

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

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**MEETING NO. 24**  
**December 4, 2003**

The Legislature was called to order by Chairman Swanick.

All Members Present.

A moment of silence was held.

The Pledge of Allegiance was led by Mr. Weinstein.

Item 1 – CHAIRMAN SWANICK directed that Comm. 20E-2 (2002) remain on the table.

Item 2 – No items for reconsideration from previous meeting.

Item 3 – MR. RANZENHOFER moved the approval of Minutes for Meetings No. 20 and 21 of 2003. MR. WEINSTEIN seconded. MR. DALE in the negative.

CARRIED. (WEIGHTED VOTE: 16.112 – 0.888)

Item 4 – No public hearings

**MISCELLANEOUS RESOLUTIONS**

Item 5 – MR. WEINSTEIN, MR. SWANICK, ET AL presented a resolution Honoring Founding Members of Erie-Niagara Regional Partnership on the Occasion of its Five-Year Anniversary. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

Item 6 – MR. LARSON presented a resolution Honoring Retired Wales Councilman Robert Bragg for his Many Years of Public Service. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

Item 7 – MR. SMITH, ET AL presented a resolution Honoring Pastor George William Dubois on his 50<sup>th</sup> Birthday Celebration. MR. HOLT seconded.

CARRIED UNANIMOUSLY.

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Item 8 – The MAJORITY CAUCUS, ET AL presented a resolution Honoring the Life of Former United States Congressman Barber Conable Jr. for his Unselfish Public Services to Our Country. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

Item 9 – MR. DALE presented a resolution Honoring Stanley Richter on his 90<sup>th</sup> Birthday and for the Many Years he has Attended the Ulinski Senior Center. MR. HOLT seconded.

CARRIED UNANIMOUSLY.

Item 10 – MS. MARINELLI, ET AL presented a resolution Honoring the Recipients of the 2003 Erie County Commission on the Status of Women Awards. MR. HOLT seconded.

CARRIED UNANIMOUSLY.

**LOCAL LAWS**

Item 11 – CHAIRMAN SWANICK directed that Local Law No. 4 (Print #1) 2002 remain on the table.

Item 12 – CHAIRMAN SWANICK directed that Local Law No. 4 (Print #2) 2002 remain on the table.

Item 13 – CHAIRMAN SWANICK directed that Local Law No. 5 (Print #1) 2002 remain on the table and in the FINANCE & MANAGEMENT COMMITTEE.

Item 14 – CHAIRMAN SWANICK directed that Local Law No. 7 (Print #1) 2002 remain on the table.

Item 15 – CHAIRMAN SWANICK directed that Local Law No. 1 (Print #1) 2003 remain on the table.

Item 16 – CHAIRMAN SWANICK directed that Local Law No. 1 (Print #2) 2003 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

Item 17 – CHAIRMAN SWANICK directed that Local Law No. 2 (Print #1) 2003 remain on the table.

Item 18 – CHAIRMAN SWANICK directed that Local Law No. 7 (Print #1) 2003 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

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Item 19 – CHAIRMAN SWANICK directed that Local Law No. 8 (Print #1) 2003 remain on the table.

Item 20 – MR. RANZENHOFER presented the following Local Law and moved for immediate consideration. MR. LARSON seconded.

CARRIED UNANIMOUSLY.

**COUNTY OF ERIE**  
**LOCAL LAW NO. \_\_\_\_\_ – 2003**  
**LOCAL LAW INTRO. NO. 14 – 2003**

A LOCAL LAW in relation to a mandatory notification requirement for commercial and residential lawn pesticide applications.

BE IT ENACTED BY THE LEGISLATURE OF ERIE COUNTY AS FOLLOWS:

Section 1. Title.

This law shall be known as the Erie County Mandatory Pesticide Notification Act.

Section 2. Legislative Intent.

The Erie County Legislature hereby finds, declares and determines that individuals and their personal property can come into unintended contact with pesticides applied on abutting property from commercial and residential lawn applications. This Legislature further finds that pesticides may pose health and safety risks to the citizens of this County.

During 2003, Erie County, through its Department of Environment and Planning, implemented the Cooperative Pesticide Notification Program to provide information to interested county residents who wished to receive prior notification of pesticide applications on neighboring property within two hundred (200) feet of application for spray applications and adjacent property for non-spray applications. This Program would allow county residents to take the steps they deem necessary to minimize any such unintended contact to themselves, their families, or their personal property. As a result of the creation of the Cooperative Pesticide Notification Program, over 12,000 people in Erie County expressed a desire to receive prior notification pesticides applied on neighboring and adjacent property.

Therefore, the Erie County Legislature does hereby conclude that Erie County should adopt the notice requirements for the commercial and residential lawn application of pesticides as set forth in Section 33-1004 of the New York Environmental Conservation Law. It is intended that this Local Law be read and applied consistently with that section and all other applicable provisions of the Environmental Conservation Law and the regulations promulgated thereunder.

## Section 3. Definitions.

All terms used herein shall be as defined in Article 33 of the New York Environmental Conservation Law:

- a. "Abutting property" shall mean any property which has any boundary or boundary point in common with the property on which the pesticide is to be applied.
- b. "Agency" means any state agency; municipal corporation; public authority; college, as that term is defined in the education law; railroad, as that term is defined in the railroad law; or telegraph, telephone, telegraph and telephone, pipeline, gas, electric, or gas and electric corporation as those terms are defined in the transportation corporations law, which applies pesticides.
- c. "Commercial lawn application" means the application of pesticide to ground, trees, or shrubs on public or private outdoor property. For the purposes of this local law the following shall not be considered commercial lawn application:
  - (1) the application of pesticide for the purpose of producing an agricultural commodity;
  - (2) residential application of pesticides;
  - (3) the application of pesticides around or near the foundation of a building for the purpose of indoor pest control;
  - (4) the application of pesticides by or on behalf of agencies except that agencies shall be subject to visual notification requirements pursuant to section 33-1003 of the New York Environmental Conservation Law where such application is within one-hundred feet of a dwelling, multiple dwelling, public building, or public park; and
  - (5) the application of pesticides on golf courses or turf farms.
- d. "Commissioner" means the Commissioner of the New York State Department of Environmental Conservation.
- e. "Dwelling" means any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place for one or two families.
- f. "General use pesticide" means a pesticide which does not meet the state criteria for a restricted pesticide as established under authority of section 33-0303 of the New York Environmental Conservation Law.
- g. "Multiple dwelling" means any dwelling which is to be occupied by or is occupied as the residence or home of three or more families living independently of each other.
- h. "Pesticide" means:
  - (1) any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; and
  - (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- i. "Premises" means land and improvements or appurtenances or any part thereof.
- j. "Residential lawn application" means the application of general use pesticides to ground, trees, or shrubs on property owned by or leased to the individual making such application.

For the purposes of this local law, the following shall not be considered residential lawn application:

- (1) the application of pesticides for the purpose of producing an agricultural commodity;
- (2) the application of pesticides around or near the foundation of a building for the purpose of indoor pest control;
- (3) the application of pesticides by or on behalf of agencies except that agencies shall be subject to visual notification requirements pursuant to section 33-1003 of the New York Environmental Conservation Law where such application is within one hundred feet of a dwelling, multiple dwelling, public building or public park; and
- (4) the application of pesticides on golf courses or turf farms.

**Section 4. Notification Requirements For Commercial And Residential Lawn Applications.**

The provisions in this section are adopted in their entirety and without exception, pursuant to section 33-1004 of the New York Environmental Conservation Law.

**a. Retail Consumer Information Sign.**

- (1) All retail establishments that sell general use pesticides for commercial or residential lawn application shall display a sign meeting standards, established by the Commissioner pursuant to subdivision one of section 33-1005 of the Environmental Conservation Law, in a conspicuous place, and such sign shall be placed as close as possible to the place where such pesticides are displayed.

**b. Prior Notification of Commercial Lawn Applications.**

- (1) At least forty-eight hours prior to any commercial lawn application of a pesticide, the person or business making such application shall supply written notice, as defined in subdivision three of section 33-1005 of the New York Environmental Conservation Law, to:

- a. occupants of all dwellings on abutting property with a boundary that is within one hundred fifty feet of the site of such application; and to
- b. owners, owner's agents, or other persons in a position of authority for all other types of premises that are on abutting property with a boundary that is within one hundred fifty feet of the site of such application. Owners or owner's agents of multiple family dwellings shall supply such written notice to the occupants of such multiple family dwellings and for all other types of premises, owners, owner's agents or other persons in a position of authority shall post such written notice in a manner specified by the Commissioner.

- (2) Such prior notification provisions shall not apply to the following:

- a. the application of anti-microbial pesticides and anti-microbial products as defined by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in 7 U.S.C. Section 136 (mm) and 136 q (h) (2);
- b. the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat

from stinging and biting insects, including venomous spiders, bees, wasps and hornets. This section shall not exempt from notification the use of any fogger product or aerosol product that discharges to a wide area;

- c. the use of non-volatile insect or rodent bait in a tamper resistant container;
- d. the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR Part 152.25;
- e. the application of a pesticide which the United States Environmental Protection Agency has determined satisfies its reduced risk criteria, including a biopesticide;
- f. the use of boric acid and disodium octaborate tetrahydrate;
- g. the use of horticultural soap and oils that do not contain synthetic pesticides or synergists;
- h. the application of a granular pesticide, where granular pesticide means any ground applied solid pesticide that is not a dust or powder;
- i. the application of a pesticide by direct injection into a plant or the ground;
- j. the spot application of a pesticide, where spot application means the application of pesticide in a manually pressurized or non-pressurized container of thirty-two fluid ounces or less to an area of ground less than nine square feet;
- k. the application of a pesticide to the ground or turf of any cemetery; and
- l. an emergency application of a pesticide when necessary to protect against any imminent threat to human health, provided, however, that prior to any such emergency application, the person providing such application shall make a good faith effort to supply the written notice required pursuant to this title. Upon making an emergency application, the person making such application shall notify the Commissioner of the New York State Department of Health, using a form developed by such Commissioner for such purposes that shall include minimally the name of the person making such application, the pesticide business registration number or certified applicator number of the person making such application, the location of such application, the date of such application, the product name and United States Environmental Protection Agency registration number of the pesticide applied and the reason for such application.

c. Posting of Residential Lawn Applications.

