

January 31, 2013

ENERGY & ENVIRONMENT COMMITTEE
REPORT NO. 1

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR MILLS.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 20D-2 (2012)
COUNTY ATTORNEY: "Copy of Letter to Regional Director, NYSDEC Region 9 Concerning 1815 Eggert Road, Town of Amherst - Environmental Restoration Investigation"
(4-0)
 - b. COMM. 20M-13 (2012)
RITA YELDA: "Letter to Legislature Concerning Hydraulic Fracturing"
(4-0)
 - c. COMM. 26M-1 (2012)
NYSDEC: "Fact Sheet: Former Doro Dry Cleaners Update: Investigation to Begin at State Superfund Site"
(4-0)
 - d. COMM. 26M-5 (2012)
NYSDEC: "Public Notice: Application from HARBORcenter Development, LLC for Site Known as the Webster Block, Buffalo, NY"
(4-0)
 - e. COMM. 26M-6 (2012)
NYSDEC: "Public Notice: Application from 98 Ridge Road, LLC for Site Known as 98 Ridge Road Site, Lackawanna, NY"
(4-0)
 - f. COMM. 1E-4 (2013)
COMPTROLLER: "Follow-Up Audit of the EC Water Authority for the Period 1/1/2011 - 8/31/2012"
(4-0)
 - g. COMM. 1M-4 (2013)
NYS DEPARTMENT OF AGRICULTURE & MARKETS: "Response Letter to Clerk of Legislature Concerning INTRO 17-1 (2012)"
(4-0)
 - h. COMM. 1M-6 (2013)
NYSDEC: "Fact Sheet: Buffalo China Update - DEC Issues Certificate of Completion"
(4-0)
 - i. COMM. 1M-7 (2013)
NYSDEC: "Fact Sheet: HARBORcenter Update - Work Plan Available for Public Comment - Draft Remedial Investigation/Interim Remedial Measures"
(4-0)
 - j. COMM. 1M-11 (2013)
EC FISHERIES ADVISORY BOARD: "Copy of 2012 Annual Report"
(4-0)
 - k. COMM. 2E-13 (2013)
COUNTY EXECUTIVE: "ECSD No. 8 - Proposed Reed Hill Subdivision Extension - EC Sewer Agency Report"
(4-0)
 - l. COMM. 2E-17 (2013)
COUNTY EXECUTIVE: "Botanical Gardens - No. 6 Fuel Oil Tank Removal"
(4-0)
 - m. COMM. 2M-2 (2013)
NYSDEC: "Letter Concerning the Dissolve of the Region 9 Forest Practice Board"
(4-0)
 - n. COMM. 2M-7 (2013)
NYSDEC: "Fact Sheet: Gastown Update - Proposed Amended Record of Decision for Gastown Manufactured Gas Plant (MGP) Tonawanda Site Released for Comment"
(4-0)

2. COMM. 26E-4 (2012)
COUNTY EXECUTIVE
 RESOLVED, the Erie County Legislature hereby confirms the appointment of the following individual to the ECSD No. 5 Board of Managers for a term expiring 12/31/2013:

Mr. Timothy Lavocat
 Town Engineer
 Town of Clarence
 One Town Place
 Clarence, NY 14031

(4-0)

3. COMM. 26E-8 (2012)
COUNTY EXECUTIVE
 WHEREAS, the New York State Pollution Prevention Institute, provides grants for community pollution prevention education projects and granted Erie County \$32,000 in two separate grants to complete two projects: the Stormwater Pollution Prevention Public Education Campaign and the Storm Drain Identification and Education Grant; and

WHEREAS, the WNY Stormwater Coalition, which is coordinated by the Erie County Department of Environment and Planning, has public education and involvement among its goals and regulatory requirements; and

WHEREAS, execution of the project work plan in accordance with the contractual requirements set forth by the granting agency, necessitates the following grant funded part-time position for approximately 100 hours of work, in an amount not to exceed \$1,100: Intern – Environment & Planning (JG1) ;and

WHEREAS, sole source vendors have been identified for the advertising that will take place during the course of the projects.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to enter an agreement with the New York State Pollution Prevention Institute for assistance with the Stormwater Pollution Prevention Public Education Campaign in an amount not to exceed \$20,000 in grant resources; and be it further

