

JUNE 5, 2008

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 7

ALL MEMBERS PRESENT. CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 8E-28 (2008)
MILLS: Re-Appointment of a Commissioner to the Erie County Water Authority
(6-0)
 - b. COMM. 8M-20 (2008)
KELLY M. VACCO: Letter to Chair Marinelli Concerning Re-Appointment as a Commissioner of the Erie County Water Authority
(6-0)
 - c. COMM. 9E-21 (2008)
MARINELLI: Letter to Legislator Kozub Concerning Appointment of Commissioner to the Erie County Water Authority
(6-0)
 - d. COMM. 9E-22 (2008)
MARINELLI: Letter to Legislature Clerk Concerning Appointment of Commissioner to the Erie County Water Authority
(6-0)
 - e. COMM. 9D-3 (2008)
CLERK OF LEGISLATURE: Copy of Letter to Majority & Minority Leaders Concerning Appointment of Commissioner to the Erie County Water Authority
(6-0)
 - f. COMM. 10D-7 (2008)
DEPUTY COMMISSIONER ENVIRONMENT & PLANNING: State Environmental Quality Review - Negative Declaration - Notice of Determination of Non-Significance
(6-0)

- g. COMM. 10M-3 (2008)
NYS DEC: NYS Fish, Wildlife & Marine Resource Goals for 2010 - Ecosystem Protection
(6-0)
 - h. COMM. 10M-6 (2008)
TOWN OF AMHERST: To Support Recertification of the Amherst Agricultural District, EC #17, by the Erie County Legislature
(6-0)
 - i. COMM. 10M-15 (2008)
CITY OF BUFFALO - NYS DEC: Update on Brownfield Site Investigation, Cleanup and Reconstruction of Franczyk Park, Buffalo, NY
(6-0)
2. COMM. 7E-12 (2008)
COUNTY EXECUTIVE **AS AMENDED**
WHEREAS, the Erie County Legislature did pass a resolution on October 11, 2007 (17E-8) authorizing the County to apply for an Environmental Restoration Program grant of \$480,000 for the environmental investigation of 5335 River Road and committing \$50,000 in matching funds for the project; and

WHEREAS, the Riverview Industrial Center, 5335 River Road in the Town of Tonawanda is an abandoned petroleum tank farm and brownfield site that presents a blighting influence on the waterfront and a health and safety risk to the community; and

WHEREAS, the Town of Tonawanda and Erie County collaborated to obtain a U.S. Environmental Protection Agency grant to allow a Phase I environmental review to be performed for the site; and

WHEREAS, that Phase I environmental review documented an over fifty year usage of this property as a petroleum tank farm with 12 tanks in use at times and recommended further intrusive investigation into the site to determine levels and extent of contamination; and

WHEREAS, the County of Erie is interested in working together with the Town of Tonawanda to develop information on the condition of this site and costs of remediation for the 26-acre site; and

WHEREAS, after thorough consideration of the various aspects of the Riverview Industrial Center site and study of available data, the County of Erie has determined that certain work, as described

in the application and attachments is desirable, is in the public interest and is required in order to implement the project; and

WHEREAS, the New York State Department of Environmental Conservation Environmental Restoration Grant Program provides a 90% reimbursement for eligible project costs for investigation and remediation of publicly owned brownfield sites; and

WHEREAS, Article 56 of the Environmental Conservation Law authorizes State assistance to municipalities for environmental restoration projects by means of a contract and the Municipalities deem it to be in the public interest and benefit under this law to enter into a contract therewith; and

WHEREAS, the County may take title to the Riverview Commerce Center, 5335 River Road site in order to carry out the anticipated investigation, remediation and redevelopment activities; and

WHEREAS, the Town of Tonawanda has decided to be a co-applicant with Erie County for the grant request and has committed a minimum of \$10,000 towards investigation, remediation and demolition costs; and

WHEREAS, there will be additional demolition and site preparation costs that may not be covered by the New York State Department of Environmental Conservation program; and

WHEREAS, pursuant to a New York State Department of Environmental Conservation memorandum dated August 19, 2005, one of the applicants in a joint application must be identified as the lead agent in matters of reimbursement.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to act in behalf of the County in all matters related to State assistance under Article 56, Title 5. The County Executive is also authorized to make application, execute the State Assistance Contract, submit project documentation, and otherwise act for the County in all matters related to the Project and to State assistance; and be it further

RESOLVED, that the County Executive is authorized to place this property in a Temporary Incidence of Ownership status and to foreclose on the property if necessary for entering into the remediation phase of this project; and be it further