- (1) All persons performing residential lawn applications treating an area more than one hundred square feet shall affix markers to be placed within or along the perimeter of the area where pesticides will be applied. Markers are to be placed so as to be clearly visible to persons immediately outside the perimeter of such property. Such markers shall be posted at least twelve inches above the ground and shall be at least four inches by five inches in size.
- (2) The markers required pursuant to this paragraph shall be in place on the day during which the pesticide is being applied and shall instruct persons not to enter the property and not to remove the signs for a period of at least twenty-four hours. Such instruction shall be printed boldly in letters at least three-eighths of an inch in height.

## Section 5. Enforcement.

- a. Pursuant to section 33-1004 of the New York Environmental Conservation Law, the Erie County Department of Health shall enforce the provisions of this local law administratively, provided that all sanctions, which shall be assessed after providing a hearing or opportunity to be heard, shall be as specified in Section 6 of this law and shall be payable to and deposited with Erie County.

## Section 6. Penalties.

## a. Administrative Sanctions

- (1) A person providing a commercial lawn application who violates any provision of this local law shall be liable for a civil penalty not to exceed five thousand dollars for a first violation, and not to exceed ten thousand dollars for a subsequent offense after a hearing or opportunity to be heard.
- (2) An owner or owner's agent of a multiple dwelling or owner, owner's agent or a person in a position of authority for all other types of premises, who violates any rule or regulation pursuant to subdivision b (1)(b) of section 4 of this local law (Prior Notification of Commercial Lawn Applications), and a person who violates any provision of subdivision c of section 4 (Posting of Residential Lawn Applications), shall for a first such violation, in lieu of a penalty, be issued a written warning and shall also be issued educational materials prepared by the Commissioner pursuant to subdivision two of section 33-1005 of the New York Environmental Conservation Law. Such person shall, however, for a second violation, be liable for a civil penalty not to exceed one hundred dollars, and not to exceed two hundred fifty dollars for any subsequent violation after a hearing or opportunity to be heard.
- (3) Any person who violates the provisions of subdivision a of section 4 of this local law (Retail Consumer Information Sign) shall be issued a warning for the first violation and shall be provided seven days to correct such violation; and shall be liable for a civil penalty not to exceed one hundred dollars for a second violation, and not to exceed two hundred fifty dollars for a subsequent violation after a hearing or opportunity to be heard.

## b. Criminal Sanctions for Persons Providing Commercial Lawn Applications.

- (1) Any person providing a commercial lawn application and having the culpable mental states defined in subdivision one or two of section 15.05 or in section 20.20 of the New York Penal Law, who violates any provision of this local law, except an offense relating to the application of a general use pesticide, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed five thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for a subsequent offense committed after a first conviction of such

person under this subdivision, punishment shall be by a fine not to exceed ten thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

- (2) Any person providing a commercial lawn application who violates any provision of this local law relating to the use of a general use pesticide shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed twenty-five hundred dollars. If the conviction is for a subsequent offense committed after the first such conviction of such person under this subdivision, punishment shall be a fine not to exceed five thousand dollars.

#### Section 7. Severability.

- a. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

#### Section 8. Review of Local Law

- a. No later than October 15, 2004, the Erie County Environmental Management Council shall undertake an official review to evaluate this Local Law. Within thirty (30) days of commencement of the review, the Erie County Environmental Management Council shall provide the Legislature, the County Executive, the Department of Environment and Planning and the Department of Health with its findings and/or recommendations with respect to this Local Law.

#### Section 9. Notice Requirements to State Officials.

- a. Within twenty days after adoption of this law, the Clerk of the Erie County Legislature shall forward one certified copy thereof to the Commissioner of the New York State Department of Environmental Conservation and one to the New York State Attorney General.

#### Section 10. Effective Date.

- a. This local law shall take effect immediately upon filing with the Secretary of State pursuant to Section 27 of the New York State Municipal Home Rule Law provided, however that the

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provisions of this local law shall expire and be deemed repealed on and after January first, the year two thousand and five.

ELISE M. CUSACK

BARRY A. WEINSTEIN, M.D.

MICHAEL H. RANZENHOFER

CHARLES M. SWANICK

STEVEN P. McCARVILLE  
 GREGORY P. FALKNER

DALE W. LARSON  
 ALBERT DeBENEDETTI

JUDITH P. FISHER

GEORGE A. HOLT, JR.

LYNN M. MARINELLI

DEMONE A. SMITH

EDWARD J. KUWIK

MR. RANZENHOFER moved that approval of the Local Law. MR. LARSON seconded.

CHAIRMAN SWANICK directed a roll call vote to be taken.

AYES: DALE, DeBENEDETTI, DUSZA, FISHER, HOLT, KUWIK, MARINELLI, SMITH, CUSACK, LARSON, McCARVILLE, RANZENHOFER, SWANICK & WEINSTEIN.  
 NOES: SCHROEDER, CHASE & FALKNER.

CARRIED. (WEIGHTED VOTE: 13.969 – 3.031)

Item 21 – CHAIRMAN SWANICK directed that Local Law No. 15 (Print #1) 2003 remain on the table and in the FINANCE & MANAGEMENT COMMITTEE.

Item 22 – CHAIRMAN SWANICK directed that Local Law No. 16 (Print #1) 2003 remain on the table and in the GOVERNMENT AFFAIRS COMMITTEE.

**COMMITTEE REPORTS**

Item 23 – MR. RANZENHOFER presented the following resolution and moved for immediate consideration. MS. CHASE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 637

December 1, 2003

ECONOMIC DEVELOPMENT  
 COMMITTEE

REPORT NO. 15

ALL MEMBERS PRESENT EXCEPT LEGISLATOR LARSON.

1. RESOLVED, that the following item is hereby received and filed.

- |    |                                  |      |       |   |
|----|----------------------------------|------|-------|---|
|    | Item                             | Page | -2003 | (Comm. 20M-3)   |
| a. | <b>EMPIRE STATE DEVELOPMENT:</b> |      |       | Notice of Public Meeting – Erie Canal Harbor Project. |
|    |                                  |      |       | (4-0) Legislator Larson absent.                       |

- |    |                         |      |       |  |
|----|-------------------------|------|-------|--|
|    |                         |      |       | <b>AS AMENDED</b>  |
| 2. | Item                    | Page | -2003 | (Comm. 22E-7)  |
|    | <b>COUNTY EXECUTIVE</b> |      |       |  |
|    | <b>WHEREAS,</b>         |      |       | The County of Erie, desires to participate in the retention and expansion of Appraisal.com in Erie County; and |

**WHEREAS,** The company desires to expand its on-line appraisal and appraisal software development operations; and

**WHEREAS,** The expansion of the activity in Erie County will be the preferred alternative for new work which will promote the retention of approximately 70 existing jobs and the creation of approximately 25 new jobs; and

**WHEREAS,** The offer of job training for existing and new employees at the Erie County facilities was important to the decision by Appraisal.com to stay and grow in Erie County; and

**WHEREAS,** The New York State Department of Labor is expected to approve funding in the amount of approximately \$100,000 for this project,

**NOW, THEREFORE, BE IT**

**RESOLVED,** That the County Executive is authorized to enter into contracts with the Buffalo and Erie County Workforce Development Consortium, in amounts not to exceed a total of \$100,000, for the purpose of providing job skills training to existing and new employees of Appraisal.com; and be it further

**RESOLVED,** That the source of these funds shall be \$100,000 available in the Workforce Investment Board account, DAC 110 922 302 830 1512 which will transferred to a separate sub-account under Agency Payments monitored by the Department of Environment and Planning, General Fund 110, Project 922, Department 302, Account 830; and be it further

**RESOLVED,** That the Erie County Department of Environment and Planning and the Buffalo and Erie County Workforce Investment Board will file a written report with the Erie County Legislature by June 1, 2004 on the status of the aforementioned project; 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, Management and Finance, the Comptroller, the Commissioner of the Department of Environment and Planning, and the County Attorney.

(4-0) Legislator Larson absent.

3. Item Page -2003 (Comm. 22E-14)

**COUNTY EXECUTIVE**

WHEREAS, funds were authorized and contracts were awarded by the Department of Public Works for the Roof Repair – Emergency Response Services – All County-owned Buildings, and

WHEREAS, a contract was awarded to Jameson Roofing Co., in the maximum amount of \$70,000.00, the total expenditure of which shall be based upon a project-by-project basis, and

WHEREAS, due to several emergencies from wind damage in January of 2002 and 2003, the contract was increased from \$70,000.00 to \$220,000.00,

NOW, THEREFORE, BE IT,

**RESOLVED**, that the total expenditure be increased by \$50,000.00 from \$220,000.00 to \$270,000.00 with authorization for the Commissioner of Public Works to approve the work based upon the NYS Department of Labor Prevailing Wage Rate Schedule and for all materials furnished and installed for each emergency response repair, and be it further,

**RESOLVED**, that the Comptroller's Office be authorized to make payment for all of the above from the 2001 Roof Replacement & Waterproofing account, Project 197, Fund 410, in the amount of \$28,000.00 and from 2002 Roof Replacement & Waterproofing account, Project 296, Fund 410, in the amount of \$22,000.00, and be it further,

**RESOLVED**, that two copies of this resolution be sent to the Department of Public Works, Office of the Commissioner; one copy to the Division of Budget Management & Finance; and one copy to the Office of the Comptroller.

(4-0) Legislator Larson absent.

4. Item Page -2003 (Comm. 22E-22)

**COUNTY EXECUTIVE**

WHEREAS, the New York State Department of Transportation proposed to reconstruct U.S Route 20A (SH 1066) bridge (BIN 1026090), New York State PIN 5010.18, over Cazenovia Creek, in the Town of Aurora, Erie County, and

WHEREAS, in conformance with Section 42 of the New York State Highway Law, the New York State Department of Transportation proposes to utilize the following roads as a detour during the period of construction (2002 – 2003) Jewett Holmwood Road (CR 368) and Davis Road (CR 84) in the Town of Aurora, and

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WHEREAS, the New York State Department of Transportation will provide traffic control devices and mill and overlay Jewett Holmwood Road and make improvements or repairs when necessary to the above mentioned road to make it adequate to handle additional detour traffic, and

WHEREAS, the New York State Department of Transportation will provide traffic control devices on Davis Road (CR 84) and make improvements or repairs when necessary to the above mentioned road to make it adequate to handle additional detour traffic.

