

November 29, 2018

ENERGY & ENVIRONMENT COMMITTEE  
REPORT NO. 17

ALL MEMBERS PRESENT, EXCEPT LEGISLATOR BURKE.  
CHAIR SAVAGE PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 21D-2 (2018)  
**COMMISSIONER OF ENVIRONMENT & PLANNING:** “SEQR Review - Repair and/or Reconstruction of Ellicott Creek Park Shelters”  
(Chair’s Ruling)
  - b. COMM. 21M-1 (2018)  
**NYS DEC:** “Invitation for Public Comment on Proposed Plan to Address Contamination at Brownfield Site on Elmwood Ave., Buffalo”  
(Chair’s Ruling)
  - c. COMM. 21M-2 (2018)  
**NYS DEC:** “Fact Sheet Regarding Brownfield Cleanup Program Application & Draft Remedial Investigation Work Plan for the 3100 Clinton St. Site, in West Seneca”  
(Chair’s Ruling)
  - d. COMM. 21M-3 (2018)  
**NYS DEC:** “Invitation for Public Comment on Brownfield Cleanup Program Application & Draft Investigation Plan for Site on Clinton St., West Seneca”  
(Chair’s Ruling)

2. INTRO. 21-2 (2018)  
**BRUSO**  
WHEREAS, pursuant to New York State Agriculture and Markets Law (“Agriculture and Markets Law”) Section 303-b(1) the Erie County Legislature adopted Intro. 20-15 (2004) on September 23, 2004; and

WHEREAS, the Erie County Legislature designated September 1 through September 30 as the annual thirty-day period during which applicants may submit requests to include predominantly viable agricultural land into any existing certified agricultural district outside of the established 8-year review period; and

WHEREAS, during the 2018 thirty-day open enrollment period thirty seven applicants requested that sixty-six parcels of land be included in existing agricultural districts; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board reviewed each request to determine if each includes “viable agricultural land” as defined in Agriculture and Markets Law Section 301(7); and

WHEREAS, the Erie County Agricultural and Farmland Protection Board reviewed each request to determine whether the inclusion of such land would serve the public interest and maintain a viable agricultural industry within the district; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board voted to recommend that the County Legislature adopt the inclusion of forty-one parcels listed below in an existing agricultural district:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
23.14-1-5.112	42.21	3633 West River Rd	Grand Island	Patrick & Donna Albert	Amherst 17
59.13-1-1	92.96	0 Strickler Rd	Clarence	Lynne Nawrot	Clarence-Newstead 14
124.10-3-2.1	3.11	42 French Rd	West Seneca	Michael H. Weber	Elma 13
124.00-7-2	14.79	230 French Rd	West Seneca	Dennis Bengert	Elma 13
96.00-6-27	7.78	2888 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
96.00-6-28	49.15	0 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
130.00-4-2.1	52.29	15 Exchange St	Alden	Kim King	Lancaster-Alden 16
130.00-7-17	27.88	0 Exchange St	Marilla	Kim King	Marilla 5
200.00-1-20.111	11.47	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-20.112	5.94	1784 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-20.113	8.82	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12

200.00-4-11.12	18.99	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-2.21	27.71	1569 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
243.00-3-7	13.88	8756 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
243.00-3-8.2	43.61	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
243.00-3-18	14.97	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
229.00-1-44	83.25	8064 Bleistein Rd	Colden	William Gersitz	Southeast 15
245.00-2-41	48.75	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-40	62.98	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-18.2	49.34	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-17	57.22	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.112	15.59	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.111	15.39	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-8.11	13.46	10991 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
257.00-1-36.12	4.98	5457 S. Feddick Rd	Boston	Mark & Kelly Palmer	Southeast 15
258.00-2-1	18.87	0 State Rd	Boston	John Spors	Southeast 15
257.00-1-35.21	16.19	9800 Zimmerman Rd	Boston	David Meyer	Southeast 15
263.00-3-29	5.71	12013 Hillview Terrace	Holland	Peggy & Charles Root	Southeast 15
288.00-2-5.2	17.69	10986 New	North Collins	Richard P. &	Southeast 15