RESOLVED, that the County Executive is authorized to enter an agreement with the New York State Pollution Prevention Institute for assistance with the Storm Drain Identification and Education Grant in an amount not to exceed \$12,000 in grant resources; and be it further

RESOLVED, that the revenue from the New York State Pollution Prevention Institute for the Stormwater Pollution Prevention Public Education Campaign is hereby appropriated in a grant account in the Department of Environment and Planning (Business Area 162, Fund 281) as follows:

Stormwater Pollution Prevention Public Education Campaign
 (Grant Period: 12/6/2012 – 5/31/2013)
 SAP Grant Account #162SPPPEC0513

REVENUE:

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>
409000	State Aid Revenue – New York State Pollution Prevention Institute	(\$20,000)
TOTAL REVENUE		(\$20,000)

APPROPRIATIONS:

<u>Account</u>	<u>Description</u>	<u>Budget</u>
516020	Professional Services Contracts	<u>\$20,000</u> \$20,000
TOTAL APPROPRIATIONS		\$20,000

and be it further

RESOLVED, that the revenue from the New York State Pollution Prevention Institute for the Storm Drain Identification and Education Grant is hereby appropriated in a grant account in the Department of Environment and Planning (Business Area 162, Fund 281) as follows:

Storm Drain Identification and Education Grant
 (Grant Period: 12/6/2012 – 5/31/2013)
 SAP Grant Account #162SDIEC0513

REVENUE:

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>
409000	State Aid Revenue – New York State Pollution Prevention Institute	(\$12,000)
TOTAL REVENUE		(\$12,000)

APPROPRIATIONS:

<u>Account</u>	<u>Description</u>	<u>Budget</u>
500000	Personnel Services	\$1,100
510000	Local Travel & Mileage	\$825
505000	Office Supplies	\$8,075
530000	Other	<u>\$2,000</u>
TOTAL APPROPRIATIONS		\$12,000

and be it further

RESOLVED, that the following part time position will be created with a budget not to exceed \$1,000:

Intern – Environment & Planning (JG 1)
B-100 No. 0000007051
Budgeted Salary: \$1,100

and be it further

RESOLVED, that the Erie County Department of Environment and Planning is authorized to contract with sole source suppliers of advertising named within the Stormwater Pollution Prevention Public Education Campaign project, which are Entercom Buffalo (\$10,000) and Normal Advertising (\$10,000); 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 shall 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.
(4-0)

4. COMM. 26E-16 (2012)
COUNTY EXECUTIVE

WHEREAS, the process for naming an Erie County facility or property is for the Department that supervises and controls the facility or property to request and receive authorization from your honorable body; and

WHEREAS, the County owns a natural habitat park located on Seneca Street where it intersects the Buffalo River, in the City of Buffalo, that is unofficially known as the Seneca Bluffs Natural Habitat Park; and

WHEREAS, the County owns a natural habitat park, located at the foot of Smith Street on the Buffalo River, in the City of Buffalo, that is unofficially known as the Red Jacket River Front Natural Habitat Park; and

WHEREAS, the County owns a natural habitat park located at the Bailey Avenue peninsula formed by the confluence of the Buffalo River and Cazenovia Creek, in the City of Buffalo, that is unofficially known as the Bailey Peninsula Natural Habitat Park; and

WHEREAS, the Department of Environment & Planning wishes to name the park located on Seneca Street where it intersects the Buffalo River, in the City of Buffalo, the Seneca Bluffs Natural Habitat Park; and

WHEREAS, the Department of Environment & Planning wishes to name the park located at the foot of Smith Street on the Buffalo River, in the City of Buffalo, the Red Jacket River Front Natural Habitat Park; and

WHEREAS, the Department of Environment & Planning wishes to name the park located at the Bailey Avenue peninsula formed by the confluence of the Buffalo River and Cazenovia Creek, in the City of Buffalo, the Bailey Peninsula Natural Habitat Park.