NOW, THEREFORE, BE IT

RESOLVED, that the County Legislature of the County of Erie does hereby authorize the New York State Department of Transportation to utilize the above mentioned roads as a detour during the period of construction, and be it further

RESOLVED, that the County of Erie will continue to provide normal routine maintenance on the above-mentioned roads, including snow and ice control, and be it further

RESOLVED, that the Clerk of the Legislature forward seven (7) certified copies of this Resolution to the Deputy Commissioner, Highways, to be forwarded to the New York State Department of Transportation and one copy each to the Commissioner of Public Works and the Erie County Comptroller.

(4-0) Legislator Larson absent.

5. Item Page -2003 (Comm. 22E-23)

**COUNTY EXECUTIVE**

WHEREAS, Thorn Avenue, County Road 136, was completely and satisfactorily reconstructed and accepted by the County on October 28, 2002, and

WHEREAS, the Town and Village of Orchard Park have stated their willingness to accept their respective portions of Thorn Avenue upon satisfactory completion of reconstruction, and

WHEREAS, the Town and Village of Orchard Park have passed the necessary resolutions accepting the transfer of jurisdiction from the County for their respective portions of Thorn Avenue, and

WHEREAS, copies of the Town and Village Resolutions accompany this resolution, and

WHEREAS, Thorn Avenue does not significantly contribute to intra-County mobility.

NOW THEREFORE BE IT

RESOLVED, that as permitted by New York State Highway Law, Article VI, Section 115-b, that jurisdiction for the respective portions of Thorn Avenue be transferred to the Town and Village of Orchard Park, and be it further

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RESOLVED, that as required by New York State Highway Law, Article VI, Section 115-c, a notice of reverter be provided to the Town and Village of Orchard Park thirty days prior to the effective date of the transfer of jurisdiction, and be it further

RESOLVED, that the County Executive is hereby authorized to execute the necessary agreements to effect the desired transfer of jurisdiction, subject to the approval of the County Attorney, and be it further

RESOLVED, that the County Attorney is hereby authorized to draw up the necessary agreements for signature by the County Executive, and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward three (3) certified copies of this resolution to the Deputy Commissioner – Highways, Department of Public Works and one (1) copy each to the following: the Commissioner of Public Works, the Erie County Attorney's Office, the Budget Director, the Comptroller's Office, and the Commissioner of the New York State Department of Transportation.

(4-0) Legislator Larson absent.

6. Item Page -2003 (Comm. 22E-25)

**COUNTY EXECUTIVE**

WHEREAS, a Project for the Reconstruction of the Harris Hill Road (CR 276) Intersection at Wehrle Drive (CR 275) and Pleasant View Drive (CR 161) in the Towns of Clarence and Lancaster, Erie County, PIN 5756.47 (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 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 (Scoping and Design V-V1) and Right-of-Way Incidentals Phases of the Project, PIN 5756.47.

NOW, THEREFORE, the County Legislature of the County of Erie, duly convened does hereby

RESOLVE, that the County Legislature of the County of Erie hereby approves the above subject Project, 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 (Scoping and Design V-V1) and Right-of-Way Incidentals Phases of the project or portions thereof, and be it further

RESOLVED, that a sum of \$175,000 is hereby appropriated from the 2002 Wehrle/Harris Hill Intersection Improvement, Design Program (SFG 420-316) and made available to cover the cost of participation in the above phases of the project, and be it further

RESOLVED, that in the event the full Federal and non-Federal shares of the cost of the project's Preliminary Engineering (Scoping and Design V-VI) and Right-of-Way Incidentals Phases exceeds the amount appropriated above, the County of Erie shall convene its Legislature, as soon as possible, to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

RESOLVED, that the County Executive of the County of Erie be and 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 Municipality'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 Deputy Commissioner, Highways, to be forwarded to the New York State Department of Transportation and one copy each to the Commissioner of Public Works and the Erie County Comptroller.  
 (4-0) Legislator Larson absent.

7. Item Page -2003 (Comm. 22E-26)

**COUNTY EXECUTIVE**

WHEREAS, General Municipal Law, Section 103, has now been amended to allow for electronic receipt of bids, and

WHEREAS, the Commissioner of Public Works and the Purchasing Director desire to implement a pilot project for the electronic receipt of bids for heating fuel oil and natural gas for the Customer Balancing Agreements (CBA) accounts, and

WHEREAS, should this pilot project prove to be successful, the Erie County Legislature will be asked to expand the use of the electronic report of bids to additional purchasing, public works and other projects requiring competitive bidding,

NOW, THEREFORE, BE IT,

RESOLVED, that your Honorable Body authorize a pilot project be undertaken for the receipt of electronic bids for the procurement of heating fuel oil and natural gas for the CBA accounts, and be it further,

RESOLVED, that two certified copies of this resolution be forwarded to the Commissioner of Public Works, the Purchasing Director, the Interim Deputy Commissioner – Highways, the Erie

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County Attorney, the Director of Budget Management & Finance, and the Office of the Comptroller.

(4-0) Legislator Larson absent.

8. Item Page -2003 (Comm. 22E-27)

**COUNTY EXECUTIVE**

WHEREAS, the Department of Public Works received bids for the Fuel Management System, Phase II, Contingency Fund Increase on April 24, 2003, and

WHEREAS, your Honorable Body has previously awarded a contact to the lowest responsible bidders – O’Connell Electric & D.V. Brown – in the amount of \$261,618.00, and

WHEREAS, many municipalities have progressed to a computerized fuel management system, and

WHEREAS, it was determined that additional dispensing units and valves must be installed for the fuel management system,

NOW, THEREFORE, BE IT,

RESOLVED, that the construction contingency fund be increased by \$60,000, with authorization for the Commissioner of Public Works to approve change orders in an amount not to exceed the contingency, and be it further,

RESOLVED, that deduct change orders will result in funds being returned to the contingency account, and be it further,

RESOLVED, that the Comptroller’s Office be authorized to make payments for all of the above from the 2003 Bond Fund, Project 351, Fund 420, and be it further,

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner; one copy to the Comptroller’s Office; one copy to the Division of Budget Management and Finance; and one copy to the Department of Information and Support Services.

(4-0) Legislator Larson absent.

**MICHAEL H. RANZENHOFER**  
**CHAIRMAN**

MR. RANZENHOFER moved to separate item #5 and moved the approval of the resolution.  
 MS. CHASE seconded.

CARRIED UNANIMOUSLY.

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MR. RANZENHOFER moved the approval of item #5. MS. CHASE seconded.

CARRIED UNANIMOUSLY.

Item 24 – MR. LARSON presented the following resolution and moved for immediate consideration. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 638

December 1, 2003

FINANCE & MANAGEMENT  
 COMMITTEE  
 REPORT NO. 14

ALL MEMBERS PRESENT EXCEPT LEGISLATOR DeBENEDETTI. CHAIRMAN SWANICK PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, that the following items are received and filed.

a. Item Page -2003 (Comm. 20E-16)  
**COMPTROLLER:** County of Erie 2004 Tentative Budget.  
 (5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

b. Item Page -2003 (Comm. 20M-7)  
**STAR SWIMMING:** Funding Request.  
 (5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

c. Item Page -2003 (Comm. 20M-8)  
**EC CULTURAL RESOURCES ADVISORY BOARD:** 2004 Cultural Funding Recommendations for EC.  
 (5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

d. Item Page -2003 (Comm. 20M-9)  
**TOWN OF LANCASTER:** Copy of Certified Resolution Re: Request for Executive Order to Reduce 6% Interest Factor on Late Payment of Property Taxes (Military).  
 (5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

e. Item Page -2003 (Comm. 20M-10)  
**EC CULTURAL RESOURCES ADVISORY BOARD:** 2004 Cultural Funding Recommendations – Applicant Observations.  
 (5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

Item Page -2003 (Comm. 20M-12)

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- f. **EC HUMAN SERVICES ADVISORY COMMITTEE:** Report of 2004 Human Services Public Benefit Funding Requests.  
 (5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

- g. **BOARD OF ELECTIONS:** Apportionment of Expenses for Election Year 2002.  
 (5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

- 2. **AS AMENDED**  
 Item Page -2003 (Comm. 22E-21)

**COUNTY EXECUTIVE**

**WHEREAS**, the County of Erie is self insured and maintains a program of risk management for liability claims; and

**WHEREAS**, the Department of Law administers a Risk Retention Fund for the purposes of paying settlements, judgments, claims and expenses brought against the County of Erie and its administrative units; and

**WHEREAS**, it is necessary to provide additional funding in the amount of \$3,000,000 for the Risk Retention Fund (DAC 110 961601832);

**NOW, THEREFORE, BE IT**

**RESOLVED**, that funds in the amount of \$3,000,000 are hereby transferred to the Department of Law, Risk Retention Fund, General Liability (DAC 110 961601832) for the balance of 2003. The source of funds for said transfer shall be the appropriation of the following items of designated fund balance:

Lomabardi Advance DAC 120 9932002894001095	\$688,156
Lomabardi Advance DAC 120 9932002894000196	\$1,238,665
Lomabardi Advance DAC 120 9932002894000396	\$1,073,179
Total	\$3,000,000

and be it further

**RESOLVED**, that certified copies of this resolution shall be forwarded to the County Executive, Division of Budget, Management and Finance, the Department of Law and the Office of the Comptroller.

(5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

- 3. **COMPTROLLER**  
 Item Page -2003 (Comm. 22E-28)

RESOLUTION NO. \_\_\_\_\_ -2003

BOND RESOLUTION DATED \_\_\_\_\_, 2003

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**ERIE COUNTY LEGISLATURE**

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE ISSUANCE OF SERIAL BONDS TO FINANCE EXTRAORDINARY SNOW AND ICE REMOVAL EXPENSES, PURSUANT TO SECTION 26.00 OF THE LOCAL FINANCE LAW, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$2,000,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$2,000,000 SERIAL BONDS OF SAID COUNTY TO FINANCE SAID APPROPRIATION.