		Oregon Rd		Eugenie R. Myers	
288.00-2-5.11	18.09	0 New Oregon Rd	North Collins	Richard & Eugenie Myers	Southeast 15
212.00-1-19.111	75.81	6983 Ward Rd	Boston	Julie Galluzzi	Southwest 8
183.00-3-4	84.13	4926 Newton Rd	Hamburg	Thomas Calabrese	Southwest 8
209.00-3-26	7.93	3575 N. Boston Rd	Eden	Thomas & Madonna Adymy	Southwest 8
209.00-2-31.211	39.57	0 Eckhardt Rd	Eden	Eden Valley Farms LLC	Southwest 8
270.00-3-3	18.08	0 Jennings Rd	North Collins	Edward Kaczanowski	Southwest 8
205.00-3-17	5.56	7678 Erie Rd	Evans	Joseph Kwilos	Southwest 8
220.00-4-17	9.67	1177 Church Rd	Evans	Joseph M. Kwilos	Southwest 8
236.00-4-8	21.35	9196 Newcomb Rd	Evans	Michael Hontz	Southwest 8
252.00-1-2	16.15	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
251.00-2-30	22.87	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
207.00-4-66	14.24	1759 Sturgeon Point Rd	Evans	Victoria Kurek	Southwest 8

and

WHEREAS, the Erie County Agricultural and Farmland Protection Board voted to recommend that the County Legislature reject the inclusion of twelve parcels listed below in an existing agricultural district:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
24.19-4-11.11	5.02	2501 Stony Point Rd	Grand Island	Pamela Barton	Amherst 17
51.18-3-34	0.24	974 Stony Point Rd	Grand Island	James Olmstead	Amherst 17

50.02-1-12	6.79	2663 Love Rd	Grand Island	Peggy Lewis	Amherst 17
50.00-1-4.2	14.35	3012 Staley Rd	Grand Island	James Montanari	Amherst 17
51.15-3-12.1	0.68	1212 East River Rd	Grand Island	Paul G. Leuchner	Amherst 17
50.02-1-11	5.36	2685 Love Rd	Grand Island	Betsy Hiser	Amherst 17
37.04-1-47	6.86	1925 Stony Point Rd	Grand Island	Thomas & Margaret Victor	Amherst 17
12.13-1-36	0.31	5541 East River Rd	Grand Island	Daniel Furmanek	Amherst 17
12.17-5-14	0.48	79 Havenwood Ln	Grand Island	Ryan & Lindsay McGowan	Amherst 17
81.14-1-4	0.34	1195 Wehrle Dr	Amherst	Michael Pope	Amherst 17
220.00-3-17.22	5.97	1102 Church Rd	Evans	Robert & Sheryl Tait	Southwest 8
205.00-3-18	5.84	7724 Erie Rd	Evans	Raymond Gallman	Southwest 8

and

WHEREAS, the Erie County Agricultural and Farmland Protection Board acknowledges that the following parcel, in addition to twelve parcels identified prior to the Agricultural and Farmland Protection Board recommendations, is already included into the Erie County Agricultural District program and that no action is required on the application:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
220.00-4-22.2	5	1123 Church Rd	Evans	Jeremy Schlenker	Southwest 8

and

WHEREAS, pursuant to Agriculture and Markets Law Sections 303-b(2)(b) and 303-b(3) the Erie County Legislature gave the required public notice and set a public hearing for November 5, 2018; and

WHEREAS, pursuant to Agriculture and Markets Law Section 303-b(3)(b) the Erie County Legislature published a public hearing notice in a newspaper having general circulation within the County and notified in writing those municipalities whose territory encompasses the lands which are proposed to be included in an agricultural district; and