NOW, THEREFORE, BE IT

RESOLVED, that the natural habitat park located on Seneca Street where it intersects the Buffalo River, in the City of Buffalo, shall henceforth be known as the Seneca Bluffs Natural Habitat Park; and be it further

RESOLVED, that the natural habitat park located at the foot of Smith Street on the Buffalo River, in the City of Buffalo, shall henceforth be known as the Red Jacket River Front Natural Habitat Park; and be it further

RESOLVED, that the natural habitat park located at the Bailey Avenue peninsula formed by the confluence of the Buffalo River and Cazenovia Creek, in the City of Buffalo, shall henceforth be known as the Bailey Peninsula Natural Habitat Park; and be it further

RESOLVED, that the Department of Parks, Recreation and Forestry may install signage to identify the Seneca Bluffs Natural Habitat Park; the Bailey Peninsula Natural Habitat Park; and the Red Jacket River Front Natural Habitat Park as County-owned properties; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive's Office; the County Attorney; and the Commissioner of the Department of Environment and Planning, Rath Building, 10th Floor.
(4-0)

5. **COMM. 2E-11 (2013)**
COUNTY EXECUTIVE

WHEREAS, this Honorable Body has previously authorized the County Executive to enter into Agreements with Wendel Duchscherer Architects & Engineers for County wide environmental compliance including work to address deficiencies for which the County was cited by the US Environmental Protection Agency and fined; and

WHEREAS, Wendel Duchscherer Architects & Engineers subsequently engaged the services of the Pump Doctor, as a sub consultant, to test for fuel tank environmental compliance deficiencies; and

WHEREAS, during the course of testing, a number of deficiencies were discovered and were corrected in an expedited manner by the Pump Doctor in order to avoid additional fines; and

WHEREAS, the Department of Public Works now wishes to reimburse the Pump Doctor for the work performed, and

WHEREAS, it is also probable that additional environmental code deficiencies will be identified during the course of future fuel tank testing; and

WHEREAS, an additional contingency amount will be authorized to fund change orders for this unforeseen corrective work.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to enter into an Agreement with the Pump Doctor for past and future fuel tank environmental compliance testing and corrective work in an amount not to exceed \$25,000; and be it further

RESOLVED, that the Comptroller is authorized to make payments for all of the above, for an amount not to exceed \$25,000, from SAP account A.12003-2012-Countywide Code & Environmental Compliance; and be it further

RESOLVED, that two certified copies of this resolution shall be sent to the Commissioner of the Department of Public Works; and one copy each to the Office of the County Executive; the County Comptroller; the County Attorney; and the Director of the Division of Budget and Management.
(4-0)

6. **COMM. 2E-12 (2013)**
COUNTY EXECUTIVE

WHEREAS, County of Erie/Erie County Sewer District No. 8, herein called the "Borrower" after thorough consideration of the various aspects of the problems and study of available data, has hereby determined that the Project generally described as the Geneva Road Sanitary Sewer Extension, identified as CWSRF Project No. 6666-01; herein called the "Project", is desirable and in the public interest, and to that end it is necessary that action preliminary to the construction of said Project be taken immediately; and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987, (as such may be amended from time to time, the "Water Quality Act"), requires each State to establish a water pollution control revolving fund to be administered by an instrumentality of the state before the state may receive capitalization grants under the Water Quality Act; and

WHEREAS, the State of New York has, pursuant to Chapter 565 of the Laws of New York 1989 as amended, (the "CWSRF Act"), established in the custody of the New York State Environmental Facilities Corporation (the "Corporation") a water pollution control revolving fund (the "Fund") to be used for purposes of the Water Quality Act; and

WHEREAS, the Corporation has been created, reconstituted and continued pursuant to the New York State Environmental Facilities Corporation Act, as amended, (the "Act") being Chapter 744 of the Laws of 1970, as amended and constituting Title 12 of Article 5 of the Public Authorities Law and

Chapter 43-A of the Consolidated laws of the State of New York, and constitutes a public benefit corporation under the laws of the State of New York, being a body corporate and politic with full and lawful power and authority to provide financial assistance from the Fund; and

WHEREAS, the Corporation has the responsibility to administer the Fund and to provide financial assistance from the Fund to municipalities for eligible projects, as provided in the CWSRF Act; and

WHEREAS, the CWSRF Act authorizes the establishment of a program for planning, development and construction of eligible projects.