RESOLVED, that authorization is provided to carry forward available 2007 funding into 2008 within the Economic Development fund Center monitored by the Department of Environment and Planning, which has been reserved in the amount of \$50,000 authorized in Communication 17E-8 of 2007 for the Riverview Industrial Center; and be it further

RESOLVED, that Erie County and the Town of Tonawanda will be co-applicants for this project and that the Town of Tonawanda is authorized to be the lead in matters of reimbursement under the New York State Bond Act Program for this project; and be it further

RESOLVED, that the County Executive is authorized to enter into contracts with the Town of Tonawanda in amounts not to exceed \$50,000.00 for the purpose of providing services and activities for the purpose of brownfield investigation, testing, remediation, demolition and site preparation which may take place as part of the New York State program or without involvement of the state program; and be it further

RESOLVED, that the County agrees that it will fund its portion of the cost of the Project and that funds will be available to initiate the Project's field work within twelve (12) months of written approval of its application by the Department of Environmental Conservation; and be it further

RESOLVED, that one (1) certified copy of this Authorization be prepared and sent to the Albany office of the New York State Department of Environmental Conservation together with the Application for State Assistance; and be it further

RESOLVED, that this Authorization take effect immediately; 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 Director of the Division of Budget, Management and Finance; the Comptroller; the Commissioner of the Department of Environment and Planning; and the County Attorney.
(6-0)

3. INTRO 8-15 (2008)

**IANNELLO, KONST, REYNOLDS, MARINELLI, AS AMENDED
MILLS, KONST, WHYTE & LOUGHRAN**

WHEREAS, there is a consensus among the world's leading scientists that global warming caused by human emission of greenhouse gases is among the most significant problems facing the world today; and

WHEREAS, documented impacts of global warming include but are not limited to increased occurrences of extreme weather events (i.e., droughts and floods), adverse impacts on plants and wildlife habitats, threats to global food and water supplies – all of which have an economic impact on communities and their local governments; and

WHEREAS, leading scientists have projected that stabilization of climate change in time to minimize such impacts will require a reduction of global warming emissions to 80 per cent below current levels by the year 2050; and

WHEREAS, currently the United States is responsible for producing approximately 25% of the world's global warming pollutants; and

WHEREAS, many leading U. S. companies that have adopted greenhouse gas reduction programs to demonstrate corporate and operational responsibility have also publicly expressed preference for the federal government to adopt precise and mandatory emissions targets and timetables as a means by which to provide a uniform and predictable regulatory environment to encourage and enable necessary and long-term business investments; and

WHEREAS, state, regional and local governments throughout the United States are adopting emissions reduction targets and programs; and

WHEREAS, that this effort is bipartisan, coming from Republican and Democratic leadership; and

WHEREAS, the U.S. Conference of Mayors has endorsed the U.S. Mayors Climate Protection Agreement, which commits cities to reduction of global warming emissions to 7 percent below 1990 levels by 2012, and calls for a federal limit on emissions; and

WHEREAS, the State of California has mandated statewide reduction of greenhouse gas emissions to 80 per cent below 1990 levels by 2050; and

WHEREAS, more than 100 county leaders signed a letter written by Dane County, Wisconsin, that was sent to the President in March 2006 calling for increased energy investment and development of jobs focused on clean energy technologies; and

WHEREAS, counties have a unique role to play in reducing greenhouse gas emissions and preparing for the impacts of climate change through their regional jurisdiction over policy areas such as air quality, land use planning, transportation, zoning, forest preservation, water conservation, and wastewater and solid waste management; and

WHEREAS, the economic arguments for implementing climate solutions are compelling, from the near-term economic gains of energy efficiency to the long-term climate stabilization that can prevent irreparable harm from catastrophic climate change impacts; and

WHEREAS, many counties throughout the nation, both large and small, are reducing global warming pollutants through programs that provide economic and quality of life benefits such as reducing energy bills, preserving green space, implementing better land use policies, improving air quality, promoting waste-to-energy programs, expanding transportation and work choices to reduce traffic

congestion, and fostering more economic development and job creation through energy conservation and new technologies.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County will take immediate steps to help the federal, state and local governments within Erie County to achieve the 2050 climate stabilization goal by making the following commitments:

