS, the abovementioned debt service accounts have a total balance of \$29,580.69 as of August 31, 2018; and

WHEREAS, the Erie County Division of Sewerage Management is requesting a transfer of these funds to the appropriate capital reserve account in order to fund sewer district capital projects; and

WHEREAS, the transfer of said funds will not impact the approved 2018 Budget.

NOW, THEREFORE, BE IT

RESOLVED, that the following funds transfers be made:

ECSD No. 1

Debit:

Fund 310	1730010	C.00043	570000	Interfund Transfers (Subsidy)	\$178.72
Fund 310	1730010	C.00049	570000	Interfund Transfers (Subsidy)	<u>95.29</u>
				Total	<u>\$274.01</u>

Credit:

Fund 430	181	C.00033	486000	Interfund Revenue Subsidy	<u>\$274.01</u>
				Total	<u>\$274.01</u>

ECSD No. 2

Debit:

Fund 310	1740010	C.00024	570000	Interfund Transfers (Subsidy)	\$ 2.22
Fund 310	1740010	C.00052	570000	Interfund Transfers (Subsidy)	347.25
Fund 310	1740010	C.00059	570000	Interfund Transfers (Subsidy)	<u>14.00</u>
				Total	<u>\$363.47</u>

Credit:

Fund 430	182	C.00008	486000	Interfund Revenue Subsidy	<u>\$363.47</u>
				Total	<u>\$363.47</u>

ECSD No. 3

Debit:

Fund 310	1750010	C.00019	570000	Interfund Transfers (Subsidy)	\$10,968.11
Fund 310	1750010	C.00060	570000	Interfund Transfers (Subsidy)	<u>1.02</u>
				Total	<u>\$10,969.13</u>

Credit:

Fund 430	183	C.00007	486000	Interfund Revenue Subsidy	<u>\$10,969.13</u>
				Total	<u>\$10,969.13</u>

ECSD No. 4

Debit:

Fund 310	1730010	C.00040	570000	Interfund Transfers (Subsidy)	\$ 5.15
Fund 310	1730010	C.00053	570000	Interfund Transfers (Subsidy)	<u>\$11,502.05</u>
				Total	<u>\$11,507.20</u>

Credit:

Fund 430	181	C.00034	486000	Interfund Revenue Subsidy	<u>\$11,507.20</u>
				Total	<u>\$11,507.20</u>

ECSD No. 5

Debit:

Fund 310	1730010	C.00026	570000	Interfund Transfers (Subsidy)	<u>\$2,352.83</u>
				Total	<u>\$2,352.83</u>

Credit:

Fund 430	181	C.00005	486000	Interfund Revenue Subsidy	<u>\$2,352.83</u>
				Total	<u>\$2,352.83</u>

ECSD No. 6

Debit:

Fund 310	1760010	C.00054.1	570000	Interfund Transfers (Subsidy)	<u>\$4,114.05</u>
				Total	<u>\$4,114.05</u>

Credit:

Fund 430	186	C.00006	486000	Interfund Revenue Subsidy	<u>\$4,114.05</u>
				Total	<u>\$4,114.05</u>

and be it further

RESOLVED, that debt service accounts C.00019, C.00024, C.00026, C.00040, C.00043, C.00049, C.00052, C.00053, C.00054.1, C.00059. and C.00060 be closed; and be it further

RESOLVED, the Erie County Comptroller and Director of Budget and Management be authorized to establish all budgeting accounts necessary to facilitate these transfers and closeout the debt service accounts; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy each of this Resolution to the County Executive, the Erie County Comptroller, and the Director of Budget and Management; and two (2) certified copies be sent to Joseph L. Fiegl, P.E. Department of Environment and Planning, Division of Sewerage Management.
(5-0) Legislator Baskin not present for vote.

**JOHN BRUSO
CHAIR**