NOW, THEREFORE, BE IT

RESOLVED, that the filing of an application for CWSRF assistance in the form required by the Corporation in conformity with the CWSRF Act is hereby authorized, including all understandings and assurances contained in said application; and be it further

RESOLVED, that the following person(s) is/are directed and authorized as the official representative(s) of the Municipal Applicant to execute and deliver an application or CWSRF assistance, to execute and deliver the Project Financing Agreement and any other documents necessary to receive financial assistance from the Fund for the Project described, to act in connection with the Project and to provide such additional information as may be required and to make such agreements on behalf of the Municipal Applicant as may be required:

The COUNTY EXECUTIVE
(Authorized Representative)

The ERIE COUNTY COMPTROLLER
(Chief Fiscal Officer)

and be it further

RESOLVED, that the official(s) designated above is/are authorized to make application for financial assistance under the CWSRF Program for either short-term or long-term financing or both; 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, County Comptroller and to Joseph L. Fiegl, P.E., Department of Environment and Planning; and be it further

RESOLVED, that this Resolution shall take effect immediately.

WHEREAS, County of Erie/Erie County Sewer District No. 8, herein called the "Borrower" after thorough consideration of the various aspects of the problems and study of available data, has hereby determined that the Project generally described as the East Aurora Treatment Plant Improvements, identified as CWSRF Project No. 6666-02; herein called the "Project", is desirable and in the public interest, and to that end it is necessary that action preliminary to the construction of said Project be taken immediately; and

WHEREAS, the United States, pursuant to the Federal Water Quality Act of 1987, (as such may be amended from time to time, the "Water Quality Act"), requires each State to establish a water pollution control revolving fund to be administered by an instrumentality of the state before the state may receive capitalization grants under the Water Quality Act; and

WHEREAS, the State of New York has, pursuant to Chapter 565 of the Laws of New York 1989 as amended, (the "CWSRF Act"), established in the custody of the New York State Environmental Facilities Corporation (the "Corporation") a water pollution control revolving fund (the "Fund") to be used for purposes of the Water Quality Act; and

WHEREAS, the Corporation has been created, reconstituted and continued pursuant to the New York State Environmental Facilities Corporation Act, as amended, (the "Act") being Chapter 744 of the Laws of 1970, as amended and constituting Title 12 of Article 5 of the Public Authorities Law and Chapter 43-A of the Consolidated laws of the State of New York, and constitutes a public benefit corporation under the laws of the State of New York, being a body corporate and politic with full and lawful power and authority to provide financial assistance from the Fund; and

WHEREAS, the Corporation has the responsibility to administer the Fund and to provide financial assistance from the Fund to municipalities for eligible projects, as provided in the CWSRF Act; and

WHEREAS, the CWSRF Act authorizes the establishment of a program for planning, development and construction of eligible projects.

NOW, THEREFORE, BE IT

RESOLVED, that the filing of an application for CWSRF assistance in the form required by the Corporation in conformity with the CWSRF Act is hereby authorized, including all understandings and assurances contained in said application; and be it further

RESOLVED, that the following person(s) is/are directed and authorized as the official representative(s) of the Municipal Applicant to execute and deliver an application or CWSRF assistance, to execute and deliver the Project Financing Agreement and any other documents necessary to receive financial assistance from the Fund for the Project described, to act in connection with the Project and to provide such additional information as may be required and to make such agreements on behalf of the Municipal Applicant as may be required:

The COUNTY EXECUTIVE
(Authorized Representative)

The ERIE COUNTY COMPTROLLER
(Chief Fiscal Officer)

and be it further

RESOLVED, that the official(s) designated above is/are authorized to make application for financial assistance under the CWSRF Program for either short-term or long-term financing or both; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send a certified copy of the resolution to the County Executive, County Comptroller and Joseph L. Fiegl, P.E., Department of Environment and Planning; and be it further
(4-0)

7. COMM. 2E-14 (2013)
COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature has secured the services of Parsons Engineering of New York Inc. for engineering services related to Sewerage Facilities for Erie County Sewer District No. 3; and

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

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management has recommended the formal close-out of the Engineering Agreement, dated August 22, 2005, with Parsons Engineering of New York Inc. in the final contract amount of \$174,540.05.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement dated August 22, 2005 between the County of Erie and Parsons Engineering of New York Inc., allocated in Erie County Sewer District No. 3 Bond Account C.00039, be formally closed in the final amount of \$174,540.05; 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.
(4-0)