- i. Create an inventory of our county government (operational) greenhouse gas ("GHG") emissions and implement policies, programs and operations to achieve significant, measurable and sustainable reduction of those operational GHG emission to help contribute to the regional reduction targets as identified in paragraph ii.
- ii. Work closely with local, state, and federal governments and other leaders to reduce county geographical GHG emissions to 80 per cent below current levels by 2050, by developing a GHG emissions inventory and regional plan that establishes short-, mid-, and long-term GHG reduction targets, with recommended goals to stop increasing emissions by 2010, and to achieve a 10 per cent reduction every five years thereafter, through to 2050.
- iii. Urge Congress and the Administration to enact a multi-sector national program of requirements, market-based limits, and incentives for reducing GHG emissions to 80 per cent below current levels by 2050. Urge Congress and the Administration to strengthen standards by enacting legislation such as a Corporate Average Fuel Economy ("CAFE") standard that achieves at least 35 miles per gallon (mpg) within 10 years for cars and light trucks.

and be it further

RESOLVED, that the Commissioner of Environment and Planning of Erie County will take immediate steps to identify regional climate change impacts; and be it further

RESOLVED, that the Department of Environment and Planning under the direction of the Commissioner draft and submit to the Erie County Legislature a comprehensive plan to prepare for and build resilience to those impacts; and be it further

RESOLVED, that the Commissioner of Environment and Planning appear before the Energy and Environment Committee of the Legislature to discuss plans for the implementation of these initiatives; and be it further

RESOLVED, that the County Executive, Budget Director and the Commissioner of Environment and Planning seek efficiency grant funding from the Erie County Fiscal Stability Authority to implement the plan developed pursuant to this resolution; and be it further

RESOLVED, that certified copies of this resolution be sent to Senators Charles Schumer and Hillary Rodham Clinton; Congresspersons Louise Slaughter, Thomas M. Reynolds and Brian M. Higgins; the members of the Western New York State Legislative Delegation, the County Executive, the Budget Director and the Commissioner of Environment and Planning for Erie County.
(6-0)

4. COMM. 10E-15 (2008)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning is desirous of retaining the service of a Chief Account Clerk having over thirty-five years of County service; and

WHEREAS, said Chief Account Clerk performs work activities relating to grant accounting, payroll processing, personnel management and numerous other accounting tasks; and

WHEREAS, said Chief Account Clerk is retiring from County service on July 25, 2008; and

WHEREAS, said retirement provides an opportunity to retain the services of the Chief Account Clerk and also achieve a cost savings to the department's 2008 personnel budget.

NOW, THEREFORE, BE IT

RESOLVED, that the operating fund budget for the Department of Environment and Planning be revised to reflect the following:

<u>Fund 110</u>	<u>Position</u>	<u>Job Grade</u>	<u>Current Budget</u>	<u>Revised</u>	<u>Revised Budget</u>
B100 0000003836	Delete	Chief Account Clerk	43,878	(18,564)	25,314
	Create	Chief Account Clerk – Part Time (19 hours)		5,588	5,588
B100 0000003837					

Create	Account Clerk Typist	4, Step 0	<u>43,878</u>	<u>9,640</u> (3,336)	<u>9,640</u> 40,542
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and be it further

RESOLVED, that approval of the budgetary adjustment shall be contingent upon approval of the two new positions by the Erie County Fiscal Stability Authority; 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; and the Commissioner of the Department of Environment and Planning, Rath Building, 10th Floor.
(6-0)

5. COMM. 10E-16 (2008)

COUNTY EXECUTIVE

WHEREAS, The United States Environmental Protection Agency (USEPA) provides grant assistance to assist with the retrofit of diesel school buses; and

WHEREAS, The United States Environmental Protection Agency (USEPA) solicited proposals for retrofit projects for school districts; and

WHEREAS, The Erie County Department of Environment and Planning (DEP) developed and submitted a proposal for funding from USEPA to manage and fund a retrofit program for a private bus company and three school districts in Erie County; and

WHEREAS, the USEPA granted approval of the application allocating funding of \$173,997 over two years for a Erie County Clean School Bus Initiative to be implemented in Erie County; and

WHEREAS, the funding available for personnel services and fringe benefits will cover the second year of the services of an existing Environmental Education Specialist (JG 9) who is funded for the first year (01/01/08 to 12/31/08) through the phase I funding received for this continuing grant program; and

WHEREAS, the new grant resources would enable the Department of Environment and Planning to transfer the existing Environmental Education Specialist (JG 9) position to the new grant budget from the existing Diesel School Bus grant budget (162DIESEL_BUS 0708) that is expiring 12/31/08; and

WHEREAS, the required County match will be met through overhead and in-kind expense contributions.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into the necessary agreements with the USEPA to accept and implement the Erie County Clean School Bus Initiative (grant period:01/01/08 to 12/31/09) in an amount not to exceed \$173,997 in grant resources; and be it further

