

June 1, 2010

ECONOMIC DEVELOPMENT COMMITTEE  
REPORT NO. 5

ALL MEMBERS PRESENT.

CHAIR MILLER-WILLIAMS PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 9D-3 (2010)  
**DEPARTMENT OF ENVIRONMENT & PLANNING:** "Aurora Highway Garage Modifications"  
(6-0)
  - b. COMM. 9D-4 (2010)  
**DEPARTMENT OF ENVIRONMENT & PLANNING:** "E. Concord Highway - Storage/Office Building Construction"  
(6-0)
  - c. COMM. 9D-8 (2010)  
**DEPARTMENT OF PUBLIC WORKS:** "ECDPW - Division of Highways - Audit of Road & Bridge Related Construction Contracts for 1/1/05 - 12/31/08, Departmental Comments"  
(6-0)
  - d. COMM. 9M-6 (2010)  
**NFTA:** "Copy of Cash Flow Statements for the Period 4/1/09 - 3/31/10 & Projected Cash Flow for the Period 4/1/10 - 3/31/11"  
(6-0)
  - e. COMM. 9M-11 (2010)  
**NFTA:** "Minutes From Meeting Held 3/22/2010"  
(6-0)
  - f. COMM. 9M-15 (2010)  
**NFTA:** "Notice of Proposed Rule Making"  
(6-0)

2. COMM. 9E-9 (2010)  
**COUNTY EXECUTIVE**

WHEREAS, the Northwest Buffalo Community Center, Inc. has secured a \$500,000 grant through the New York State Environmental Protection Fund as administered by the New York State Department of State; and

WHEREAS, said grant is earmarked for physical improvements to Erie County's Ontario Street Boat Launch/Black Rock Canal Park; and

WHEREAS, said park is located along the Niagara River at the intersection of Niagara and Ontario Streets in the City of Buffalo; and

WHEREAS, the Erie County Department of Environment and Planning has been working with the Black Rock Canal Park Advisory Committee to plan for improvements at the park site; and

WHEREAS, the Northwest Buffalo Community Center, Inc. is desirous of contracting with Erie County to utilize the State funds for park improvements.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Executive is hereby authorized to execute a contract with the Northwest Buffalo Community Center, Inc. and/or the New York State Department of State for an amount not to exceed \$500,000 for improvements to the Ontario Street Boat Launch/Black Rock Canal Park; and be it further

RESOLVED, that the Erie County Executive is hereby authorized to execute any easements, occupancy permits, and other land control agreements that may be necessary with the City of Buffalo, New York State Department of Transportation, and New York State Thruway Authority to complete park improvements; and be it further

RESOLVED, that authorization is hereby provided to complete the following budget adjustment to the Erie County Budget:

SAP Funded Program A.00347  
2009 Ontario St Park Area Improvements

Revenue	
420499 Other Local Source Revenue	(\$500,000)
Appropriation	
Capital Project Expense	\$500,000

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)

3. COMM. 9E-15 (2010)

**COUNTY EXECUTIVE**

WHEREAS, the Botanical Gardens Society (BGS) received a Grant from the New York State Office of Parks, Recreation and Historic Preservation (SHPO), Grant No. EPF-4v 6050-N5 / C406050, in late 2008 for making capital improvements to Houses No. 2 and No. 3 in the amount of \$200,000.00; and

WHEREAS, the BGS is providing the matching in-kind funds in the amount of \$200,000.00; and

WHEREAS, SHPO has a grant covenant requiring Erie County to be the Guarantor for the BGS SHPO Grant; and

WHEREAS, New York State law does not permit Erie County to be a grant guarantor for a grant recipient; and

WHEREAS, SHPO will cancel the Grant award to the BGS if the County does not sign the Grant as a Guarantor; and

WHEREAS, SHPO is willing to transfer the Grant to Erie County and the BGS has adopted a resolution (copy attached) transferring their matching Grant funds to the County.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to accept and execute the Grant from SHPO for an amount not to exceed \$200,000.00; and be it further

RESOLVED, that the County Executive is authorized to accept the matching in-kind funds from the BGS for an amount not-to-exceed \$200,000.00; and be it further

RESOLVED, that unused matching in-kind funds from the BGS will be returned by Erie County to the BGS at the end of the project; and be it further