8. COMM. 2E-18 (2013)
COUNTY EXECUTIVE

RESOLVED, the Erie County Legislature hereby confirms the appointment/reappointments of the following individuals to the EC Fisheries Advisory Board for a term expiring 12/31/2014:

Reappointments

Gerald S. May, Sr.
5858 Lakecrest Drive
Lakeview, NY 14085

Paul J. Stoos
845 Clinton Street
Buffalo, NY 14206

Appointment

Larry D. Jones
268 Harrison Avenue
Buffalo, NY 14223

(4-0)

9. COMM. 2E-20 (2013)
COUNTY EXECUTIVE

WHEREAS, the Western New York Stormwater Coalition, comprised of municipalities in both Erie and Niagara County, requires a coordinator to assist with regulatory requirements; and

WHEREAS, Ms. Mary Rossi has been the coordinator of the WNYSC since 2004; and

WHEREAS, since assuming these responsibilities Ms. Rossi has been working as a Solid Waste Recycling Coordinator (JG-12), which does not reflect her duties; and

WHEREAS, Ms. Rossi has successfully managed responsibilities well above her current pay grade for many years; and

WHEREAS, in April 2012 Ms. Rossi began managing a 3-year stormwater mapping grant which involves coordinating and supervising several teams of employees, including upper level staff; and

WHEREAS, the WNYSC unanimously voted at its November 14, 2012 meeting to increase its budget commitment to support a promotion for Ms. Rossi; and

WHEREAS, this promotion to a Principal Environmental Compliance Specialist (JG-14) will not impact the county budget as it will be paid for by dues from the WNYSC and grant funding through a current 3 year grant from the New York State Department of Environmental Conservation entitled "Stormwater Mapping Project" (162WNYSCMS4AP1112).

NOW, THEREFORE, BE IT

RESOLVED, that the grant budget and project period for the WNY Stormwater Coalition: MS4 Assistance Project Grant is hereby revised in the Department of Environment and Planning, Business Area 162, as follows:

WNY Stormwater Coalition: MS4 Assistance Project 2011/12 (Grant Period: 01/01/11-12/31/15), SAP Grant Account #162WNYSCMS4AP1112

REVENUE:

Account	Description	Current Budget	Revision	Revised Budget
420499	Other Local Source Revenue	(\$124,000)	(\$194,000)	(\$318,000)
TOTAL REVENUE		(\$124,000)	(\$194,000)	(\$318,000)

APPROPRIATIONS:

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>	<u>Revision</u>	<u>Revised Budget</u>
500000	Full Time Salaries	\$131,263	\$123,190	\$254,453
502000	Fringe Benefits	\$74,493	\$70,810	\$145,303

916290	ID Env. & Planning Services	(\$81,756)	0	(\$81,756)
TOTAL APPROPRIATIONS		\$124,000	\$194,000	\$318,000

and be it further

RESOLVED, that the following position, for which sufficient funding through WNYSC membership dues and New York State Department of Environmental Conservation grant funding for personal services and fringe benefits exists, will be created in the above grant:

Principal Environmental Compliance Specialist (JG-14) position
B-100 No. 000 000 7112
Budgeted Annual Salary: \$74,380

and be it further

RESOLVED, that the following position be deleted from the above grant budget:

Solid Waste Recycling Specialist (JG-12)
B-100 No. 000 000 7112
Budgeted Annual Salary: \$60,714

and be it further

RESOLVED, that Ms. Rossi will be provisionally promoted to the position of Principal Environmental Compliance Specialist (JG-14); 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.
(4-0)

10. COMM. 2E-21 (2013)
COUNTY EXECUTIVE

Legislator _____ offered the following resolution and moved its adoption:

RESOLUTION NO. ____ - 2013

BOND RESOLUTION DATED _____, 2013

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK,

ADOPTED _____, 2013 AMENDING THE BOND

RESOLUTION ADOPTED JULY 11, 2002

(Introduced) _____, 2013

(Adopted) _____, 2013

Recitals

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 authorized by the County Legislature, 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; 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 the existing infrastructure, all as more fully described in the report and estimate of cost herein referred; 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 apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewer units in the District, (ii) applicable

flat charges, and (iii) assessments against a benefited area which consists of the entire area of said Sewer District No. 2; and

WHEREAS, said County Legislature duly adopted Resolution No. 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, 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; and

WHEREAS, it is now necessary to amend the Bond Resolution adopted by the County Legislature on July 11, 2002 to reflect the modification of plans for the increase and improvement of facilities for Erie County Sewer District No. 2.