RESOLVED, that the revenue from the Erie County Clean School Bus Initiative is hereby appropriated in the Department of Environment and Planning, Business Area 162 in the grant as follows:

<u>REVENUE:</u>	<u>INCREASE</u>
414000 Federal Aid – United States Environmental Protection Agency	<u>\$173,997</u>
TOTAL REVENUE	\$173,997
 <u>APPROPRIATIONS:</u>	
500000 Personnel Services	\$47,840
502000 Fringe Benefits	\$20,505
505000 Supplies	\$0
510000 Local Travel and Mileage	\$48
516020 Professional Service Contract & Fees	<u>\$105,604</u>
TOTAL APPROPRIATIONS	\$173,997

and be it further

RESOLVED, that the following position will be transferred from the Erie County Clean School Bus Initiative grant budget (162DIESEL_BUS0708):

Environmental Education Specialist (JG 9) Position
Position Number: 51001528
Budgeted Annual Salary: \$46,377

and be it further

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

6. COMM. 10E-17 (2008)
COUNTY EXECUTIVE
WHEREAS, the New York State Department of Economic Development (NYSDED) provides grant assistance to implement pollution prevention technical assistance initiatives; and

WHEREAS, the NYSDDED has solicited a proposal from Erie County for participation in the Environmental Investment Program; and

WHEREAS, the NYSDDED has provided \$230,501 in funding over the next two years for a Pollution Prevention, Reuse and Recycling Technical Assistance Program to be implemented in Erie County; and

WHEREAS, the ECDEP and the Research Foundation of SUNY at Buffalo State College are partners on a new grant from the U.S. Environmental Protection Agency the funds of which are dedicated to providing pollution prevention technical assistance to the Hospitality Sector; and

WHEREAS, the USEPA has awarded the Research Foundation of SUNY at Buffalo State College a grant to provide pollution prevention technical assistance to the Hospitality sector in Erie and Niagara Counties and dedicated \$92,805 in grant funding to the ECDEP for their efforts in this program; and

WHEREAS, the new grant resources enable the Department of Environment and Planning to utilize the services of the existing Environmental Compliance Specialist (JG 12) position to manage both of these pollution prevention projects along with a lower grade part time employee; and

WHEREAS, the increased responsibilities associated with managing both grant programs as well as supervising lower level staff warrant the upgrade of the Environmental Compliance Specialist (JG 12) to a Senior Environmental Compliance Specialist (JG 13).

NOW, THEREFORE BE IT

RESOLVED, that the Pollution Prevention Reuse Recycling Technical Assistance Program grant budget (162PP_ASSIST0709) (Grant period: 01/01/08 to 06/01/09) will be revised as follows:

APPROPRIATIONS:

		<u>Current</u> <u>Budget</u>	<u>Revisions</u>	<u>Revised</u> <u>Budget</u>
500000	Personnel Services	\$126,000	\$33,437	\$159,437
502000	Fringe Benefits	\$51,849	\$13,709	\$65,558
510000	Local Travel and Mileage	\$2,152	-0-	\$2,152
510100	Out-of-Area Travel	\$500	-0-	\$500
516020	Professional Services	\$50,000	-0-	\$50,000
916290	ID Department of Environment and Planning Services	-0-	(\$47,146)	(\$47,146)
	TOTAL APPROPRIATIONS	\$230,501	-0-	\$230,501

and be it further

RESOLVED, that the following positions are created and/or deleted in the grant budget:

Add: Senior Environmental Compliance Specialist Position (JG-13)
Budgeted Annual Salary: \$62,363
B-100 No. 000 000 3736

Delete: Environmental Compliance Specialist Position (JG-12)

and be it further

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

7. **COMM. 10E-18 (2008)**
COUNTY EXECUTIVE

WHEREAS, approval of a resolution to authorize the transfer of funds from Erie County Sewer District Nos. 3/8 Fund Balance Account needed is due to increase in utility costs, specifically for the increase in fuel oil, in Fiscal Year 2008.

