

December 13, 2012

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 15

ALL MEMBERS PRESENT.

- 1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 13M-7 (2012)
AMHERST TOWN BOARD: "Copy of Resolution Concerning 1815 Eggert Rd."
(5-0)
 - b. COMM. 20E-13 (2012)
COUNTY EXECUTIVE: "ECSD Nos. 1-6 & 8 - User Charge Rates"
(5-0)
 - c. COMM. 23M-5 (2012)
NYSDEC: "Public Notice: Application from 98 Ridge Rd., LLC, Lackawanna, NY"
(5-0)
- 2. COMM. 20E-8 (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 2:00 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

A RESOLUTION APPROVING A MODIFICATION OF PLANS FOR THE INCREASE AND IMPROVEMENT OF FACILITIES FOR ERIE COUNTY SEWER DISTRICT NO. 2 IN THE COUNTY OF ERIE, NEW YORK

(Introduced) _____, 2012.

(Adopted) _____, 2012.

WHEREAS, The County Legislature of the County of Erie, New York, has heretofore duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed modification of plans for the increase and improvement of the facilities for County Sewer 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, such report and estimate of cost have been approved by the Erie County Sewer Agency pursuant to a written report dated June 8, 2012, which has also been filed with said County Legislature on July 12, 2012; and

WHEREAS, said report and estimate of cost describe a proposed modification of plans for such increase and improvement of the facilities of Erie County Sewer District No. 2 in said County, consisting of an engineering study of the Sweetland Road Pumping Station to determine future improvements and future capital repairs to existing infrastructure, all as more fully described in the report and estimate of cost herein referred to; and

WHEREAS, the maximum estimated cost of the aforesaid design, engineering, and construction of the facilities of said Sewer District is \$677,514, to be assessed against a benefited area which consists of the entire area of the District; and

WHEREAS, said County Legislature duly adopted Resolution 209 on the 27th day of September, 2012, calling a meeting of the County Legislature for the purpose of holding a public hearing to consider said modification of plans for such increase and improvement of facilities in accordance with the provisions of Section 253-b of the County Law; and

WHEREAS, said public hearing was duly held at 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; and

WHEREAS, notice of said public hearing was duly published in substantially the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature had duly considered the evidence given at such public hearing;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to modify the plans for such increase and improvement for the facilities of Erie County Sewer District No. 2 in the County of Erie, New York, all as more fully described in the preambles hereof, and such modification of plans for the increase and improvement of facilities is hereby authorized at a maximum estimated cost of \$677,514.

Section 2. The cost of the proposed modification expenditure is to be assessed against a benefited area which consists of the entire area of the District, and all such real property to be so assessed will be benefited by the proposed modification and no benefited property has been excluded.

Section 3. This resolution shall take effect immediately.

* * *

The adoption of the foregoing resolution was seconded by Legislator

_____ and duly put to a vote on, which resulted as follows:

AYES:

NOES:

The resolution was thereupon declared duly adopted.

Dated: _____, 2012

Buffalo, New York

STATE OF NEW YORK)

) ss.:

COUNTY OF ERIE)

I, the undersigned Clerk of the Erie County Legislature, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the County Legislature of said County, including the resolution contained therein, held on the ____ day of _____, 2012, with the original minutes thereof as originally recorded in the Minute Book of said Erie County Legislature and the same is a true and correct copy of said original minutes and of the whole of said original so far as the same relates to the subject matters referred to in said extract.

I FURTHER CERTIFY that all members of said Legislature had due notice of said meeting.

I FURTHER CERTIFY that, pursuant to Section 103 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public.

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused a public notice of the time and place of said meeting to be given to the following newspapers and/or other news media as follows:

Newspaper and/or other news media

Date given

I FURTHER CERTIFY that, PRIOR to the time of said meeting, I duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public locations(s) on the following dates:

Designated Locations(s)
of posted notice

Date of Posting

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County Legislature this ____ day of _____, 2012.