NOW, THEREFORE, BE IT

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

Section (A). Resolution No. 295-2002 of said County duly adopted by the Legislature on

July 11, 2002, entitled:

“BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$3,000,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF FACILITIES FOR ERIE COUNTY SEWER DISTRICT NO: 2, STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$3,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF THE ISSUANCE OF \$3,000,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 2 TO SAID COUNTY”

is hereby amended to read as follows:

BOND RESOLUTION DATED _____, 2013, AMENDING THE BOND RESOLUTION ADOPTED JULY 11, 2002.

BOND RESOLUTION AUTHORIZING THE ISSUANCE OF \$3,000,000 BONDS OF THE COUNTY OF ERIE, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 2; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$3,000,000; STATING THE PLAN OF FINANCING SAID COST INCLUDES THE ISSUANCE OF \$3,000,000 BONDS HEREIN AUTHORIZED; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 2 TO SAID COUNTY.

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. Pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York, as amended (the "Law"), and to the provisions of other laws applicable thereto, \$3,000,000 bonds of the County, or so much thereof as may be necessary, are hereby authorized to be issued to finance the cost of an increase and improvement of facilities for Erie County Sewer District No. 2, all as more fully described in the report and estimate of cost accepted and adopted by the Board of Managers of said District on February 14, 2002 and filed with the County Legislature pursuant to Section 268 of the County Law and as modified by the Board of Managers of said District on June 19, 2012, and filed with the County Legislature pursuant to Section 253-b of the County Law. The estimated maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and to the financing thereof, is \$3,000,000. The plan of financing includes the issuance of \$3,000,000 bonds herein authorized and any bond anticipation notes issued in anticipation of the sale of such bonds, and the levy of a tax to pay the principal of and interest on said bonds and notes, the said principal and interest to be reimbursed to the County to be apportioned among real properties in the District in accordance with (i) their respective proportionate shares of sewered units in the District, (ii) applicable flat charges, and (iii) assessment against a benefited area which consists of the entire area of said Sewer District No. 2.

Section 2. The period of probable usefulness for the specific object or purpose for which said \$3,000,000 bonds herein authorized to be issued, within the limitations of Section 11.00 a.4. of the Law, is forty (40) years.

Section 3. Current funds are not required to be provided as a down payment prior to the issuance of the \$3,000,000 bonds authorized herein, or any bond anticipation notes issued in anticipation thereof, pursuant to Section 107.00 d. 3. of said Law.

Section 4. The County intends to finance, and the Comptroller of the County is hereby authorized to advance such amounts as are necessary to pay the costs of the object or purpose described in Section 1 hereof prior to the issuance of the bonds or bond anticipation notes authorized out of any available funds of the County, on an interim basis, which amounts are reasonably expected to be reimbursed with the proceeds of debt to be incurred by the County, pursuant to this Resolution, in the maximum amount of bonds herein authorized. This Resolution is a declaration of official intent adopted pursuant to the requirements of Treasury Regulation Section 1.150-2.

Section 5. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of §21.00 relative to substantially level or declining annual debt service, §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 respective amounts of bonds herein authorized, or the renewals thereof, relative to providing for substantially level or declining annual debt service, relative to prescribing the terms, form and contents and as to the sale and issuance of the respective amounts of bonds herein authorized, and of any notes issued in anticipation of the sale of said bonds or the renewals of said notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller of the County, as the chief fiscal officer of the County.

Section 6. 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 Section 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 7. 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

(b) the provisions of law which should be complied with at the date of the publication of this Resolution or a summary hereof, 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 8. This Resolution shall take effect immediately upon approval by the County Executive.

Section (B). The amendment of the bond resolution set forth in Section A of this Resolution shall in no way affect the validity of the liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as so amended.

The adoption of the foregoing resolution was seconded by Legislator _____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

(4-0)

TERRENCE D. McCRACKEN
CHAIR