(Introduced) November 18, 2003

(Adopted) \_\_\_\_\_, 2003

Recital

WHEREAS, the weather during the winter season of 2002-2003 was extremely harsh in the State of New York, particularly in Erie County; and

WHEREAS, the Department of Public Works - Road Fund expended all of the 2003 overtime budget and most of the highway supplies budget during the early months of the year; and

WHEREAS, the Department of Public Works - Road Fund is anticipated to close the 2003 overtime budget and most of the highway supplies budget during the early months of next year and that such budgets are anticipated to close the 2003 fiscal year with a deficit due to the magnitude of the costs associated with the extraordinary winter season; and

WHEREAS, pursuant to certain amendments to Section 26.00 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), which amendments comprise Chapter 42 of the New York Laws of 2003, the County is authorized to issue serial bonds to provide for the payment of all or a part of the extraordinary expenses of snow and ice removal incurred during 2003;  
 Now, therefore,

THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK  
 HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said County Legislature) AS FOLLOWS:

Section 1. The County of Erie, New York (herein called "County"), is hereby authorized to issue serial bonds to finance extraordinary snow and ice removal expenses, pursuant to Section 26.00 of the Law. The estimated maximum cost thereof, including preliminary costs and costs incidental thereto and to the financing thereof, is \$2,000,000 and said amount is hereby appropriated therefor. The County Legislature, as finance board of the County, hereby determines that expenses incurred for the removal of snow and ice due to the extraordinary 2002-2003 winter season are in excess of normal expenses which would have been incurred for such purposes and that the salary and wages of regular employees, except for overtime work and work on Sundays and holidays, have not been calculated into such estimated maximum cost. The plan of financing

includes the issuance of \$2,000,000 serial bonds of the County to finance said appropriation, and 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.

Section 2. Serial bonds of the County in the principal amount of \$2,000,000 are hereby authorized to be issued pursuant to the provisions of the Law, to finance said appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the purpose for which said serial bonds authorized pursuant to this resolution are to be issued, within the limitations of Section 26.00 of the Law, is five (5) years.

(b) The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the County for expenditures made for the purpose for which said bonds are authorized.

Section 4. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §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 bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, and relative to prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, as well as to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 5. 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 without limitation as to rate or amount. 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 6. 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

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(b) the provisions of law which should be complied with at the date of the publication of such resolution, or a summary thereof, 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 7. This Resolution shall take effect immediately upon approval by the County Executive.

(5-0) Legislator DeBenedetti absent. Chairman Swanick present as Ex-Officio Member.

**DALE W. LARSON**  
**CHAIRMAN**

MR. LARSON moved to separate items #2 and #3 and moved the approval of the balance of the report. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

MR. LARSON moved the approval of item #2. MR. RANZENHOFER seconded.

CHAIRMAN SWANICK directed that a roll call vote be taken.

AYES: DUSZA, FISHER, HOLT, KUWIK, MARINELLI, SCHROEDER, SMITH, CHASE, CUSACK, FALKNER, LARSON, McCARVILLE, RANZENHOFER, SWANICK & WEINSTEIN. NOES: DALE & DeBENEDETTI.

CARRIED. (WEIGHTED VOTE: 15.153 – 1.847)

MR. LARSON moved the approval of item #3. MR. RANZENHOFER seconded.

CHAIRMAN SWANICK directed a roll call vote to be taken.

AYES: DUSZA, HOLT, KUWIK, SCHROEDER, CHASE, CUSACK, FALKNER, LARSON, McCARVILLE, RANZENHOFER & SWANICK. NOES: DALE, DeBENEDETTI, FISHER, MARINELLI, SMITH & WEINSTEIN.

Item 25 – MR. RANZENHOFER presented the following resolution and moved for immediate consideration. MS. CHASE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 639

December 1, 2003

ENERGY & ENVIRONMENT  
 COMMITTEE  
 REPORT NO. 16

ALL MEMBERS PRESENT EXCEPT LEGISLATOR RANZENHOFER.

1. **RESOLVED**, that the following items are hereby received and filed.

a. 

Item	Page	-2003	(Comm. 4E-28)
<b>COUNTY EXECUTIVE:</b> ECSD No. 5 – Sisters of Saint Joseph WWTP Structural Rehabilitation Bid Opening.			
(4-0) Legislator Ranzenhofer absent.			

b. 

Item	Page	-2003	(Intro. 10-2)
<b>DALE:</b> Request for Information on the Cooperative Pesticide Notification Program.			
(4-0) Legislator Ranzenhofer absent.			

c. 

Item	Page	-2003	(Comm. 16E-24)
<b>COUNTY EXECUTIVE:</b> ECSD No. 2 – Contract No. 38H – General Lakeshore Pumping Station Elimination Bid Opening.			
(4-0) Legislator Ranzenhofer absent.			

d. 

Item	Page	-2003	(Comm. 18M-9)
<b>NYSDEC:</b> Fact Sheet – Upcoming Brownfields Site Investigation – 564 Babcock.			
(4-0) Legislator Ranzenhofer absent.			

e. 

Item	Page	-2003	(Comm. 22E-16)
<b>COUNTY EXECUTIVE:</b> ECSD Nos. 1-6 User Change Rates.			
(4-0) Legislator Ranzenhofer absent.			

2. 

Item	Page	-2003	(Comm. 22E-19)
<b>COUNTY EXECUTIVE</b>			

WHEREAS, The United States Environmental Protection Agency (USEPA) Great Lakes National Program Office requested a proposal from the Erie County Department of Environment and Planning (DEP) and has agreed to provide funding in the amount of \$35,000 in Federal assistance to implement a Fluorescent Light, Ballast and Television Recycling Project; and

WHEREAS, this program is included in the Erie County Solid Waste Reduction Project (SFG #394); and

WHEREAS, the DEP determined that funding would be better utilized by redirecting funds to the recycling of additional computers, televisions, fluorescent lights, ballasts, and appliances; and

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WHEREAS, the DEP applied for and received authorization from the USEPA Great Lakes National Program Office to amend the budget and to revise the existing work plan.

NOW, THEREFORE BE IT

RESOLVED, that the County Executive is authorized to enter into the necessary agreements with the USEPA Great Lakes National Program Office to amend the existing contract in the amount of \$35,000 in Federal resources to implement the Fluorescent Light, Ballast and Television Recycling Project; and be it further

RESOLVED, that the grant budget for the Solid Waste Reduction Project (SFG #394) will be revised as follows:

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>	<u>Revisions</u>	<u>Revised Budget</u>
800	Salaries	\$313,964	(\$15,000)	\$298,964
805	Fringe Benefits	82,977	(3,540)	79,437
810	Office Supplies	1,730	0	1,730
824	Travel and Mileage	1,100	0	1,100
825	Out-of-Area Travel	1,700	0	1,700
826	Other	33,506	0	33,506
830	Contractual Services	221,955	18,540	240,495
933	Lab and Technical	2,000	0	2,000
TOTAL EXPENDITURES		\$658,932	0	\$658,932

and be it further

RESOLVED, that certified copies of this resolution be sent to the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney. (4-0) Legislator Ranzenhofer absent.

**DALE W. LARSON**  
**CHAIRMAN**

MR. RANZENHOFER moved the approval of the resolution. MS. CHASE seconded.

CARRIED UNANIMOUSLY.

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Item 26 – MS. CHASE presented the following resolution and moved for immediate consideration. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 640

December 1, 2003

PUBLIC SAFETY  
 COMMITTEE  
 REPORT NO. 10

ALL MEMBERS PRESENT.

- 1. Item Page -2003 (Comm. 22E-6)  
**COUNTY EXECUTIVE**

**WHEREAS**, Erie County Department of Probation has received an amount not to exceed \$50, 000 from the New York State Division of Probation and Corrections Alternatives to support specialized Services for a *Shared Population: Defendants and Offenders with Mental Illness, and*

**WHEREAS**, the Erie County Department of Mental Health (DMH) is responsible for the delivery of a comprehensive range of mental health services for the residents of Erie County that includes services delivered by Horizon Health Services, Inc., the agency identified for this initiative through a competitive RFP process, and

**WHEREAS**, the Erie County Department of Probation and the Erie County Department of Mental Health have agreed that the Department of Mental Health will establish an interagency agreement for providing these funds to Horizon Health Services, Inc. for the intended mental health case management purposes, and

**WHEREAS**, the Erie County Department of Probation and the Erie County Department of Mental Health are requesting authorization for an interdepartmental transfer of these funds to the Department of Mental Health to execute a service contract and to administer this program at Horizon Health Services, Inc.,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that approval is hereby granted to establish a grant in The Erie County Department of Probation to receive \$50,000 from the New York Division of Probation and Corrections Alternatives as follows:

<b>Description</b>	<b>Amount</b>
<b>Interdepartmental Transfer to Mental Health</b>	<b>\$50,000</b>
<b>State Aid-New York State Division of Probation and Corrections</b>	<b>\$50,000</b>

**And be it further**

**RESOLVED**, that the County Executive be authorized to enter into a contractual agreement with the New York State Division of Probation and Correctional Alternatives for the period October 1, 2002 through September 30, 2007 for the “Services for a Shared Population: Defendants and Offenders with Mental Illness” Program, and be it further

**RESOLVED**, that a grant entitled “Shared Populations Interim Case Management” be established in the accounts to the Erie County Department of Mental Health Grant, for the period October 1, 2002 through September 30, 2007:

<u>Description</u>	<u>Amount</u>
Horizon Health (Account 830-1269)	\$65,226
Interdepartmental Transfer from Probation	\$50,000
State Aid-Mental Health (Account 589)	\$15,226

And be it further

**RESOLVED**, that the County Executive be authorized to enter into a contractual agreement with Horizon Health Services, Inc., for the “Shared Populations Interim Case Management Program” in the Department of Mental Health grant and to execute any necessary interagency agreements for implementation of this grant program, and be it further

**RESOLVED**, that the actual grant period may be amended to coincide with the actual grantor award period; and be it further

**RESOLVED**, that certified copies of this resolution be furnished to the Erie County Department of Probation, the Department of Mental Health, the Office of the Comptroller and the Division of Budget, Management and Finance.  
 (5-0)

2. Item Page -2003 (Comm. 22E-13)

**COUNTY EXECUTIVE**

WHEREAS, the New York State Weapons of Mass Destruction Task Force (WMDTF) has agreed to provide funding in the amount of \$575,293 in Federal assistance to implement a program to enhance the ability of Erie County to manage emergency and disaster situations; and

WHEREAS, the grant will fund the cost of equipment, supplies, personnel, travel, and other expenses involved with this program.