Clerk, Erie County Legislature

(SEAL)

(5-0)

3. COMM. 20E-9 (2012)
COUNTY EXECUTIVE

WHEREAS, per Legislative Communication 15E-30 (2012), the Erie County Legislature authorized the County Executive to enter into an agreement to allow Erie County Sewer District No. 3 to provide operation and maintenance services for the Mount Vernon Sewer District; and

WHEREAS, the 2013 Sewer District Budgets have already been submitted for consideration by the Erie County Legislature; and

WHEREAS, it is necessary to amend the 2013 Budget for Erie County Sewer District No. 3 to account for additional revenues and expenses associated with Mount Vernon Sewer District operation and maintenance services.

NOW, THEREFORE, BE IT

RESOLVED, that the 2013 appropriations and revenues for Erie County Sewer District No. 3, Fund 220, Fund Center 18310, as well as Fund 220, Fund Center 18010 be adjusted to include Mount Vernon Sewer District operation and maintenance services; and be it further

RESOLVED, the following adjustments to the SAP Expense and Revenue Accounts be provided as follows:

Fund 220 – Fund Center 18310

Revenue:

G/L 420120 - Contracting Community (\$138,479)

Expense:

G/L 506200 - Maintenance & Repair \$ 28,000

G/L 918000 - ID Sewer Mgt. Services \$110,479

Fund 220 – Fund Center 18010

G/L 500000 - Full Time Salaries \$ 67,571

G/L 502000 - Fringe Benefits \$ 42,908

G/L 918000 - ID Sewer Mgt. Services (\$110,479)

and be it further

RESOLVED, that the positions of Laborer (SAP Control No. 0000006979) and Maintenance Worker – Sewerage (SAP Control No. 0000006980) be funded in the 2013 Budget through this budget amendment; 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)

4. COMM. 20E-10 (2012)
COUNTY EXECUTIVE

WHEREAS, The Erie County Legislature has secured the services of Conestoga-Rovers & Associates to provide engineering services related to online flow monitoring of the metering stations for Erie County Sewer District Nos. 1, 3, 4, and 5; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all engineering services have been completed; and

WHEREAS, the Erie County Division of Sewerage Management has recommended the formal close-out of the Engineering Agreement, dated November 20, 2008 with Conestoga-Rovers & Associates in the final contract amount of \$42,852.45.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement dated November 20, 2008 between the County of Erie and Conestoga-Rovers & Associates be formally closed in the final amount of \$42,852.45; and be it further

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

5. COMM. 20E-11 (2012)
COUNTY EXECUTIVE

WHEREAS, The Erie County Legislature has secured the services of GPI to provide construction inspections related to various construction projects for the Erie County Sewer Districts; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all engineering services have been completed; and

WHEREAS, the Erie County Division of Sewerage Management has recommended the formal close-out of the Engineering Agreement, dated November 29, 2007 with GPI in the final contract amount of \$189,999.93.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement dated November 29, 2007 between the County of Erie and GPI be formally closed in the final amount of \$189,999.93; and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to finalize the Engineering Agreement dated November 29, 2007 between the County of Erie and GPI; and be it further

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

6. COMM. 20E-12 (2012)
COUNTY EXECUTIVE

WHEREAS, The Erie County Legislature has secured the services of LiRo Engineers to provide construction inspections related to various construction inspections for the Erie County Sewer Districts; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all engineering services have been completed; and

WHEREAS, the Erie County Division of Sewerage Management has recommended the formal close-out of the Engineering Agreement, dated November 29, 2007 with LiRo Engineers in the final contract amount of \$178,284.40.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement dated November 29, 2007 between the County of Erie and LiRo Engineers be formally closed in the final amount of \$178,284.40; and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to finalize the Engineering Agreement dated November 29, 2007 between the County of Erie and LiRo Engineers; and be it further

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

7. COMM. 20E-18 (2012)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Parks & Recreation has requested an evaluation of the deteriorated condition of the Wendt Beach Mansion; and

WHEREAS, your Honorable Body has previously authorized the County Executive to enter into a general Architectural/Engineering service agreement with Stievater & Associates for providing professional Architectural/Engineering services on Erie County projects; and

WHEREAS, the County Executive is requesting authorization to issue an Agreement Amendment to Stievater & Associates for an evaluation report for the Wendt Beach Mansion deterioration.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be authorized to issue an Agreement Amendment to Stievater & Associates for Architectural/Engineering services to provide an evaluation report for the Wendt Beach Mansion deterioration in the amount not to exceed \$30,000.00; and be it further