WHEREAS, a public hearing was held at 6:00 p.m. on November 5, 2018 at the Dard Hunter Hall, 21 S. Grove Street in East Aurora, New York to consider the 2018 Open Enrollment period requests and recommendations of the Erie County Agricultural and Farmland Protection Board; and

WHEREAS, the Erie County Legislature reviewed the requests pursuant to the NYS Environmental Quality Review Act.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature adopts the inclusion of the following forty-one parcels into an adjacent existing agricultural district; and be it further

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
23.14-1-5.112	42.21	3633 West River Rd	Grand Island	Patrick & Donna Albert	Amherst 17
59.13-1-1	92.96	0 Strickler Rd	Clarence	Lynne Nawrot	Clarence-Newstead 14
124.10-3-2.1	3.11	42 French Rd	West Seneca	Michael H. Weber	Elma 13
124.00-7-2	14.79	230 French Rd	West Seneca	Dennis Bengert	Elma 13
96.00-6-27	7.78	2888 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
96.00-6-28	49.15	0 Wende Rd	Alden	Nancy Sievenpiper	Alden-Newstead 1
130.00-4-2.1	52.29	15 Exchange St	Alden	Kim King	Lancaster-Alden 16
130.00-7-17	27.88	0 Exchange St	Marilla	Kim King	Marilla 5
200.00-1-20.111	11.47	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-20.112	5.94	1784 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12

200.00-1-20.113	8.82	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-4-11.12	18.99	0 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
200.00-1-2.21	27.71	1569 Boies Rd	Aurora	Cheryl L. Engasser	Wales 12
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243.00-3-8.2	43.61	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
243.00-3-18	14.97	0 Heath Rd	Colden	Garrett & Christina Hacker	Southeast 15
229.00-1-44	83.25	8064 Bleistein Rd	Colden	William Gersitz	Southeast 15
245.00-2-41	48.75	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-40	62.98	0 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-18.2	49.34	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-17	57.22	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.112	15.59	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-9.111	15.39	0 Phillips Rd	Colden	Walter A. Kammer	Southeast 15
245.00-2-8.11	13.46	10991 Partridge Rd	Colden	Walter A. Kammer	Southeast 15
257.00-1-36.12	4.98	5457 S. Feddick Rd	Boston	Mark & Kelly Palmer	Southeast 15
258.00-2-1	18.87	0 State Rd	Boston	John Spors	Southeast 15
257.00-1-35.21	16.19	9800 Zimmerman Rd	Boston	David Meyer	Southeast 15
263.00-3-29	5.71	12013 Hillview	Holland	Peggy &	Southeast 15

		Terrace		Charles Root	
288.00-2-5.2	17.69	10986 New Oregon Rd	North Collins	Richard P. & Eugenie R. Myers	Southeast 15
288.00-2-5.11	18.09	0 New Oregon Rd	North Collins	Richard & Eugenie Myers	Southeast 15
212.00-1-19.111	75.81	6983 Ward Rd	Boston	Julie Galluzzi	Southwest 8
183.00-3-4	84.13	4926 Newton Rd	Hamburg	Thomas Calabrese	Southwest 8
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209.00-2-31.211	39.57	0 Eckhardt Rd	Eden	Eden Valley Farms LLC	Southwest 8
270.00-3-3	18.08	0 Jennings Rd	North Collins	Edward Kaczanowski	Southwest 8
205.00-3-17	5.56	7678 Erie Rd	Evans	Joseph Kwilos	Southwest 8
220.00-4-17	9.67	1177 Church Rd	Evans	Joseph M. Kwilos	Southwest 8
236.00-4-8	21.35	9196 Newcomb Rd	Evans	Michael Hontz	Southwest 8
252.00-1-2	16.15	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
251.00-2-30	22.87	0 Newcomb Rd	Evans	Michael Hontz	Southwest 8
207.00-4-66	14.24	1759 Sturgeon Point Rd	Evans	Victoria Kurek	Southwest 8

and be it further

RESOLVED, that the Erie County Legislature rejects the inclusion of the following twelve parcels into an existing agricultural district:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
24.19-4-11.11	5.02	2501 Stony Point Rd	Grand Island	Pamela Barton	Amherst 17