NOW, THEREFORE BE IT

**RESOLVED**, that the County Executive, on behalf of the DES and DEP, is authorized to enter into the necessary agreements with the New York State WMDTF to accept grant funding in the

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amount of \$575,293 in Federal resources to implement the training, exercising, and evaluation of First Responders' capabilities to deal with chemical, biological, radiological, nuclear, and explosive (CBRNE) incidents; and be it further

RESOLVED, that certified copies of this resolution be sent to the Director of Budget, Management and Finance; the Commissioner of the Department of Emergency Services; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.

(5-0)

3. Item Page -2003 (Comm. 22E-20)

**COUNTY EXECUTIVE**

WHEREAS, funds have been received from the New York State Emergency Management Office through the Federal Government to conduct a Hazard Analysis for each of the 44 communities of Erie County, and

WHEREAS, these funds will be used to assist in conducting the All-Hazard Risk Analysis and to prepare a County-Wide All Hazard Mitigation Plan, and

WHEREAS, this plan must be completed by November 2004 in order to comply with the Federal Mandate, in order to be eligible for FEMA funding after a federal disaster declaration, and

WHEREAS, the completed All-Hazard Mitigation Plan, once Federal Emergency Management Agency (FEMA) approved, will be enhanced and copied by Ecology and Environment at New York State Government approved labor rates not to exceed the total of \$15,000.

NOW THEREFORE BE IT

RESOLVED, that the County Executive, on behalf of the Department of Emergency Services, is hereby authorized to amend the previous resolution to hire Ecology and Environment, Inc. at the New York State Government rates not to exceed the total amount of \$15,000 and be it further

RESOLVED, that Ecology and Environment, Inc. will enhance and duplicate 50 copies for all municipalities of Erie County through this grant from the New York State Emergency Management Office from the Federal Government to assist in completion of the All-Hazard Risk Analysis, and be it further

RESOLVED, that funds be utilized to complete the All-Hazard Mitigation Plan to meet the Federal Mandate of November 2004, and be it further

RESOLVED, that the following budgetary accounts be created in order to complete the above tasks:

Department of Emergency Services

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All-Hazard Mitigation Planning Grant

Revenue	Present Legislation	Proposed Revision	New Grant
SFG684 - Federal Aid – Other	<u>\$40,000</u>	<u>\$ 0</u>	<u>\$40,000</u>
TOTAL	\$40,000	\$ 0	\$40,000
Appropriations			
SFG800 - Personnel Costs	\$28,700	\$- 12000	\$16,700
SFG821 – Dues and Fees	1,000	-1000	0
SFG825 – Long Distance Travel	500	0	500
SFG826 – Other Expenditures	5,000	-2000	3,000
SFG830 – Contractual	0	+ 15000	15,000
SFG933 – Lab and Technical Equipment	<u>4,800</u>	<u>0</u>	<u>4,800</u>
TOTAL	\$40,000	\$0	\$40,000

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Division of Budget, Management and Finance, the Office of the Comptroller and the Department of Emergency Services.  
(5-0)

**JEANNE Z. CHASE**  
**CHAIRPERSON**

MS. CHASE moved the approval of the resolution. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

**LEGISLATORS RESOLUTIONS**

Item 27 – CHAIRMAN SWANICK directed that the following resolution be referred to the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

Intro. 24-1 From LEGISLATORS SWANICK & RANZENHOFER Re: Opposition to Expansion of NAFTA & Free Trade Area of Americas.

Item 28 – MR. RANZENHOFER presented the following resolution and moved for immediate consideration. MS. CUSACK seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 641

Re: Brant-Evans Agricultural District Nos. 1 &  
2 (EC #9 & #10) 8-Year Review &  
Recertification. (Intro. 24-2)

A RESOLUTION SUBMITTED BY LEGISLATORS

SWANICK, RANZENHOFER, HOLT, CHASE, CUSACK, FALKNER, LARSON,  
McCARVILLE, WEINSTEIN, DALE, DeBENEDETTI, DUSZA, FISHER, KUWIK,  
MARINELLI, SCHROEDER & SMITH

WHEREAS, the Brant-Evans Agricultural Districts Nos. 1 and 2 (EC#9 & #10), situated within the Towns of Brant and Evans with an extension into the Town of North Collins, were initially created June 21, 1976 and recertified in 1984 and 1992, and

WHEREAS, Article 25AA of the New York State Agricultural and Markets Law, Section 303-a.1, specifies that the County Legislative body shall review any agricultural district created under this section eight years after the date of its creation and every eight years thereafter, and

WHEREAS, pursuant to a resolution on February 3, 2000, the Erie County Legislature directed the Clerk of the Legislature to publish a public notice of the districts' review, and

WHEREAS, the districts were duly referred to the Erie County Division of Planning and to the Agricultural and Farmland Protection Board (formerly the Agricultural District Advisory Committee) of this Legislature for review of the districts, and

WHEREAS, on the 21<sup>st</sup> day of August 2000, pursuant to public notice, a public hearing was held within the agricultural districts at the Brant Town Hall, and

WHEREAS, various matters were brought before the public hearing, including that consideration be given to expanding the agricultural districts to include additional parcels within the Town of Evans, and

WHEREAS, a second public hearing was held on October 2, 2003 at the Evans Town Hall to consider modifying the existing agricultural districts to include additional parcels within the Town of Evans and to merge the two agricultural districts into one district as per Exhibit A, and

WHEREAS, a modification to add an additional 4,458 acres within the Town of Evans to the agricultural districts, bringing the total area of the agricultural districts in the Town of Evans to 7,104 acres and within both towns (Brant and Evans) and the extension into the Town of North Collins to a total of 18,650 acres, and

WHEREAS, during the course of the review of the two agricultural districts, it was determined that the two districts be merged or consolidated into one agricultural district, this being

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in the best interests of Erie County and the involved municipalities because of the geographic cohesion, same anniversary dates, the same three (3) municipalities are involved, and there is no longer a need to differentiate the two districts, and

WHEREAS, in accordance with the New York State Environmental Quality Review Act of 1975 and in accordance with adopted review procedures and the criteria set forth in Part 617, this agricultural district, as proposed and its modifications have been reviewed and determined to have no significant effect on the environment (Exhibit B).

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature concurs in the recommendations and findings made by the Agricultural and Farmland Protection Board and the Department of Environment and Planning and does hereby approve and reaffirm the existing Brant-Evans Agricultural Districts, its merger or consolidation into one agricultural district, hereinafter designated as Brant-Evans Agricultural District EC#9, together with the modifications (additions) as per Exhibit A and the Negative Declaration, and be it further

RESOLVED, that upon adoption of this resolution, the Clerk of the Legislature is hereby directed to forward the necessary documentation to the appropriate officials of the State of New York in accordance with the Agricultural and Markets Law and that certified copies of this resolution be sent to the Erie County Department of Environment and Planning, and to the Town Supervisors and Town Clerks of Brant, Evans, and North Collins.

MR. RANZENHOFER moved the approval of the resolution. MS. CUSACK seconded.

CARRIED UNANIMOUSLY.

Item 29 – MR. FALKNER presented the following resolution and moved for immediate consideration. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 642

Re: Consideration for Public Benefit Funding.  
(Intro. 24-3)

A RESOLUTION SUBMITTED BY  
LEGISLATOR FALKNER

WHEREAS, the Legislature set aside Public Benefit Funds in the 2003 Erie County Budget for community organizations and government agencies deemed worthy by the Legislature and for purposes allowable under N.Y. County Law and Erie County Local Law No.3-2002, and

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**WHEREAS**, organizations will only be granted Public Benefit Funds upon successful completion of the application process and subsequent approval by the County Attorney of a contract between the County of Erie and the organization,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Erie County Legislature does hereby authorize Public Benefit Administrator Kelly A. Wahl to send an application for Public Benefit Funding to the following organizations:

<u>NAME</u>	<u>RECOMMENDED AMOUNT</u>	<u>SPONSOR</u>
West Seneca Satellite of the Variety Club Telethon	\$2,500	FALKNER

And be it further

**RESOLVED**, that upon successful completion of the Public Benefit application process and subsequent approval by the County Attorney of a contract between the County of Erie and cited agency, the Erie County Legislature will pass a resolution enabling the transfer of such funds for use by the cited agency; and be it further

**RESOLVED**, that certified copies of this resolution be sent to County Executive Joel A. Giambra; County Comptroller Nancy A. Naples; Budget Director Joseph Passafiume; Kelly Wahl—First Administrative Assistant Erie County Legislature; and Assistant County Attorney Greg Dudek.

Fiscal Impact: None

MR. FALKNER moved the approval of the resolution. MR. RANZENHOFER seconded.

CARRIED UNANIMOUSLY.

Item 30 – CHAIRMAN SWANICK directed that the following resolution be referred to the COMMUNITY ENRICHMENT COMMITTEE.

GRANTED.

Intro. 24-4 From LEGISLATORS CUSACK, SWANICK, LARSON, RANZENHOFER, McCARVILLE, CHASE & FALKNER Re: Support for the Independence of the ECC Board of Trustees.

Item 31 – CHAIRMAN SWANICK directed that the following resolution be referred to the GOVERNMENT AFFAIRS COMMITTEE.

GRANTED.

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Intro. 24-5 From MAJORITY CAUCUS Re: Availability of Surplus Computers.

Item 32 – CHAIRMAN SWANICK directed that the following resolution be referred to the PUBLIC SAFETY COMMITTEE.

GRANTED.

Intro. 24-6 From LEGISLATORS HOLT, MARINELLI, SMITH, DeBENEDETTI, DUSZA, FISHER & DALE Re: Federal Anti-Terrorism & Homeland Security Funding for the Buffalo-Niagara Border Region.

Item 33 – CHAIRMAN SWANICK directed that the following resolution be referred to the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Intro. 24-7 From LEGISLATORS HOLT, SMITH, DUSZA, FISHER & DALE Re: County Assistance for Neglected Cemeteries.

Item 34 – CHAIRMAN SWANICK directed that the following resolution be referred to the HUMAN SERVICES COMMITTEE.

GRANTED.

Intro. 24-8 From LEGISLATORS HOLT, MARINELLI, SMITH, DeBENEDETTI, DUSZA, FISHER & DALE Re: Problems & Issues at EC Child Protective Services.