RESOLVED, that the SHPO Grant be extended for a two year period, with a new expiration date of December 31, 2010; and be it further

RESOLVED, that the County will not execute construction contracts for the Grant work unless approved by SHPO and there is a fully executed Grant Agreement between the County Executive and SHPO; and be it further

RESOLVED, that the Grant shall be administered by the Erie County Division of Real Estate and Asset Management and its' Director, or their assigned Project Manager, who shall act as liaison on the project for all correspondence, decisions and signing of payments; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to create a capital project for making the capital improvements to Houses No. 2 and No. 3 in the amount not-to-exceed \$400,000.00, funded by the SHPO Grant in the amount of \$200,000.00 and matching in-kind funds from the BGS in the amount of \$200,000.00. The new capital project is to be SAP Account A.21015 – Erie County Botanical Gardens Improvements – Houses No. 2 and No. 3; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Division of Real Estate and Asset Management, and one copy each to the Office of the County Executive, the Department of Parks, Recreation and Forestry, the Division of Budget and Management, and the Office of the Comptroller.  
(6-0)

4. COMM. 9E-20 (2010)

**COUNTY EXECUTIVE**

WHEREAS, a project for removal of one bridge and the replacement of a second bridge on Pavement Road Bridges BR 139-RR-1 and BR 139-RR-2, PIN 5755.38 (the "Project") was authorized by this honorable body on July 6, 2000 via Comm. 14E-20; and

WHEREAS, in a resolution dated March 25, 2010 Comm. 5E-9 (2010), the Legislature authorized the County of Erie to acquire the acquisition in fee, permanent easement or temporary easement for the Project; and

WHEREAS, in order to facilitate the removal of one bridge and the replacement of a second bridge on Pavement Road, it will be necessary for the County to acquire by acquisition in fee, permanent easement or temporary easement, portions of real property in the vicinity of the Project:

PORCTIONS OF TAX MAP SBL NUMBERS

TOWNSHIP

105.00-2-12	Lancaster
105.00-2-10	Lancaster
105.00-3-8	Lancaster
105.00-3-43	Lancaster
105.00-3-44.21	Lancaster

such property to be acquired by the County is herein referred to as the "Subject Properties"; and

WHEREAS, in order to acquire the acquisition in fee, permanent easement or temporary easement for the Project, it will be necessary for the County to establish an amount which it believes to represent just compensation for the real property interests to be acquired and to thereafter make a written offer to purchase the real property interests for the respective just compensation amounts; and

WHEREAS, the acquisitions of the portions of the Subject Properties are de minimis in nature so that the public interest will not be prejudiced by the removed bridge or the reconstructed bridge and other general improvements to the subject section of Pavement Road BR 139-RR-1 (CR 139) and BR 139-RR-2 (CR 139); and

WHEREAS, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not exceeding fair market value, it will be necessary for the County to acquire the Subject Properties by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the above subject actions; and be it further

RESOLVED, that the sum of \$39,000.00 has previously been appropriated from the 2007 Pavement Road Bridges Right of Way, Federal Aid Program via County Resolution Comm. 5E-9 (2010) of March 25, 2010 and made available to cover the cost of Right-of-Way acquisition; and be it further

RESOLVED, that the County of Erie is authorized to acquire fee and/or easement title to the aforementioned Subject Properties for the purpose of the removal of one bridge and the replacement of a second bridge for the aforementioned Pavement Road Bridge Project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, is hereby authorized to establish the amounts which he believes to represent just compensation for the real property to be acquired; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, is hereby authorized to negotiate and offer just compensation amounts to the owners of the Subject Properties for the purpose of acquiring interests in portions of their respective parcel of real property by fee, permanent easement or temporary easement, which acquisitions are necessary for the Pavement Road Bridge Project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, is authorized to act on behalf of the County of Erie in connection with the acquisition of the portions of the aforementioned Subject Properties; and be it further

RESOLVED, that based upon the factors previously set forth herein, it is the determination of this County Legislature that such acquisitions of portions of the aforementioned Subject Properties are de minimis in nature; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring fee and/or easement interests in the Subject Properties; and be it further

RESOLVED, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not to exceed the just compensation determined by the Commissioner of Public Works, or his authorized representatives, the County is authorized to commence eminent domain procedures; and be it further