51.18-3-34	0.24	974 Stony Point Rd	Grand Island	James Olmstead	Amherst 17
50.02-1-12	6.79	2663 Love Rd	Grand Island	Peggy Lewis	Amherst 17
50.00-1-4.2	14.35	3012 Staley Rd	Grand Island	James Montanari	Amherst 17
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37.04-1-47	6.86	1925 Stony Point Rd	Grand Island	Thomas & Margaret Victor	Amherst 17
12.13-1-36	0.31	5541 East River Rd	Grand Island	Daniel Furmanek	Amherst 17
12.17-5-14	0.48	79 Havenwood Ln	Grand Island	Ryan & Lindsay McGowan	Amherst 17
81.14-1-4	0.34	1195 Wehrle Dr	Amherst	Michael Pope	Amherst 17
220.00-3-17.22	5.97	1102 Church Rd	Evans	Robert & Sheryl Tait	Southwest 8
205.00-3-18	5.84	7724 Erie Rd	Evans	Raymond Gallman	Southwest 8

and be it further

RESOLVED, that the Erie County Legislature acknowledges that the following parcel, in addition to twelve parcels identified prior to the Agricultural and Farmland Protection Board recommendations, is already included into the Erie County Agricultural District program and no action is required on the application:

PARCEL(S)	ACRES (approx.)	ADDRESS	TOWN	APPLICANT	DISTRICT
220.00-4-22.2	5	1123 Church Rd	Evans	Jeremy Schlenker	Southwest 8

and be it further

RESOLVED, that the Erie County Legislature has complied with the requirements of the New York State Environmental Quality Review Act and hereby determines that the requested parcel additions

to the Agricultural Districts noted above will not have a significant adverse environmental impact and therefore an environmental impact statement will not be required; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Commissioner of Environment and Planning, the Director of Real Property Tax Services, the Chair of the Erie County Agricultural and Farmland Protection Board, and the Supervisors of the Towns of Alden, Aurora, Boston, Clarence, Colden, Eden, Evans, Grand Island, Hamburg, Holland, North Collins, and West Seneca; and be it further

RESOLVED, that the Commissioner of Environment and Planning send a certified copy of this resolution along with the Erie County Agricultural and Farmland Protection Board report and maps for each parcel of land to be included in an existing agricultural district to the Commissioner of New York State Department of Agriculture and Markets for certification and immediate inclusion into existing agricultural districts.

(4-0) Legislator Mills not present for vote.

3. COMM. 21E-11 (2018)  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning (DEP) has played a crucial role in water quality issues throughout the region for decades and continues to administer many initiatives that protect and preserve our natural water resources; and

WHEREAS, DEP is committed to coordinate, oversee, and support work towards the delisting of the Buffalo River as a Great Lakes Area of Concern; and

WHEREAS, the United States Environmental Protection Agency (USEPA) Great Lakes Restoration Initiative (GLRI) provides grant assistance to municipalities to implement projects to improve the quality of the Great Lakes; and

WHEREAS, DEP provides technical assistance regarding the management of the Erie County Natural Habitat Parks; and

WHEREAS, the USEPA-GLRI awarded Erie County a \$831,000 grant (SAP Grant Account #162BRRPMPH2) to complete the USEPA-GLRI Buffalo River Habitat Restoration –Erie County: NFTA-61 Smith Street project; and

WHEREAS, on December 21, 2017 the Erie County Legislature approved a no-cost time extension through 12/31/18 (COMM. 23E-11 (2017)); and