Item 35 – CHAIRMAN SWANICK directed that the following resolution be referred to the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Intro. 24-9 From LEGISLATORS HOLT, MARINELLI, SMITH, DeBENEDETTI, DUSZA, SCHROEDER, FISHER & DALE Re: Support for the Continued Federal Funding of Superfund.

#### **COMMUNICATIONS DISCHARGED FROM COMMITTEE**

Item 36 – MR. RANZENHOFER moved to discharge the FINANCE & MANAGEMENT COMMITTEE from further consideration of Comm. 22E-18. MS. CHASE seconded.

CARRIED UNANIMOUSLY.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

RESOLUTION NO. 643

Re: PILOT Heritage Christian Home IV, North Forest & Heim Roads, Amherst, NY

**WHEREAS**, Heritage Christian Home, L.P. will develop housing for developmentally disabled adults (Project), pursuant to Article XI of the New York Private Housing Finance Law; and

**WHEREAS**, the Project is located at North Forest and Heim Roads, Amherst, New York and will consist of one building with four units; and

**WHEREAS**, the Project will be managed by Heritage Christian Homes; and

**WHEREAS**, the Erie County Legislature adopted a policy on Payment in Lieu of Taxes (PILOT) on December 6, 1999, and this PILOT is consistent with said policy; and

**WHEREAS**, in order to make the Project economically feasible for Heritage Christian Home IV, L.P., it is necessary to obtain tax relief from the County of Erie and the Town of Amherst,

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the County Executive is hereby authorized to execute Payment in Lieu of Taxes (PILOT) Agreements with Heritage Christian Home IV, L. P. and all other agreements necessary to conclude this Project; and be it further

**RESOLVED**, that said Agreement shall include an annual Payment in Lieu of Taxes (PILOT) of \$2,272 in the first year of the PILOT Agreement with a three (3) percent increase annually thereafter for a fifteen (15) year period, with the County share of each annual payment being twenty-five (25) percent of the total amount; and be it further

**RESOLVED**, that certified copies of this resolution shall be forwarded to the Director of the Division of Budget, Management, and Finance, the Commissioner of the Department of Environment and Planning, the County Comptroller, and the County Attorney.

MR. RANZENHOFER moved the approval of the resolution. MS. CHASE seconded.

CARRIED UNANIMOUSLY.

Item 37 – MR. HOLT moved to discharge the FINANCE & MANAGEMENT COMMITTEE from further consideration of Intro. 18-11. MR. DALE seconded.

CHAIRMAN SWANICK directed that a roll call vote be taken.

AYES: DALE, DeBENEDETTI, DUSZA, FISHER, HOLT, KUWIK, MARINELLI, SCHROEDER, SMITH. NOES: CHASE, CUSACK, FALKNER, LARSON, McCARVILLE, RANZENHOFER, SWANICK & WEINSTEIN.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

FAILED. (WEIGHTED VOTE: 8.415 – 8.585)

**SUSPENSION OF THE RULES**

Item 38 – MR. HOLT moved for a suspension of the rules to include an item not on the agenda. MR. DALE seconded.

GRANTED.

RESOLUTION NO. 644

Re: Minority's Recommendation to the Governor for Appointment to the Board of Directors of the ECMC Corporation.  
(Intro. 24-10)

A RESOLUTION SUBMITTED BY LEGISLATORS  
HOLT, KUWIK, SCHROEDER, FISHER, DALE, DEBENEDETTI,  
SMITH, DUSZA & MARINELLI

WHEREAS, in 2003, the New York State Legislature passed the Home Rule Message of the Erie County Legislature to create the Erie County Medical Center Corporation, and

WHEREAS, this legislation permits the Erie County Legislature to recommend three individuals to the Governor for appointment to the Board of Directors of the Erie County Medical Center Corporation, and

WHEREAS, on June 19, 2003, the Erie County Legislature passed and on July 1, 2003, the Erie County Executive signed, Local Law Number 5 (2003) which granted the Chairman of the Legislature one (1) recommendation to the Governor for an initial term of three (3) years, the Majority Caucus of the Legislature one (1) recommendation to the Governor for an initial term of four (4) years, and the Minority Caucus of the Legislature one (1) recommendation to the Governor for an initial term of four (4) years, and

WHEREAS, the terms for the future recommendations of the Chairman, the Majority Caucus and the Minority Caucus to the Governor shall be for five (5) years, and

WHEREAS, at a regular session of the Erie County Legislature held on November 20, 2003, this Honorable Body unanimously approved Intro. 20-2, as amended, setting forth recommendations by the Legislature Chairman and Legislature Majority Caucus,

NOW, THEREFORE, BE IT

RESOLVED, that the recommendation of the Erie County Legislature to the Governor for appointment to the Board of Directors of the Erie County Medical Center Corporation will be as follows:

Minority Caucus Recommendation -

John Kaczorowski  
 60 West Cavalier Dr.  
 Cheektowaga, NY 14227

and be it further

RESOLVED, that the above referenced individual shall serve the initial terms designated above and that the terms of the future recommendations of the Chairman, the Majority Caucus and the Minority Caucus to the Governor shall be for five (5) years, and be it further

RESOLVED, that certified copies of this resolution be sent to Governor Pataki, Majority Leader Bruno, Speaker Sliver, and County Executive Giambra.

**Fiscal Impact: None for resolution.**

MR. HOLT moved the approval of the resolution. MR. DALE seconded.

CARRIED UNANIMOUSLY.

Item 39 – MR. RANZENHOFER moved for a suspension of the rules to include an item not on the agenda. MR. LARSON seconded. MR. DALE objected.

CHAIRMAN SWANICK directed that the following resolution be referred to the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Comm. 24E-42 From CHAIRMAN SWANICK Re: Appointment to Erie County Agriculture and Farmland Protection Board.

**COMMUNICATIONS FROM ELECTED OFFICIALS**

FROM LEGISLATOR DALE

Item 40 – (Comm. 24E-1) Copy of Letter to County Attorney Re: FOIL Request.

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 41 – (Comm. 24E-2) Reappointments to Home Health Care Advisory Board.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

RECEIVED, FILED & PRINTED.

November 18, 2003

The Honorable  
 Erie County Legislature  
 25 Delaware Avenue  
 Buffalo, New York 14202

Re: Reappointments to Home Health Care Advisory Board

Honorable Members:

I, Joel A. Giambra, Erie County Executive, pursuant to Section 2, Local Law No.5, do hereby reappoint the following individuals to the Erie County Home Health Care Advisory Board for the terms ending December 31, 2006.

Patricia Bylewski  
 6086 Wellesley Common  
 East Amherst, New York 14051

Ronald Jacobs  
 142 Wilmington Avenue  
 Tonawanda, New York 14150

Respectfully submitted,

JOEL A. GIAMBRA  
 ERIE COUNTY EXECUTIVE

JAG:kme

Cc: Appointees

FROM THE MINORITY CAUCUS

Item 42 – (Comm. 24E-3) Proposed 2004 Erie County Budget Amendments.

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 43 – (Comm. 24E-4) Declaration that Intro. 15-3 (2003) is Null & Void.

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

Item 44 – (Comm. 24E-5) Transmittal Notice: County Executive’s Approval of 2004 Erie County Budget as Amended.

RECEIVED, FILED & PRINTED.

November 24, 2003

Ms. Laurie Manzella, Clerk  
 Erie County Legislature  
 25 Delaware Avenue  
 Buffalo, New York 14202

Dear Ms. Manzella:

Please be advised that I do not object to any amendments to the Tentative 2004 Budget which the Legislature approved at their November 21, 2003 meeting.

The 2004 Budget, as amended by the Legislature, is therefore adopted.

Sincerely,

JOEL A. GIAMBRA  
 County Executive

FROM CHAIRMAN SWANICK

Item 45 – (Comm. 24E-6) Cancellation of Override Session of 12/09/03.

RECEIVED, FILED & PRINTED.

November 24, 2003

To: All Erie County Legislators  
 From: Charles M. Swanick, Chairman

Be advised that County Executive Joel A. Giambra has filed a communication with the Erie County Legislature stating that he did not object to anyone or more of the added or increased items (to the 2004 Erie County Tentative Budget) adopted by this body at Meeting No. 23 held on November 21, 2003. A copy of the County Executive’s communication is attached.

Since there are no items to override, I am canceling the previously scheduled ‘OVERRIDE’ session of Tuesday, December 9, 2003.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

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Thank you.

ATTACHMENT-1

November 24, 2003

Ms. Laurie Manzella, Clerk  
Erie County Legislature  
25 Delaware Avenue  
Buffalo, New York 14202

Dear Ms. Manzella:

Please be advised that I do not object to any amendments to the Tentative 2004 Budget which the Legislature approved at their November 21, 2003 meeting.

The 2004 Budget, as amended by the Legislature, is therefore adopted.

Sincerely,

JOEL A. GIAMBRA  
County Executive

Item 46 – (Comm. 24E-7) Copy of Letter to Onondaga County Commissioner of Health Re: Waivers from NYS Smoking Ban.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE COMPTROLLER

Item 47 – (Comm. 24E-8) Apportionment & Distribution of 4% Sales Tax for 11/03.

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM LEGISLATOR RANZENHOFER

Item 48 – MS. CHASE presented the following resolution and moved for immediate consideration. MS. CUSACK seconded.

CARRIED UNANIMOUSLY.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

RESOLUTION NO. 645

Re: Lease for Legislative Office Space.  
 (Comm. 24E-9)

RESOLVED, that the County Executive is hereby authorized to sign a One (1) Year Lease Agreement between Chestnut Development Co., Inc. located at 8810 Main Street, Williamsville, New York 14221 and Erie County for Legislative Office Space for Erie County Legislator Michael H. Ranzenhofer at a cost of \$600.00 per month.

MS. CHASE moved the approval of the resolution. MS. CUSACK seconded. MR. RANZENHOFER abstained.

CARRIED. (WEIGHTED VOTE: 15.844 – 0)

FROM THE COUNTY EXECUTIVE

Item 49 – (Comm. 24E-10) Utility Enterprise Fund Budget Revision – 2003.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 50 – (Comm. 24E-11) Agreement with NYS Unified Court System for Cleaning Services & Repairs to Court Facilities.

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 51 – (Comm. 24E-12) Private Sale of 2003 County Tax Certificates.