NOW, THEREFORE, BE IT

RESOLVED, that available Fund Balance from year-end 2007 will be appropriated in order to implement this request, and be it further

RESOLVED, that authorization is hereby provided to make the following budget adjustments:

Fund 220-Sewers – Fund Center 18310 SD3/Southtowns

	<u>INCREASE</u>
Revenue 402190 Appropriated Fund Balance	\$350,000
Expense 575040 I/F Expense Utility	\$350,000
	-0-

Fund 140 – Enterprise Fund – Fund Center 12110 – Utilities Fund

	<u>INCREASE</u>
Revenue 450000 Interfund Revenue	\$350,000
Expense 515000 Utility Charges	\$350,000
	-0-

and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive; Michael J. Quinn, P.E., Deputy Commissioner, Department of Environment and Planning, Director of Budget and Management and, Erie County Comptroller.
(6-0)

8. **COMM. 10E-19 (2008)**
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning (ECDEP) provides technical assistance to businesses to assist them in preventing pollution and complying with environmental regulations; and

WHEREAS, the ECDEP and the Research Foundation of SUNY at Buffalo State College are partners on a new grant from the U.S. Environmental Protection Agency the funds of which are dedicated to providing pollution prevention technical assistance to the Hospitality Sector; and

WHEREAS, the “Pollution Prevention for the Hospitality Sector” Project will provide technical assistance to 10 businesses in Erie and Niagara Counties with the knowledge and expertise that will enable them to prevent pollution and thereby avoid expenses; and,

WHEREAS, the Research Foundation of SUNY at Buffalo State College has provided \$92,805 to the ECDEP to provide pollution prevention technical assistance to 10 businesses in the Hospitality sector in Erie and Niagara Counties.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter into an agreement with the Research Foundation of SUNY at Buffalo State College to accept \$92,805 in new grant funding to provide pollution prevention technical assistance to a minimum of 10 businesses in the Hospitality sector in Erie and Niagara Counties, and be it further

RESOLVED, that the revenue from the "Pollution Prevention for the Hospitality Sector" Project is hereby appropriated in the new grant in the Department of Environment (Business Area 162) as follows:

Pollution Prevention for the Hospitality Sector Grant (Grant period: 01/01/08 to 6/1/09)

<u>REVENUE:</u>	<u>INCREASE</u>
420499 Other Local Source – Buffalo State College	\$ 92,805
TOTAL REVENUE	\$92,805

APPROPRIATIONS:
INCREASE

500000 Personnel Services	\$31,673
502000 Fringe Benefits	\$12,986
510000 Local Mileage Reimbursement	\$1,000
916290 ID Department of Environment and Planning Services	<u>\$47,146</u>
TOTAL APPROPRIATIONS	\$92,805

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 Federal & State funding requirements, and be it further

RESOLVED, that the following position will be created in this new grant budget:

Junior Environmentalist (JG VII) Position
B-100 No. 000 000 3737

Budgeted Annual Salary: \$30,587

and be it further

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

9. COMM. 10E-20 (2008)

COUNTY EXECUTIVE

WHEREAS, the County of Erie, is interested in facilitating the re-use of brownfields and creating public access to the region's waterfront; and

WHEREAS, the City of Buffalo owns an approximately 20-acre site surrounding the Union Ship Canal and the former Hannah Furnace Steel site which is an abandoned industrial brownfield. The City and the County desire to construct new roads, utilities, pedestrian walkways and redevelop the parcel into a passive recreational open space; and

WHEREAS, initial environmental and underwater investigations and preliminary designs have been completed in association with the City, state and federal agencies and the County desires to continue the development of the public open space; and

WHEREAS, funding for the this phase of work was previously approved by Bond Resolution on April 28, 2004 (COMM. 8E-54) and the authority to enter into contracts was previously approved by resolutions (COMM. 13E-25, dated June 21, 2001, and COMM. 30E-32, dated January 20, 2005); and

WHEREAS, the County will submit applications for funding to New York State to assist in the funding for the remediation and development of a public open space surrounding the Union Ship Canal and the Buffalo Lakeside Commerce Park; and

WHEREAS, the Commissioners of the Department of Environment and Planning and Department of Public Works, as designated by the County Executive, shall apply for reimbursement of State funds as outlined in State Assistance Contracts.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive shall designate and assign the Commissioner of the Department of Environment and Planning and/or the Commissioner of the Department of Public Works to

apply for payments and reimbursements from the State of New York Environmental Restoration Program and other state and federal funding agencies; and be it further

RESOLVED, that the remaining appropriated County funding (\$994,634.28) for the Union Ship Canal Public Open Space Project shall be from the previously authorized bond resolution approved on April 28, 2004 (COMM. 8E-54); and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the Director of the Division of Budget and Management; the Comptroller; the Commissioner of the Department of Environment and Planning; the Commissioner of Public Works; and the County Attorney.

(6-0)

DANIEL M. KOZUB
CHAIR