

September 24, 2012

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 10

ALL MEMBERS PRESENT.

- 1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 6M-33 (2011)
ROSE SICKLER: “Letter to Legislator Loughran Concerning Crematory at 2600 Sheridan Dr., Tonawanda”
(5-0)
 - b. COMM. 14M-2 (2012)
NYSDEC: “Fact Sheet: Environmental Cleanup Plan for Interim Remedial Measures Tecumseh Phase III Business Park - Sub-Parcels III-7 & III-8 - Lackawanna, NY”
(5-0)
 - c. COMM. 15E-1 (2012)
RATH: “Letter to Legislator McCracken Concerning Wind Energy”
(5-0)
 - d. COMM. 15E-15 (2012)
COUNTY EXECUTIVE: “ECSDs 1-6 & 8 - Section 270/271 Resolutions”
(5-0)
 - e. COMM. 15E-34 (2012)
COUNTY EXECUTIVE: “EC Division of Sewerage Management - Engineering Service Agreement”
(5-0)
 - f. COMM. 15M-11 (2012)
NYSDEC: “Fact Sheet: Remedial Investigation & Interim Remedial Measure Proposed; Public Comment Period 8/29/2012 - 9/29/2012 for Site Known as Former Mobil Service Station 99-MST”
(5-0)
 - g. COMM. 15M-15 (2012)
NYSDEC: “Fact Sheet: Investigation to Begin at State Superfund Site Known as Lackawanna Incinerator Site”
(5-0)

- h. COMM. 15M-16 (2012)
NYSDEC: “Public Notice: Brownfield Cleanup Program Application from 154 South Ogden LLC for Site Known as the 154 South Ogden Street Site”
(5-0)
- 2. COMM. 15E-23 (2012)
COUNTY EXECUTIVE
WHEREAS, the County of Erie had previously entered into a contract with the Erie County Soil and Water Conservation District who have the necessary expertise and personnel to perform the necessary inspections and evaluations as well as to carry out administrative responsibilities related to the delivery of various technical services including stream bank maintenance, bridge and culvert scour maintenance; and

WHEREAS, it has become necessary to implement the County-wide Stream Maintenance Program to continue to reduce erosion and localized flood-related risk to roads, bridges, culverts and rights-of-way by removing gravel bars and vegetative debris obstructing or diverting the natural flow of streams, repair bridge and culvert scour or prevention of same; and

WHEREAS, Article 5-G of the General Municipal Law authorizes municipalities and districts to contract to perform together that which each public entity is authorized to perform individually; and Article 5, Section 99-R of the same General Municipal Law authorizes Erie County and the District to contract by direct negotiations for services of government not regularly provided to the public as part of general government services; and

WHEREAS, the Legislative Body of Erie County and the Board of Directors of the Erie County Soil and Water Conservation District have previously authorized a municipal agreement on October 6, 2011, at Meeting Number 20, Communication Number 18E-30 for the purpose of performing a County-wide Stream Maintenance Program.

NOW, THEREFORE, BE IT

RESOLVED, that the Agreement between the County of Erie and the Erie County Soil and Water Conservation District be renewed in an amount of \$100,000.00 to be allocated from the Division of Highways, Business Area 123, Fund 210, Account 516020 – Professional Services, for technical services to reduce erosion, scour and localized flooding related risks to roads, bridges, culverts and rights-of-way at various locations; and be it further

RESOLVED, that three (3) certified copies of this resolution be sent to the Department of Public Works, Office of the Commissioner, and one copy each to the Office of the County Executive, the Division of Budget, Management and Finance, and the Office of the Comptroller.
(5-0)

3. COMM. 15E-25 (2012)
 COUNTY EXECUTIVE
 WHEREAS, the County of Erie advertised for and received five (5) responses to a request for proposals from consulting firms to perform professional services associated with developing the final design of facilities for the Rainwater Harvesting Installation Project; and

 WHEREAS, a review committee consisting of representatives from the Erie County Department of Environment and Planning, the Erie County Department of Public Works, the Village of Orchard Park, and the Town of Tonawanda evaluated all responses to the County’s request for proposals, using a consistent scoring matrix; and

 WHEREAS, the proposal review committee recommends retaining Audubon Architecture, Engineering, Surveying & Landscape Architecture, P.C. (also known as Wendel) to complete the requested consulting services.