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 52 – (Comm. 24E-13) No-Cost Extension to EC & NC Intermunicipal Agreement for Niagara Power Project Relicensing Consensus Initiative.

Received and referred to the REGIONALISM AD HOC COMMITTEE.

Item 53 – (Comm. 24E-14) Staffing Reductions – Re-Engineering County Services.

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 54 – (Comm. 24E-15) Health – Public Health Preparedness Laboratory Response Network – 9/1/02 – 8/30/03 – Project #896.

Item 55 – (Comm. 24E-16) Health – Medical Reserve Corps Demonstration Project – 10/1/03 – 9/30/06.

The above two items were received and referred to the HUMAN SERVICES COMMITTEE.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

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Item 56 – (Comm. 24E-17) Probation & Youth Detention Services USDOJ – Violence Against Women Grant.

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 57 – (Comm. 24E-18) County Attorney – Personnel Adjustment.

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 58 – (Comm. 24E-19) BCCMC Request for Additional 2003 Operating Subsidy.

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 59 – (Comm. 24E-20) Notice of Adoption – ECSDs 2004 Assessment Rolls.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 60 – (Comm. 24E-21) Amherst Youth Foundation’s Building Project.

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

Item 61 – (Comm. 24E-22) Funding of a Map, Plan & Reports to Extend Public Water Systems.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 62 – (Comm. 24E-23) Funding for Town of Cheektowaga Golf Course Design, Engineering & Infrastructure.

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

Item 63 – (Comm. 24E-24) CPS – Acceptance of Grant from Public Safety Foundation of America.

Item 64 – (Comm. 24E-25) CPS – Emergency Response Training Center Grant.

Item 65 – (Comm. 24E-26) District Attorney – Points of Entry Grant.

The above three items were Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 66 – (Comm. 24E-27) Authorization to Pay Excessive Time Banks for Employees Assigned to SAP Project.

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

Item 67 – (Comm. 24E-28) Citizens Salary Review Commission Appointments.

RECEIVE, FILED & PRINTED.

November 19, 2003

Hon. Charles M. Swanick  
Chairman  
Erie County Legislature  
25 Delaware Avenue  
Buffalo, New York 14202

RE: Citizens Salary Review Commission

Dear Chairman Swanick:

The following three (3) individuals are hereby appointed to replace Sharon Hanson, Anthony Perna MD, and William Christ as members of the Citizens Salary Review Commission.

Jennifer J. Parker  
Black Capital Network  
PO Box 234  
Buffalo, New York 14209

James F. Doherty  
45 Anderson Road  
Cheektowaga, New York 14225

Stuart Angert, CEO  
Remarketing Services of America  
5400 Main Street  
Williamsville, New York 14221

Very truly yours,

JOEL A. GIAMBRA  
ERIE COUNTY EXECUTIVE

JAG/TPD:kme

Cc: Hon. David Swarts, Erie County Clerk  
Hon. Nancy Naples, Erie County Comptroller  
Hon. Patrick Gallivan, Erie County Sheriff

Item 68 – MR. RANZENHOFER presented the following resolution and moved for immediate consideration. MR. CHASE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 646

Re: Downtown Pedestrian/Transit Mall Special District – Adoption of Mall District Service Charge Roll for 2004. (Comm. 24E-29)

WHEREAS, after a public hearing, held on September 16, 2003 by Buffalo Place Inc., and upon adoption of Intro 18-1, October 16, 2003, the Erie County Legislature determined that the total amount to be raised by mall district service charges for 2004 for the downtown pedestrian/transit mall special district shall be the sum of \$ 1,212,293.00, and

WHEREAS, the 2004 Mall District Budget requires that the amount to be raised by Mall District payments in lieu for 2004 for the downtown pedestrian/transit mall special district shall be the sum of \$ 18,000.00, and

WHEREAS, the Director of Budget, Management and Finance has established the 2004 mall district service charge and payment in lieu roll apportioning the amount to be raised and has transmitted such roll to the Erie County Legislature for adoption.

NOW THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby adopt the mall district service charge and payment in lieu roll established by the Director of Budget, Management and Finance for the purpose of assessing 2004 service charges for the downtown pedestrian/transit mall special district, and be it further

RESOLVED, that 2004 mall district service charges and payment in lieu shall be assessed, due and a lien on benefited properties within the downtown pedestrian/transit mall special district on and as of January 1, 2004 and shall be payable to the Director of Budget, Management and Finance as provided in Erie County Local Law No. 8-1984, and be it further

RESOLVED, that late fees shall be collected on payments made after the dates provided in Erie County Local Law No. 8-1984, and an interest budget line of \$ 10,000.00 shall be added to the Mall Budget for collection of these late fees, and be it further

RESOLVED, that the Director of Budget, Management and Finance is hereby authorized to make adjustments and modifications as he deems appropriate, and be it further

RESOLVED, that certified copies of this resolution be transmitted to the Erie County Budget Director Joseph Passafiume, Erie County Attorney Frederick A. Wolf, Erie County Comptroller Nancy Naples and the Director of Real Property Tax Services, Joseph L. Maciejewski.

MR. RANZENHOFER moved the approval of the resolution. MS. CHASE seconded.

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

CARRIED UNANIMOUSLY.

Item 69 – (Comm. 24E-30) Preparation of School District Tax Rolls & Bills.

RECEIVED, FILED & PRINTED.

December 2, 2003

The Honorable  
Erie County Legislature  
25 Delaware Avenue  
Buffalo, New York  
14202

RE: Preparation of School District Tax Rolls & Bills

Your Honorable Body:

Please receive, file and print the attached billing for the preparation of 2003-2004 School District Tax Rolls at your meeting on December 4, 2003.

Pursuant to the amended Erie County Tax Act, the Director of Budget, Management and Finance and/or successor to Commissioner of Finance, as directed by Section 4-3.1, herewith certifies to the Erie County Legislature that the statement and apportionment attached is the total cost of material and labor in making and spreading School District Tax Rolls, together with the apportionment to each School District benefited for the year 2003-2004.

Respectfully,

Joel A. Giambra  
Erie County Executive

JAG/ms  
Attach.

REF: BMFFMSCH

TO THE ERIE COUNTY LEGISLATURE: 2003-2004  
STATEMENT, MATERIALS AND LABOR IN PRODUCING SCHOOL DISTRICT TAX  
BILLS AND THE SPREADING OF ASSOCIATED COSTS:

School District Costs 2003

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

Tax Bills	\$ 9,300.00
Tax Roll Paper	\$600.00
Data Processing Charges	\$24,328.12
Wages	\$ 29,959.85

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Total	\$ 64,187.96	
268,436.00 parcels	0.23911831	Cost per parcel

AKC1 Out of County	\$ 50.00
City of Tonawanda	\$ 50.00
ATT1 & SCC1 Flat Charge @ \$ 50.00 each	\$ 100.00

Total to Spread: Cost per parcel and  
Flat Charge **\$ 64,387.96**

School	Parcels	Rate	Amount Due
Alden	5010	0.23911831	\$ 1,197.98
Akron	4415	0.23911831	1,105.71
Amherst	9130	0.23911831	2,183.15
Sweet Home	10875	0.23911831	2,600.41
Attica	0	0	50.00
East Aurora	6280	0.23911831	1,501.66
Cheektowaga	8165	0.23911831	1,952.40
Maryvale	7439	0.23911831	1,778.80
Cleveland Hill	4598	0.23911831	1,099.47
Sloan	5172	0.23911831	1,236.72
Clarence	10673	0.23911831	2,552.11
Springville	6463	0.23911831	1,545.42
Depew	6821	0.23911831	1,631.03
Eden	4779	0.23911831	1,142.75
Frontier	16256	0.23911831	3,887.11
Grand Is	8524	0.23911831	2,038.24
Gowanda	1404	0.23911831	335.72
Hamburg	9994	0.23911831	2,389.75
Holland	3395	0.23911831	811.81
Iroquois	7657	0.23911831	1,830.93
Lackawanna	6891	0.23911831	1,647.76
Lancaster	16440	0.23911831	3,931.11
Lale Shore	10359	0.23911831	2,477.03
North Collins	2460	0.23911831	588.23
Orchard Park	13099	0.23911831	3,132.21
Pioneer	894	0.23911831	213.77
Silver Creek	0	0	50.00
Ken-Ton	26501	0.23911831	6,336.87

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**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

Williamsville	26758	0.23911831	6,398.33
West Seneca	21501	0.23911831	5,141.28
City of Tonawanda	6483	0.23911831	1,600.20

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Total	268,436.00		<b>\$ 64,387.96</b>
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Item 70 – (Comm. 24E-31) Preparation of Village Tax Rolls & Bills.

RECEIVED, FILED & PRINTED.

December 2, 2003

The Honorable  
 Erie County Legislature  
 25 Delaware Avenue  
 Buffalo, New York 14202

RE: Preparation of Village Tax Rolls & Bills

Your Honorable Body:

Please receive, file and print the attached billing for the preparation of Village Tax Rolls and Bills for the year 2003-2004 at your meeting on December 4, 2003.

Pursuant to the amended Erie County Tax Act, the Director of Budget, Management and Finance and/or successor to the Commissioner of Finance, as directed by Section 3-2.2, herewith certifies to the Erie County Legislature that the attached statement and apportionment is the total cost of material and labor in making and spreading the Village Tax Rolls and Bills.

Respectfully,

JOEL A. GIAMBRA  
 Erie County Executive

JAG/ms  
 Attach.

REF: BMFFMVIL

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

TO: HONORABLE ERIE COUNTY LEGISLATURE

PREPARATION OF VILLAGE TAXES 2003

Tax Bills	\$ 3,000.00
Tax Roll, Assessment Roll, and Worksheets	1,600.00
Wages	4,202.29
Data Processing Time	6,020.86

TOTAL COST \$ 14,823.15

Cost per Parcel=> \$ 0.417107

<u>VILLAGE</u>	<u>PARCELS</u>	<u>RATE</u>	<u>COST</u>
Akron	1,164	0.417107	\$ 485.51
Alden	877	0.417107	365.80
Angola	952	0.417107	397.09
Blasdell	1,171	0.417107	488.43
Depew	6,647	0.417107	2,772.51
East Aurora	2,599	0.417107	1,084.06
Farnham	216	0.417107	90.10
Gowanda	1,207	0.417107	503.45
Hamburg	3,663	0.417107	1,527.86
Kenmore	5,680	0.417107	2,369.17
Lancaster	4,328	0.417107	1,805.24
North Collins	535	0.417107	223.15
Orchard Park	1,178	0.417107	491.35
Sloan	1,600	0.417107	667.37
Springville	1,615	0.417107	673.63
Williamsville	2,106	0.417107	878.43
<b>TOTAL</b>	<b>35,538</b>		<b>\$ 14,823.15</b>

Item 71 – (Comm. 24E-32) Preparation of City of Lackawanna Tax Rolls & Bills.