RESOLVED, that the Clerk of the Legislature forward ten (10) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the New York State Department of Transportation and also one copy each to the Office of the County Executive, the Office of Budget, Management and Finance and the Office of the Commissioner.  
(6-0)

5. COMM. 9E-25 (2010)

**COUNTY EXECUTIVE**

WHEREAS, Project FA 119S-08, PIN 5756.87 for the Signal Replacement on CR119, Elmwood Avenue at the intersections with Victoria Boulevard, Washington Avenue, and Girard Boulevard in the Village of Kenmore and at the intersections with Woodward Avenue and Westchester Boulevard in the Town of Tonawanda (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs of such program to be borne at the ratio of 80% Federal funds and 20% Non-Federal funds; and

WHEREAS, the Project was included in the SFY 2006-07 State Budget for State Marchiselli Aid funding for the Preliminary Engineering and Construction and Construction Inspection phases and is therefore eligible for reimbursement of 15% of the cost of the Preliminary Engineering and Construction and Construction Inspection phases of the Project; and

WHEREAS, the County of Erie desires to advance the Project by making a commitment of 100% of the Non-Federal share of the costs of the Preliminary Engineering (Design I-VI) and Construction and Construction Inspection phases of the Project, FA 119S-08, PIN 5756.87; and

WHEREAS, The County Legislature has previously approved the Project at a total project cost of \$820,000.00 and has also approved the commitment of all necessary funding under Resolutions 13E-41 (June 24, 2004), 4E-6 (March 1, 2007), and 27E-19 (January 21, 2010); and

WHEREAS, the total project cost is now \$900,000.00; and

WHEREAS, this increase in total project cost does not require any additional local share funds to be provided by Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie hereby approves the above subject Project at a total project cost of \$900,000.00; and be it further

RESOLVED, that the County Legislature of the County of Erie hereby authorizes the County of Erie to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Preliminary Engineering (Design I-VI) and Construction and Construction Inspection phases of the Project or portions thereof as approved via Resolution 27E-19; and be it further

RESOLVED, that the Project's budget be increased by \$80,000.00 to reflect this new agreement, and revenue be adjusted to reflect the supplemental agreement in the total amount of \$900,000.00; and be it further

RESOLVED, that in the event the amount required to pay in the first instance 100% of the Federal and Non-Federal shares of the cost of the Project's Preliminary Engineering (Design I-VI) and Construction and Construction Inspection phases exceeds the amount appropriated, \$214,600.00 and/or 100% of the full Federal and Non-Federal shares of the cost of the Preliminary Engineering (Design I-VI) and Construction and Construction Inspection phases exceeds \$900,000.00, the County of Erie shall convene its Legislature as soon as possible to appropriate said excess amount immediately upon notification by the New York State Department of Transportation thereof; and be it further

RESOLVED, that the County Executive of the County of Erie is hereby authorized to execute all necessary agreements, certifications, or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the County of Erie with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the County's first instance funding of Project costs and permanent funding of the local share of Federal Aid and State Aid eligible Project costs and all project costs within appropriations therefore that are not so eligible; and be it further

RESOLVED, that a certified copy of this Resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary agreement in connection with the Project; and be it further

RESOLVED, that the Clerk of the Legislature forward ten (10) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.  
(6-0)

6. COMM. 9E-26 (2010)

**COUNTY EXECUTIVE**

WHEREAS, bids were taken for the Federal Aid Project for the Elmwood Avenue Traffic Signal Replacements (the "Project"), in the Village of Kenmore and the Town of Tonawanda, on February, 23, 2010, and the low bidder was South Buffalo Electric, Inc. of Buffalo, New York at a low bid amount of \$643,312.38; and

WHEREAS, a contract was previously awarded for design and engineering services for the above noted project to the engineering firm of FRA Engineers of Orchard Park, New York on February 24, 2003, at the 4th session of the Legislature of Erie County, Communication No. 25E-15, and it has been determined that the Contract must be increased to include construction inspection services.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to execute a Contract for Erie County Project No. FA-119S-08, NYDOT PIN 5756.87 for the Elmwood Avenue Traffic Signal Replacements, between the County of Erie and the low bidder, South Buffalo Electric, Inc. of Buffalo, New York at a low bid amount of \$643,312.38; and be it further