 NOW, THEREFORE, BE IT

 RESOLVED, that Audubon Architecture, Engineering, Surveying & Landscape Architecture, P.C. be retained to perform professional services associated with developing the final design for the Rainwater Harvesting Installation Project; and be it further

 RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with Audubon Architecture, Engineering, Surveying & Landscape Architecture, P.C., 140 John James Audubon Pkwy – Suite 201, Buffalo, New York 14228 for professional services associated with developing the Final Design for the WNY Stormwater Coalition: Rainwater Harvesting Installation Project in an amount not to exceed \$101,500.00; and be it further

 RESOLVED, that the Clerk of the Legislature send two (2) certified copies each of this resolution to Thomas R. Hersey, Jr., Division of Environmental Compliance; and one certified copy each to the County Executive; the Erie County Comptroller; the Commissioner of the Department of Environment and Planning; the Erie County Director of Budget and Management; and Kristen Walder, Assistant County Attorney.

(5-0)

4. COMM. 15E-26 (2012)
 COUNTY EXECUTIVE
 WHEREAS, the Erie County Soil and Water Conservation District has New York State Department of Environmental Conservation 604b grant funding to form and implement the Lake Erie Watershed Protection Alliance (LEWPA), a three-county collaborative effort to better protect Lake Erie water quality; and

 WHEREAS, the contracted employee hired by Erie County Soil and Water Conservation District to coordinate LEWPA recently resigned from the position; and

 WHEREAS, it is vital that the LEWPA project does not lose momentum as it is crucial to securing funds to make improvements to water quality along the Lake Erie shoreline in New York State, as well as the associated watershed; and

 WHEREAS, Erie County Soil and Water Conservation District would like to contract with Erie County to have a Junior Environmentalist (JG-7) fulfill the role of LEWPA Coordinator for the 604b grant instead of hiring their own contracted employee.

 NOW, THEREFORE, BE IT

 RESOLVED, that the County Executive is authorized to enter an agreement with the Erie County Soil and Water Conservation District to coordinate the Lake Erie Watershed Protection Alliance in an amount not to exceed \$42,453.80 in grant resources; and be it further

 RESOLVED, that the revenue from the Erie County Soil and Water Conservation District is hereby appropriated in a grant account in the Department of Environment and Planning (Business Area 162, Fund 281) as follows:

 Lake Erie Watershed Protection Alliance Project
 (Grant Period: 10/15/12 - 06/21/13)
 SAP Grant Account #162LEWPA062113

REVENUE:

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>
409000	State Aid Revenue – New York State Department of Environmental Conservation	
		(\$42,453.80)

TOTAL REVENUE (\$42,453.80)

APPROPRIATIONS:

<u>Account</u>	<u>Description</u>	<u>Budget</u>
500000	Personnel Services	\$28,302.53
502000	Fringe Benefits	\$14,151.27
TOTAL APPROPRIATIONS		\$42,453.80

and be it further

RESOLVED, that a Junior Environmentalist (JG-7) position, B-100 #0000006981, for which sufficient grant funding for personal services and fringe benefits exists, will be created and approved; and be it further

RESOLVED, that the Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments as required to comply with State and local funding requirements; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive’s Office; the Comptroller’s Office; the Director of the Division of Budget and Management; the County Attorney; and the Commissioner of the Department of Environment and Planning, Rath Building, 10th Floor. (5-0)

5. COMM. 15E-30 (2012)
COUNTY EXECUTIVE

WHEREAS, the Commissioners of the Mount Vernon Sewer District presently operate, maintain, and improve the sewerage infrastructure of Town of Hamburg Sewer District No. 2 (Commissioner District); and

WHEREAS, the Commissioners of the Mount Vernon Sewer District have indicated their desire to dissolve the Commissioner District; and

WHEREAS, upon dissolution, the Town of Hamburg (Town) would be responsible for the assets of the Commissioner District; and

WHEREAS, the Town has leased all of the sanitary sewerage assets previously operated and maintained by the Town to Erie County Sewer District (ECSD) No. 3 pursuant to Legislative Communications 20E-21 (2006) and 22E-8 (2007); and

