

February 16, 2017

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 3

ALL MEMBERS PRESENT.

CHAIR MILLS PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 21M-5 (2016)
AGRICULTURAL AND FARMLAND PROTECTION BOARD: “2016 Report Regarding Recommendations in Inclusion Into Existing Agricultural Districts”
(Chair’s Motion)
 - b. COMM. 3E-10 (2017)
COUNTY EXECUTIVE: “EC Sewer District No. 8 - Proposed Boundary Extension - Aurora Mills Patio Home Development - Sewer Agency Report”
(Chair’s Motion)
2. COMM. 3E-11 (2017)
COUNTY EXECUTIVE

A RESOLUTION CALLING A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING A PROPOSED EXTENSION OF ERIE COUNTY SEWER DISTRICT NO. 8 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) February 9, 2017.

(Adopted) February 23, 2017.

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law and more particularly a report of the Erie County Sewer Agency approved by the Erie County Sewer District No. 8 Board of Managers on October 4, 2016, an extension of Sewer District No. 8 of the County of Erie, New York to include the Aurora Mills Patio Home Development has been proposed; and

WHEREAS, a map and plan have been duly prepared by the County Engineers (Erie County Department of Environment and Planning) relating to such extension of the Erie County Sewer District No. 8, which map and plan have been filed with the County Legislature pursuant to Section 254 of the County Law; and

WHEREAS, there will be no additional capital costs incurred by or on behalf of the Erie County Sewer District No. 8 with respect to the extension of the boundaries of such District, but future annual

charges will be assessed against a benefited area which consists of the entire area of the District in accordance with the respective proportionate shares of equalized assessed value for each parcel in the District and in accordance with applicable flat charges and charges based on units, assessed value and footage, specified in the District’s Benefit and User Charge formulas, as such formulas currently exist and as amended from time to time; and

WHEREAS, pursuant to Section 258 of the County Law, the consent of the State Comptroller is not required prior to the extension of said Erie County Sewer District No. 8 because such extension is not to be financed by the issuance of bonds, notes, certificates or other evidences of indebtedness of the County; and

WHEREAS, it is now desired to call a public hearing to consider said extension of the Erie County Sewer District No. 8 in accordance with the provisions of Sections 254 and 274 of the County Law;

NOW, THEREFORE, BE IT

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

Section 1. A meeting of the County Legislature of the County of Erie, New York, shall be held at the Chambers of the Erie County Legislature, in the Erie County Hall, Buffalo, New York, in said County, on the 16 day of March, 2017, at 6:00 o’clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon the aforesaid proposal to extend Erie County Sewer District No. 8 in said County, and for such other action on the part of said County Legislature in relation thereto as may be required by law.

Section 2. The notice of such public hearing shall be in, substantially the following form, to-wit:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a meeting of the County Legislature of the County of Erie, New York, shall be held at 92 Franklin Street, 4th Floor, Buffalo, New York, in said County, on the 16 day of March, 2017, at 6:00 o’clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a proposed extension of Erie County Sewer District No. 8 in said County.

The proposed extension of said Erie County Sewer District No. 8 will include the Aurora Mills Patio Home Development, and shall be substantially in conformity with and pursuant to a Sewer Agency Report as prepared by the County Engineers (Erie County Department of Environment and Planning) which has been filed with the County Legislature and which has been approved by the Erie County Sewer District No. 8 Board of Managers on October 4, 2016.

The proposed extension of the Erie County Sewer District No. 8 shall comprise the area including the Aurora Mills Patio Home Development with sanitary sewer systems which are being constructed by the developer as more fully described in said Sewer Agency Report on file for public viewing at office of the Clerk of the County Legislature.

No additional capital improvements are proposed to be constructed and no additional capital costs are to be incurred by or on behalf of the Erie County Sewer District No. 8 in connection with such extension, but future annual charges will be assessed against a benefited area which consists of the entire area of the District in accordance with the respective proportionate shares of equalized assessed value for each parcel in the District, and in accordance with applicable flat charges, and charges based on units, assessed value and footage, specified in the District's Benefit and User Charge formulas, as such formulas currently exist and as amended from time to time.

Dated: Buffalo, New York,
February 23, 2017.

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

By KAREN M. McCARTHY
Karen M. McCarthy
Clerk, County Legislature

Section 3. The Clerk of said County Legislature is hereby authorized and directed to cause a copy of the Notice of Public Hearing as set forth in Section 2 hereof to be published once in the "*Amherst Bee*" and in the "*Challenger*", official newspapers of said County, and in the "*East Aurora Bee*", not less than ten nor more than twenty days before the date set herein for said public hearing.