RESOLVED, that an amount of \$643,312.38 be allocated from the 2004 Signal and Intersection Federal Aid Program (SAP Account B.00125), and an additional amount of \$64,331.00 be allocated for a Department of Public Works, Division of Highways construction contingency fund with authorization for the County Executive to approve change orders in an amount not-to-exceed \$64,331.00, also to be allocated from 2004 Signal and Intersection Federal Aid Program (SAP Account B.00125); and be it further

RESOLVED, that an amount of \$81,418.00 be allocated from the 2004 Signal and Intersection Federal Aid Program (SAP Account B.00125) for a change order to the Contract for engineering services, right-of-way services and services during construction, construction reimbursables, and construction inspection with FRA Engineers of Orchard Park, New York; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward five (5) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Office of Budget and Management, and the Office of the Comptroller.  
(6-0)

7. COMM. 9E-27 (2010)  
**COUNTY EXECUTIVE**

WHEREAS, the County is required pursuant to the Lease Agreement between the Buffalo Bills and Erie County to provide capital improvements to Ralph Wilson Stadium on an annual basis; and

WHEREAS, your honorable body has previously approved a General Architectural/Engineering Agreement with the Engineering firm of DiDonato Associates for providing professional services on County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to DiDonato Associates for providing professional design services for the 2010 – Phase II projects.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to issue an Agreement Amendment with DiDonato Associates to provide design work for the Phase II of the capital improvements for an amount not to exceed \$50,000.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from SAP Project accounts A.20901 – 2009 – Rehabilitation of Ralph Wilson Stadium for an amount not to exceed \$50,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Division of Real Estate and Asset Management, and one copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller.  
(6-0)

8. COMM. 9E-29 (2010)  
**COUNTY EXECUTIVE**

WHEREAS, the Indian Church Road Repaving Project is necessary to improve roadway conditions along Indian Church Road and the local roads in the Town of West Seneca; and

WHEREAS, the County of Erie and the Erie County Water Authority have joint responsibilities and obligations to address the waterline and roadway conditions in this area; and

WHEREAS, the County of Erie and the Erie County Water Authority have agreed to enter an Intermunicipal Agreement (IMA) to address the necessary waterline work and roadway conditions on Indian Church Road; and

WHEREAS, in order to advance the work, it is necessary to enter into an Intermunicipal Agreement with the Erie County Water Authority.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature authorizes the County Executive to enter into an Intermunicipal Agreement with the Erie County Water Authority to perform work on Indian Church Road; and be it further

RESOLVED, the Erie County Water Authority will reimburse the Erie County Department of Public Works, Division of Highways for its' share of the work. Erie County's share of the work will be funded from (SAP Project B.21001) – 2010 Overlay. Funds for this work are currently available in the 2010 approved, as amended, 2010 capital budget; and be it further

RESOLVED, that the County Executive be authorized to accept any and all funds from the Erie County Water Authority for their share of the work relating to this project; and be it further

RESOLVED, that the Clerk of the Legislature forward five (5) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the Erie County Water Authority and the Town of West Seneca; and also, one copy each to the Office of the County Executive, the Office of Budget and Management, and the Office of the Comptroller.  
(6-0)

9. COMM. 9E-30 (2010)  
**COUNTY EXECUTIVE**

WHEREAS, the William Street Repaving Project is necessary to improve roadway conditions along William Street and the local roads in the Town of Lancaster; and

WHEREAS, the County of Erie and the Town of Lancaster have joint responsibilities and obligations to address the waterline and roadway conditions in this area; and

WHEREAS, the County of Erie and the Town of Lancaster have agreed to enter an Intermunicipal Agreement (IMA) to address the necessary waterline work and roadway conditions on William Street; and

WHEREAS, in order to advance the work it is necessary to enter into an Intermunicipal Agreement with the Town of Lancaster.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature authorizes the County Executive to enter into an Intermunicipal Agreement with the Town of Lancaster to perform work on William Street; and be it further

RESOLVED, the Town of Lancaster will reimburse the Erie County Department of Public Works, Division of Highways for their share of the work. Erie County's share of the work will be funded from (SAP Project B.21001) – 2010 Overlay. Funds for this work are currently available in the 2010 approved, as amended, 2010 capital budget; and be it further

RESOLVED, that the County Executive be authorized to accept any and all funds from the Town of Lancaster for their share of the work relating to this project; and be it further

RESOLVED, that the Clerk of the Legislature forward five (5) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the Town of