WHEREAS, the Town and Commissioners of the Mount Vernon Sewer District wish to effectuate an agreement whereby ECSD No. 3 would provide operation and maintenance services by contract for the Commissioner District.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to execute an intermunicipal agreement for ECSD No. 3 to supply operation and maintenance services for the Mount Vernon Sewer District, subject to approval as to content by the Commissioner of Environment and Planning, and approval as to form by the County Attorney’s office; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy each to the County Executive, the Erie County Comptroller, the Erie County Director of Budget and Management, and Kristen Walder, Assistant County Attorney, and send two (2) certified copies of this resolution to Joseph L. Fiegl, P.E., Department of Environment and Planning. (5-0)

6. COMM. 15E-31 (2012)
COUNTY EXECUTIVE

WHEREAS, the Town of Hamburg (Town) and County of Erie (County) completed two separate mergers of sanitary sewer services, effective 1/1/2007 and 1/1/2008, to allow for the lease of the assets of Town Sewer District Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, and 30 (Former Town Sewer Districts) to Erie County Sewer District No. 3 (ECSD No. 3); and

WHEREAS, the Town has commenced procedures to dissolve the Former Town Sewer Districts; and

WHEREAS, since 1/1/2007 and 1/1/2008, ECSD No. 3 has been operating, maintaining, and improving the leased assets of said Former Town Sewer Districts in accordance with the merger agreements authorized per Legislative Communications 20E-21 (2006) and 22E-8 (2007); and

WHEREAS, the County and Town wish to effectuate a formal asset transfer of the leased infrastructure of the Former Town Sewer Districts to the County/ECSD No. 3; and

WHEREAS, an intermunicipal agreement is necessary to allow for the transfer of assets of the Former Town Sewer Districts to ECSD No. 3.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to execute an intermunicipal agreement to transfer ownership of the assets of the Former Town Sewer Districts to ECSD No. 3, subject to approval as to content by the Commissioner of Environment and Planning, and approval as to form by the County Attorney’s office; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy each to the County Executive, the Erie County Comptroller, the Erie County Director of Budget and Management, and Kristen Walder, Assistant County Attorney, and send two (2) certified copies of this resolution to Joseph L. Fiegl, P.E., Department of Environment and Planning.
(5-0)

7. COMM. 15E-32 (2012)
COUNTY EXECUTIVE

WHEREAS, the Town of Evans has had litter problems and complaints associated with the placement of garbage on Old Lakeshore Road from the residents of “The Grove” area; and

WHEREAS, the Town of Evans has requested permission to place dumpsters on Erie County Sewer District No. 2 owned property located on Old Lakeshore Road (SBL No. 235.05-1-15); and

WHEREAS, this request was brought forth to the Erie County Sewer District No. 2 Board of Managers for consideration; and

WHEREAS, the Board of Managers of Erie County Sewer District No. 2 consent to the placement of the dumpsters on SBL No. 235.05-1-15, provided there is a 90-day “trial period” and protections for the sewer district are detailed in an intermunicipal agreement.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to execute an intermunicipal agreement with the Town of Evans so the Town may place dumpsters on Erie County Sewer District No. 2 owned parcel SBL No. 235.05-1-15, subject to approval as to content by the Commissioner of Environment and Planning, and approval as to form by the County Attorney’s office; and be it further

RESOLVED, that the Clerk of the Legislature one (1) certified copy each to the County Executive, the Erie County Comptroller, the Erie County Director of Budget and Management, and Kristen Walder, Assistant County Attorney, and send two (2) certified copies of this resolution to Joseph L. Fiegl, P.E., Department of Environment and Planning.
(5-0)

8. COMM. 15E-33 (2012)
COUNTY EXECUTIVE

EXTRACT OF MINUTES

Meeting of the County Legislature of
the County of Erie, New York.

_____, 2012

* * *

A regular meeting of the County Legislature of the County of Erie, New York, was held at the Chambers of the Erie County Legislature, in the Erie County Hall, Buffalo, New York, in said County, on _____, 2012, at o’clock P.M. (Prevailing Time).

The following Legislators were present:

There were absent:

Also present: Robert M. Graber, Clerk of the Legislature

* * *

Legislator _____ offered the following resolution and moved its adoption:

RESOLUTION NO.