Section 4. This resolution shall take effect immediately.
(6-0)

3. COMM. 3E-27 (2017)
COUNTY EXECUTIVE

WHEREAS, the Springville (Scoby) Dam located in the Village of Springville, New York is owned by the County; and

WHEREAS, the Springville Dam is in need of significant restoration work in order to bring it into compliance with New York State Department of Environmental Conservation (NYSDEC) regulations for Dam Safety; and

WHEREAS, the Department of the Army represented by the U.S. Army Corps of Engineers, Buffalo District, (USACE) is desirous of partnering with the County and the NYSDEC, as Non-Federal Sponsors, in order to undertake the Springville (Scoby) Dam Fish Passage Ecosystem Restoration Project (Project), which would bring the Springville Dam into compliance with the NYSDEC Dam Safety regulations; and

WHEREAS, as a partner with the USACE and the NYSDEC, Erie County's share of the Project cost is currently estimated at \$500,000; and

WHEREAS, the County commits to making a decision through its 2018 Capital Budget process on providing the required local matching funds to insure the timely implementation of the proposed project; and

WHEREAS, the County is desirous of entering into a Project Partnership Agreement (PPA) with the USACE and NYSDEC in order to design and construct the Project for purposes of supporting the restoration of the fishery, ecosystem, and beneficial use of the Great Lakes; and

WHEREAS, under the proposed Project Partnership Agreement, Erie County is responsible for providing all lands, easements, rights-of-way, relocations and disposal areas (LERRDs) required for the Project; and

WHEREAS, to provide the necessary lands, easements, rights of way, relocations and disposal areas (LERRDs) for the project it will be necessary to acquire by fee, permanent easement, temporary easement, license or agreement or other vehicle approved by the County Attorney's office real property and access to property to allow for construction and post construction monitoring of the Project; and

WHEREAS, the extent of such acquisitions will only become known during final design of the Project; and

WHEREAS, the acquisition of the necessary LERRDs is expected to be de minimis in nature so the public interest will not be prejudiced by the construction of the Project; and

WHEREAS, should one or more owners of the properties required for the project refuse to convey such portion 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 necessary LERRDs by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive or the Deputy County Executive is hereby authorized to execute the necessary Project Partnership Agreement (PPA) with the U.S. Army Corps of Engineers, Buffalo District (USACE) and the New York State Department of Environmental Conservation (NYSDEC) to accept State and Federal funds and define roles and responsibilities for Project implementation; and be it further;

RESOLVED, that the County Executive is hereby authorized to enter into an agreement with the NYSDEC for purposes of clarifying each party's roles and responsibilities, including funding, as non-federal sponsors related to the Project; and be it further;

RESOLVED, that as a partner with the USACE and the NYSDEC, Erie County will provide a local share of the Project cost, currently estimated at \$500,000; and be it further

RESOLVED, that the source of said match, if approved by the Erie County Legislature shall be funds available within the 2018 Capital Budget for the Springville (Scoby) Dam Fish Passage Ecosystem Restoration Project; and be it further

RESOLVED, that the Erie County Legislature hereby approves the acquisition of the necessary lands, easements, rights-of-way, relocations and disposal areas (LERRDs) required for the construction and post construction monitoring of the Project; and be it further

RESOLVED, that the County of Erie is authorized to acquire the necessary LERRDs as defined during final design for the construction and post construction monitoring of the Project; and be it further

RESOLVED, that the County of Erie is authorized to enter into all necessary contracts and agreements for the acquisition of the LERRDs necessary for construction and post construction monitoring of the Project; and be it further

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

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to negotiate and offer just compensation amounts to the owners of properties affected by the acquisition of the necessary LERRDs by fee, permanent easement, temporary easement, license or agreement or other vehicle approved by the County Attorney's office, which acquisition is necessary for construction and post construction monitoring of the Project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are authorized to act on behalf of the County of Erie in connection with the acquisition of the required LERRDs from the owners of the affected properties; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring by fee, permanent easement, temporary easement, license or agreement or other vehicle approved by the County Attorney's office the necessary LERRDs; and be it further

RESOLVED, should one or more owners of the properties required to provide the necessary LERRDs 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 Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments as required to complete the Project and to comply with the grantor funding requirements; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Deputy County Executive; the Director of the Division of Budget and Management; the County Attorney; the County Comptroller; the Commissioner of Public Works, the Commissioner of Parks and Recreation, Thomas R. Hersey, Jr., Commissioner of Environment and Planning; Bonnie Lawrence, Deputy Commissioner of Environmental Compliance.
(6-0)

**TED B. MORTON
CHAIR**