Lancaster; and also, one copy each to the Office of the County Executive, the Office of Budget and Management, and the Office of the Comptroller.  
(6-0)

10. COMM. 10E-5 (2010)  
**COUNTY EXECUTIVE AS AMENDED**

WHEREAS, in early 2009 a large hole was found during inspection by Department of Public Works engineers in our 6' x 9' concrete culvert, resulting in the need to close South Buffalo Street (CR 82); and

WHEREAS, the storms and flooding of August 2009 contributed to failure of the slopes, embankments, concrete box culvert and South Buffalo Street (CR 82) in the Village of Springville further exasperating and damaging the facilities; and

WHEREAS, Federal funds at up to 75 % of the cost, as part of the Emergency Water Protection (EWP) Program, are available to help address these problems as well as downstream slope stabilization work; and

WHEREAS, the County of Erie and the Village of Springville have joint responsibilities and obligations to address the utility and roadway failure in this area; and

WHEREAS, the County has been negotiating with the Village of Springville as they are responsible for portions of the Project and these negotiations resulted in a 50/50 split of the costs; and

WHEREAS, the County of Erie and the Village of Springville have agreed to enter an Intermunicipal Agreement (IMA) to address the necessary utility work, slope stabilization work and roadway reconstruction on South Buffalo Street; and

WHEREAS, in order to advance the work it is necessary to enter into an Intermunicipal Agreement with the Village of Springville and pay our capped portion of the cost (\$450,000.00) for this Federally funded project that will be upwards of \$4.0 million in total cost; and

WHEREAS, the Budget Director has determined that SAP Projects B.00031 and B.00123 have been completed, have no debt due and can be closed.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature authorizes the County Executive to enter into an Intermunicipal Agreement with the Village of Springville to perform work on South Buffalo Street; and be it further

RESOLVED, Erie County's share of the work will be funded from SAP Project B.00031 – 2001 – Kenmore Avenue and SAP Project B.00123 – Road and Bridge Design. Funds for this work in the amount of \$450,000.00 are currently available from these prior bond accounts that no longer have any debt service and can now be closed; and be it further

RESOLVED, that the remaining funds in these accounts (B.00031 and B.00123) be assigned to the Preservation of Bridge, Culverts and Dams (B.20920); and be it further

RESOLVED, that the County Executive be authorized to enter into this IMA with the Village of Springville to utilize the available EWP Federal funding, contribute our fair share of the cost (\$450,000.00) and perform the necessary work on this project; and be it further

RESOLVED, that the Clerk of the Legislature forward five (5) certified copies of this Resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the Village of Springville; and also, one copy each to the Office of the County Executive, the Office of Budget and Management, and the Office of the Comptroller.  
(6-0)

11. **COMM. 10E-8 (2010)**  
**COUNTY EXECUTIVE**

WHEREAS, bids were taken for the 2010 Capital Overlay Contract A, in the Town of Sardinia, New York on May 12, 2010. The low bidder was D & H Excavating, of Arcade, New York, at a low bid amount of \$919,000.00; and

WHEREAS, it is also necessary to enter into an agreement with the engineering firm of DiDonato Associates, P.E., P.C., of Buffalo, New York for Professional Services including construction inspection services for overlay projects in the amount of \$50,000.00; and.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized and is hereby directed to execute a contract for Erie County Project CAP-409-10, 2010 Capital Overlay A between the County of Erie and the low bidder, D & H Excavating, of Arcade, New York at low bid amount of \$919,000.00; and be it further

RESOLVED, that amount of \$919,000.00 be allocated from the 2010 Capital Road Overlay Program (B.21001) and an additional amount of \$81,000.00 be allocated for a Department of Public Works, Division of Highways construction contingency fund with authorization for the County Executive to approve change orders in an amount not to exceed \$81,000.00, also to be allocated from the 2010 Capital Road Overlay Program (B.21001); and be it further

RESOLVED, that an amount of \$50,000.00 be allocated from the 2010 Capital Road Overlay Program (B.21001) for a contract with DiDonato Associates, P.E., P.C., of Buffalo, New York for Professional Services including construction inspection services; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward three (3) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Office of Budget and Management, and the Office of the Comptroller.  
(6-0)

**TIMOTHY M. KENNEDY**  
**CHAIR**