WHEREAS, the project has not yet been completed, necessitating the execution of a no-cost contract amendment with the USEPA-GLRI.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute the necessary agreements to extend the USEPA-GLRI Buffalo River Habitat Restoration –Erie County: NFTA-61 Smith Street contract for two years (January 1, 2019-December 31, 2020); and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive; the Director of the Division of Budget and Management; the County Attorney; the County Comptroller; Thomas R. Hersey, Jr., Commissioner of Environment and Planning; and Bonnie L. Lawrence, Deputy Commissioner of Environment and Planning.  
(5-0)

4. COMM. 21E-12 (2018)

**COUNTY EXECUTIVE AS AMENDED**

WHEREAS, the County of Erie advertised for and received responses to a Request for Proposals to perform professional services associated with air permit assistance for the Erie County Sewer District No. 3 – Southtowns Advanced Wastewater Treatment Facility; and

WHEREAS, a review committee was established by the Division of Sewerage Management to evaluate all responses to the County’s Request for Proposals, using a consistent scoring matrix; and

WHEREAS, the proposal review committee recommends O’Brien and Gere Engineers, Inc. (O’Brien and Gere) to complete the requested consulting services.

NOW, THEREFORE, BE IT

RESOLVED, that O’Brien and Gere be retained to perform professional services associated with a 3-Year Term Agreement to perform air permit assistance for Erie County Sewer District No. 3; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with O’Brien and Gere, 400 Andrews Street, Suite 710, Rochester, New York 14604 for professional services associated with this project in an amount not to exceed \$300,000, subject to approval as to content by the Commissioner of the Department of Environment and Planning, and approval as to form by the County Attorney’s Office; and be it further

RESOLVED, that funding for work orders issued under this Agreement be allocated from Sewer Operating Fund 220, Funds Center 183, Account 516020 (Professional Service Contracts); and be it further

RESOLVED, that the Division of Sewerage Management, be required to notify the Legislature of each work order assigned under this resolution; and be it further

RESOLVED, that no individual work order issued under this Agreement be greater than \$50,000.00; and be it further

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

(5-0)

5. COMM. 21E-13 (2018)

**COUNTY EXECUTIVE AS AMENDED**

WHEREAS, the County of Erie advertised for and received responses to a Request for Proposals to perform professional services associated with the Erie County Sewer District (ECSD) No. 6 – Lackawanna Water Resource Recovery Facility (WRRF) and Overflow Retention Facility (ORF) – Disinfection Systems Upgrades/Improvements Project; and

WHEREAS, this project is necessary to address requirements in the State Pollutant Discharge Elimination System (SPDES) permit for ECSD No. 6; and

WHEREAS, a review committee was established by the Erie County Division of Sewerage Management to evaluate all responses to the County’s Request for Proposals for this project, using a consistent scoring matrix; and

WHEREAS, the proposal review committee recommends GHD Consulting Services, Inc. (GHD) to complete the requested consulting services; and

WHEREAS, the Disinfection Systems Upgrades/Improvements Project has been awarded a \$1,479,000 grant from the New York State Department of Environmental Conservation to partially fund the engineering and construction work associated with this project; and

WHEREAS, ECSD No. 6 has proper bond usage authorization for Capital Project C.00064 in order to fund the local share of this project.

NOW, THEREFORE, BE IT

RESOLVED, that GHD be retained to perform professional services associated with this Disinfection Systems Improvements Project; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute an Agreement with GHD, 285 Delaware Ave, Suite 500, Buffalo, New York 14202 for professional services associated with this project in an amount not to exceed \$280,000, subject to approval as to content by the Commissioner of the Department of Environment and Planning, and approval as to form by the County Attorney's Office; and be it further

RESOLVED, that the Director of Budget and the County Comptroller be authorized to increase estimated revenues and appropriations in Capital Project C.00064 for the receipt of the \$1,479,000 New York State Department of Environmental Conservation grant; and be it further

RESOLVED, that the costs associated with this project be allocated in Capital Project C.00064; and be it further

RESOLVED, that the Clerk of the Legislature shall 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 Fiegl, P.E., Division of Sewerage Management.  
(5-0)

**JOHN BRUSO**  
**CHAIR**