RECEIVED, FILED & PRINTED.

December 2, 2003

**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

The Honorable  
 Erie County Legislature  
 25 Delaware Avenue  
 Buffalo, New York 14202

RE: Preparation of City of Lackawanna Tax Rolls & Bills

Your Honorable Body:

Please receive, file and print the following billing for the preparation of City of Lackawanna City Tax Rolls and Bills for the year 2003 at your meeting on December 4, 2003.

Pursuant to the amended Erie County Tax Act, the Director of Budget, Management and Finance and/or successor to Commissioner of Finance as directed by Section 3-2.2, herewith certifies to the Erie County Legislature that the attached statement and apportionment is the total cost of material and labor in making and spreading City of Lackawanna City Tax Rolls and Bills.

Respectfully,

JOEL A. GIAMBRA  
 Erie County Executive

JAG/ms  
 Attach.

REF: BMFFMLACKA

TO HONORABLE ERIE COUNTY LEGISLATURE:

Lackawanna City Taxes	2003
Tax Bills	\$ 275.00
Tax Rolls, Assessment Roll and Worksheets	\$ 250.00
Wages	\$ 2,553.49
Data Processing Time	\$ 1,658.37

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**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

		Total Cost	\$ 4,736.87
Parcels	6938	Cost per parcel	0.682742

Item 72 – (Comm. 24E-33) Preparation of City of Tonawanda Tax Rolls & Bills.

RECEIVED, FILED & PRINTED.

December 2, 2003

The Honorable  
 Erie County Legislature  
 25 Delaware Avenue  
 Buffalo, New York  
 14202

RE: Preparation of City of Tonawanda Tax Rolls & Bills

Your Honorable Body:

Please receive, file and print the following billing for the preparation of City of Tonawanda City Tax Rolls and Bills for the year 2003 at your meeting on December 4, 2003,

Pursuant to the amended Erie County Tax Act, the Director of Budget, Management and Finance and/or successor to Commissioner of Finance as directed by Section 3-2.2, herewith certifies to the Erie County Legislature that the attached statement and apportionment is the total cost of material and labor in making and spreading City of Tonawanda City Tax Rolls and Bills.

Respectfully,

JOEL A. GIAMBRA  
 Erie County Executive

JAG/ms  
 Attachment

REF: BMFFMTONA

TO HONORABLE ERIE COUNTY LEGISLATURE:



**MEETING NO. 24**  
**December 4, 2003**

**ERIE COUNTY LEGISLATURE**

CHEEKTOWAGA	51,070.75	71,005.00	31,278.61
CLARENCE	13,645.05	5,746.58	8,950.89
COLDEN	337.76	156.78	0.00
COLLINS	1,588.89	853.96	2,610.51
CONCORD	2,274.24	593.91	1,946.42
EDEN	3,967.81	2,853.31	5,264.19
ELMA	10,226.49	408.30	10,902.14
EVANS	7,666.28	11,075.24	6,939.50
GRAND ISLAND	8,216.23	5,086.76	3,080.55
HAMBURG	28,231.59	26,232.20	13,359.39
HOLLAND	961.76	454.68	320.31
LANCASTER	19,643.86	17,284.96	8,967.91
NEWSTEAD	7,837.78	1,409.57	2,926.73
ORCHARD PARK	14,187.93	9,077.87	17,804.38
TONAWANDA	64,758.32	53,702.90	36,650.57
WALES	931.64	81.06	332.56
WEST SENECA	14,818.03	25,480.80	30,391.00
CITY OF BUFFALO	159,028.06	0.00	0.00

TOTAL                   \$ 517,415.99                   \$ 328,229.66                   \$ 265,967.15

GRAND TOTAL OF TOWN, COUNTY, AND SCHOOL                   \$1,111,612.80

Item 74 – (Comm. 24E-35) Senior Services – Authorization to Amend ORT & Title VII Grant Budgets.

Item 75 – (Comm. 24E-36) Request Authorizing Fund Transfers Within Mental Health Department Accounts.

The above two items to the HUMAN SERVICES COMMITTEE.

Item 76 – (Comm. 24E-37) ECSD No. 3 – Contract No. 11BV – Tom Greenhauer Development – Contract Close-Out.

Item 77 – (Comm. 24E-38) ECSD No. 2 & 5 Pratt & Huth Associates – Engineering Service Agreement Close-Out – A/E Agreement Dated 11/5/98.

Item 78 – (Comm. 24E-39) ECSD No. 6 – Construction Inspection Service Agreement – Work Order DG-7.

Item 79 – (Comm. 24E-40) ECSD No. 6 – Capital Project Close Out & Fund Transfer – Debt Service Fund.

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Item 80 – (Comm. 24E-41) ECSD No. 6 – Close-Out & Fund Transfer – Capital Fund.

The above five items were received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

**COMMUNICATIONS FROM THE DEPARTMENTS**

FROM ECC

Item 81 – (Comm. 24D-1) Minutes of Board Meeting.

Received and filed.

FROM THE CLERK OF THE LEGISLATURE

Item 82 – (Comm. 24D-2) Letter of Transmittal to County Executive of 2004 Erie County Budget as Approved by Erie County Legislature.

Received and filed.

FROM ECMC

Item 83 – (Comm. 24D-3) Financial Statements for 10/03.

Received and filed.

FROM THE COUNTY ATTORNEY

Item 84 – (Comm. 24D-4) Copy of Letter to County Executive Staff Re: Mid-Year Budget Transfers.

Received and filed.

Item 85 – (Comm. 24D-5) Notice of Claims.

Item 86 – (Comm. 24D-6) Notice of Claims.

FROM THE BUDGET DIRECTOR

Item 87 – (Comm. 24D-7) Employee Layoffs.

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

**COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES**

**FROM THE MOST REVEREND HENRY J. MANSELL**

Item 88 – (Comm. 24M-1) Receipt of Resolution.

Received and filed.

**FROM NYS SENATOR RATH**

Item 89 – (Comm. 24M-2) Receipt of Resolutions.

Received and filed.

**FROM NFTA**

Item 90 – (Comm. 24M-3) 17A Report & Capital Expenditure Reports for 2<sup>nd</sup> Quarter of Fiscal Year Ending 3/31/04.

Received and filed.

**FROM THE ERIE LAWN & TREE APPLICATORS NOTIFICATION COMMITTEE**

Item 91 – (Comm. 24M-4) Comments Re: EC Plot Neighbor Notification Program.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

**FROM THE ERIE COUNTY FARM BUREAU**

Item 92 – (Comm. 24M-5) Copy of Letter to Legislator Chase Re: 48-Hour Pesticide Notification Law.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

**FROM CONTY COURT JUDGE TIMOTHY J. DRURY**

Item 93 – (Comm. 24M-6) Letter to Legislators Re: Probation Officer Staffing.

Received and referred to the PUBLIC SAFETY COMMITTEE.

**FROM NFTA**

Item 94 – (Comm. 24M-7) Board Minutes.

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Received and filed.

FROM ASSEMBLYMAN HIGGINS

Item 95 – (Comm. 24M-8) Copy of Letter to NYS Assembly Speaker Re :outer Harbor Access Improvements Funding Request.

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM SENATOR RATH

Item 96 – (Comm. 24M-9) Receipt of Resolutions.

Received and filed.

FROM THE NYS BOARD OF REAL PROPERTY SERVICES

Item 97 – (Comm. 24M-10) List of Certified 2003 State Equalization Rates.

Item 98 – (Comm. 24M-11) List of Certified 2003 Class Equalization Rates.

The above two items were received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE ERIE COUNTY WATER AUTHORITY

Item 99 – (Comm. 24M-12) Year 2004 Adopted Operating & Maintenance Budget & Capital Budget.

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM NYSDEC

Item 100 – (Comm. 24M-13) Fact Sheet – 5 Buffalo Street – Voluntary Clean-Up Project & Interim Remedial Measure.

Received and filed.

**MEMORIAL RESOLUTIONS**

Item 101 – Legislator Swanick requested that when the Legislature adjourns, it do so in memory of the U.S. soldiers serving abroad for our country.

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Item 102 – Legislator Dale requested that when the Legislature adjourns, it do so in memory of Josephine R. Golata.

Item 103 – Legislator Dusza requested that when the Legislature adjourns, it do so in memory of Donna Kaminski.

Item 104 – Legislator Dusza requested that when the Legislature adjourns, it do so in memory of Bronislaus Wyszyccki.

Item 105 – Legislator DeBenedetti requested that when the Legislature adjourns, it do so in memory of Irene Lewandowski.

Item 106 – Legislator Fisher requested that when the Legislature adjourns, it do so in memory of Natalie Davis.

Item 107 – Legislator Schroeder requested that when the Legislature adjourns, it do so in memory of Leonard Bernal.

Item 108 – Legislator Schroeder requested that when the Legislature adjourns, it do so in memory of Warren Spahn.

Item 109 – Legislator Schroeder requested that when the Legislature adjourns, it do so in memory of Dasha Procyk.

Item 110 – Legislator Falkner requested that when the Legislature adjourns, it do so in memory of Florence Colern.

Item 111 – Legislator Weinstein requested that when the Legislature adjourns, it do so in memory of Clifford Crooks.

**ADJOURNMENT**

Item 112 – At this time, there being no further business to transact, the Chairman announced that the Chair would entertain a Motion to Adjourn.

MR. RANZENHOFER moved that the Legislature adjourn until 2 p.m. Thursday, December 11, 2003. MR. HOLT seconded.

CARRIED UNANIMOUSLY.

The Chairman declared the Legislature adjourned until Thursday, December 11, 2003 at 2 p.m. Eastern Standard Time.

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**LAURIE A. MANZELLA**  
**CLERK**