RESOLVED, that the Comptroller's Office be authorized to make payment for all the above from SAP Project A.12007 – 2012 Countywide Parks Improvements & Equipment, for an amount not to exceed \$30,000.00; and be it further

RESOLVED, that two certified copies of this resolution be sent to the Department of Public Works, Commissioner's Office, and one copy each to the County Executive; the Office of the Comptroller; the Division of Budget and Management and the Department of Parks & Recreation.
(5-0)

8. COMM. 23E-2 (2012)
COUNTY EXECUTIVE AS AMENDED

WHEREAS, the Board of Managers for Erie County Sewer Districts Nos. 1, 2, 3, 4, 5, 6 and 8 have a system of Sewer District User Charges or Fees; and

WHEREAS, the Boards have requested and are desirous of collecting said User Charges or Fees in 2013 for properties in the same manner and fashion as the regular sewer district taxes as has been done in the past year.

NOW, THEREFORE, BE IT

RESOLVED, that the Director of Real Property Tax Services is hereby authorized and directed to spread said 2013 Sewer District User Charges or Fees against properties within Erie County Sewer District Nos. 1, 2, 3, 4, 5, 6 & 8 liable therefore as provided by law; and be it further

RESOLVED, that the following amounts be collected:

- Sewer District #1 \$ 1,013,400.42
- Sewer District #2 \$ 160,472.82
- Sewer District #3 \$ 994,079.84
- Sewer District #4 \$ 653,731.76
- Sewer District #5 \$ 285,527.75
- Sewer District #6 \$ 1,565,705.54
- Sewer District #8 \$ 638,218.00
- \$ 5,311,136.13

and be it further

RESOLVED, that the Clerk of the Legislature be authorized and directed to send a certified copy of this resolution to the County Executive, the Erie County Comptroller, the Director of Real Property Tax Services, the Director of Budget, the County Attorney and Joseph L. Fiegl, P.E., Deputy Commissioner, Department of Environment and Planning.
(5-0)

9. COMM. 23E-3 (2012)
COUNTY EXECUTIVE

WHEREAS, the 2012 Assessment Rolls for Erie County Sewer District Nos. 1-6 and 8 describing each lot or parcel of land have been prepared by the Division of Sewerage Management; and

WHEREAS, the Division of Sewerage Management has also assessed the estimate of expenditures and proportioned them to the lots and parcels of land as nearly as may be to the benefit which each lot or parcel will derive therefrom; and

WHEREAS, the Clerk of the Legislature had a Notice of Public Hearing published in the official County newspapers prior to the date of the Public Hearing which informed the public that the Assessment Rolls would be open for public inspection on and after the first day of October, 2012; and

WHEREAS, said Public Hearing was held in the Chamber of the Erie County Legislature, 92 Franklin Street, 4th Floor, Buffalo, New York, at 1:30 p.m., local time on November 2, 2012 and that all persons desiring to be heard were duly heard and that all objections have been heard and considered; and

WHEREAS, said Assessment Rolls, estimate of expenditures, and Public Hearing were carried out in accordance with Article 5A, Sections 270 and 271 of County Law.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby affirm and adopt the 2012 Assessment Rolls for Erie County Sewer District Nos. 1, 2, 3, 4, 5, 6 and 8; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send a certified copy of this resolution to the County Executive, Erie County Comptroller, Kristen Walder, Assistant County Attorney and Joseph L. Fiegl, P.E., Deputy Commissioner, Department of Environment & Planning.
(5-0)

10. COMM. 23E-4 (2012)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bid for the Erie County Sewer District Nos. 3 and 4, Sewer Rehabilitation Project, Contract No. 71 at 2:00 P.M. on October 25, 2012:

<u>Contract</u>	<u>Low Bidder</u>	<u>Amount</u>
Contract No. 71	Hydrolawn of Buffalo, Inc. PO Box 771 Derby, New York 14047	\$172,590.56

WHEREAS, the aforementioned lowest responsible bidder has successfully performed similar work for municipalities in and around Erie County; and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management recommends award of the contract to the aforementioned lowest responsible bidder.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County Sewer District Nos. 3 and 4, Sewer Rehabilitation Project, Contract No. 71 be awarded as follows:

<u>Contract</u>	<u>Low Bidder</u>	<u>Amount</u>
Contract No. 71	Hydrolawn of Buffalo, Inc. PO Box 771 Derby, New York 14047	\$172,590.56

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the Contract with the aforementioned lowest responsible bidder subject to approval as to form by the County Attorney and certification of availability of funds by the Comptroller's Office; and be it further

RESOLVED, that the Erie County Comptroller is authorized and directed to allocate a total of \$172,590.56 as follows: \$72,057.45 from Erie County Sewer District No. 3, Sewer Capital Account No. C.00062 and \$100,533.11 from Erie County Sewer District No. 4 Sewer Capital Account No. C.00072 for Contract No. 71; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send one (1) certified copy each of this resolution to the County Executive, Director of Budget and Management, Comptroller's Office, 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)

11. COMM. 23E-5 (2012)
COUNTY EXECUTIVE

WHEREAS, County of Erie obtained an easement on parcel 193.00-1-2.111 via condemnation performed through the power of eminent domain; and

WHEREAS, said easement was necessary for ECSD No. 2 to construct the sanitary sewers necessary to eliminate the Hamilton Drive Pumping Station; and

WHEREAS, pursuant to Legislative Communication 4E-19 (2004), Erie County/ECSD No. 2 issued an advance payment to the owner of parcel 193.00-1-2.111 as part of the condemnation process; and

WHEREAS, the owner of parcel 193.00-1-2.111 filed a claim for additional compensation contending that monies paid by Erie County/ECSD No. 2 during the condemnation process were not sufficient for the damages incurred as a result of the easement taking and subsequent construction activities; and

WHEREAS, due to the specialized area of law associated with the underlying petition, the County Attorney's office retained Hiscock & Barclay, LLP to defend Erie County/ECSD No. 2; and

WHEREAS, prior to trial both parties participated in a court-ordered alternative dispute resolution process; and

WHEREAS, during the alternative dispute resolution process a final offer of an additional \$125,000.00 to be paid by ECSD No. 2 has been agreed upon by both parties to settle this claim; and

WHEREAS, considering the potential financial liabilities to ECSD No. 2, it is the recommendation of the County Attorney's office and Hiscock & Barclay, LLP to proceed with the \$125,000.00 settlement.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Comptroller be directed to issue a payment to Stasia T. Vogel (Office of Stasia Vogel, 6540 Old Lake Shore Road, Derby, New York 14047) in an amount of \$125,000.00 as a final payment to settle the claim for additional compensation associated with Erie County/ECSD No. 2's easement and associated activities on parcel 193.00-1-2.111; and be it further

RESOLVED, that Erie County Comptroller and the Erie County Director of Budget and Management allocate \$125,000.00 for the payment as follows:

ECSD No. 2 Project C.00002	\$ 60,164.15
ECSD No. 2 Project C.00011	\$ 4,415.41
ECSD No. 2 Project C.00028	\$ 25,552.88
ECSD No. 2 Project C.00036	\$ 18,443.17
ECSD No. 2 Capital Reserve C.00008	\$ <u>16,424.39</u>
Total	\$125,000.00

and be it further

RESOLVED, that Erie County Comptroller and the Erie County Director of Budget and Management be authorized to transfer \$16,424.39 from ECSD No. 2 Capital Reserve C.00008 to ECSD No. 2 Project C.00011 and to establish all budgetary accounts necessary to facilitate the transfer; and be it further

RESOLVED, that the Clerk of the Legislature send one (1) certified copy each to the County Executive, the Erie County Comptroller, the Erie County Director of Budget and Management, Kristen Walder, Assistant County Attorney, and send two (2) certified copies of this resolution to Joseph Fiegl, P.E., Division of Sewerage Management.
(4-1) Legislator Lorigo Voted in the Negative.

12. COMM. 23M-2 (2012)

ROBERT JASON ENGEL

RESOLVED, the Erie County Legislature hereby confirms the appointment of the following individual to the EC Agricultural & Farmland Protection Board for a term ending December 31, 2016:

Mr. Jason Engel
11036 Snyder Rd.
Springville, NY 14141

(5-0)

TERRENCE D. McCracken
CHAIR