RESOLUTION DATED _____, 2012

RESOLUTION CALLING A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING A PROPOSED MODIFICATION OF PLANS FOR THE INCREASE AND IMPROVEMENT OF

FACILITIES OF THE ERIE COUNTY SEWER DISTRICT NO. 2 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) , 2012.

(Adopted) , 2012

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No. 2 of the County of Erie, New York, (the “District”) has heretofore been established; and

WHEREAS, in 2002 an increase and improvement of facilities for such District has been authorized by the County Legislature of the County of Erie, New York for the rehabilitation of sanitary sewers on Route 5, Lakecrest Gardens, Utica Trunk and numerous I&I projects (the 2002 Projects”), substantially as described in the original Erie County Sewer Agency Report; and

WHEREAS, the many of the 2002 Projects have been completed at costs below what was originally estimated; and

WHEREAS, the are currently authorized, unspent and unneeded funds in the amount \$677,514 remaining; and

WHEREAS, such County Legislature has heretofore received a report and estimate of cost dated June 8, 2012, from County engineers (the Erie County Department of Environment and Planning), relating to a proposed modification of plans for such increase and improvement of the facilities of said District No. 2 which report and estimate of cost have been filed with the County Legislature pursuant to Section 253-b of the County Law; and

WHEREAS, said report and estimate of cost describe a proposed modification of plans for such increase and improvement of the facilities of said District No. 2 in said County, consisting of the construction of capital improvements to existing pump stations, sanitary sewers and treatment plant facilities, including engineering, easements and related costs, all as more fully described in the report and estimate of cost herein referred to (the “2012 Project”); and

WHEREAS, the maximum estimated cost of the 2012 Project of said Sewer District No. 2 is \$677,514 to be apportioned between real properties (i) in the District, and (ii) in the Brant-Farnham and Lotus Bay sewer districts in the Town of Brant, through contracts with the District, all in accordance with their respective proportionate shares of sewered units in the District and such Town of Brant sewer districts, and applicable flat charges; and

WHEREAS, it is now desired to call a public hearing to consider said modification of plans for such increase and improvement in accordance with the provisions of Section 253-b of the County Law;

NOW, THEREFORE, BE IT

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

Section 1. A meeting of the County Legislature of the County of Erie, New York, shall be held at the Erie County Legislature, 92 Franklin Street, 4th Floor, in Buffalo, New York, in said County, on the 24th day of ,October 2012, at 1:30 o’clock P.M., (Prevailing Time), for the purpose of conducting a public hearing upon the aforesaid proposal for modification of plans for such increase and improvement of facilities of Erie County Sewer District No. 2 in said County, and for such other action on the part of said County Legislature in relation thereto as may be required by law or proper in the premises.

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

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a meeting of the County Legislature of the County of Erie, New York, shall be held at Erie County Legislature, 92 Franklin Street, 4th Floor, in Buffalo, New York, in said County, on the 24th day of October, 2012, at 1:30 o’clock P.M., (Prevailing Time), for the purpose of conducting a public hearing upon a proposed modification of plans for increase and improvement of facilities of Erie County Sewer District No. 2 in said County (the “District”).

The modification of plans for increase and the improvement of the facilities consists of the construction of capital improvements to existing pump stations, sanitary sewers and treatment plant facilities, including engineering, easements and related costs, all as more fully described in the report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning) which has been filed with the County Legislature and which has been approved by the Erie County Sewer Agency, pursuant to a written report dated June 8, 2012, which also has been filed with said County Legislature.

The maximum estimated cost of the aforesaid improvements is \$677,514 to be apportioned between real properties (i) in the District, and (ii) in the Brant-Farnham and Lotus Bay sewer districts in the Town of Brant, through contracts with the District, all in accordance with their respective proportionate shares of sewered units in the District and such Town of Brant sewer districts, and applicable flat charges; and

There will be no additional charge for hook ups to properties serviced by the Sewer District.

Dated: Buffalo, New York,

_____, 2012.

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

By ROBERT M. GRABER
 Clerk, County Legislature

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

Section 4. This resolution shall take effect immediately.

(5-0)

TERRENCE D. McCRACKEN
CHAIR