

APRIL 17, 2008

ENERGY & ENVIRONMENT COMMITTEE  
REPORT NO. 4

ALL MEMBERS PRESENT. CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 2M-14 (2008)  
**ERIE COUNTY SOIL & WATER CONSERVATION DISTRICT:** Reply to Comm. 1E-6 (6-0)
  - b. COMM. 2M-17 (2008)  
**CORNELL UNIVERSITY COOPERATIVE EXTENSION:** Reply to Comm. 1E-3 (6-0)
  - c. COMM. 5E-17 (2008)  
**COUNTY EXECUTIVE:** EC Sewer Construction Projects - Division of Water Quality Management - Annual Change Order Report (6-0)
  - d. COMM. 5E-25 (2008)  
**COUNTY EXECUTIVE:** EC Sewer District No. 2 - Engineering Agreement - Change Order No. 7 (6-0)
  - e. COMM. 7M-3 (2008)  
**PETER JOE CERTO:** Letter Concerning New York State Budget Relating to State Parks (6-0)
  - f. COMM. 7M-11 (2008)  
**NYS FISH & WILDLIFE MANAGEMENT BOARD:** Region 9 FWMA Board Minutes Held March 19, 2008 (6-0)
2. COMM. 5E-18 (2008)  
**COUNTY EXECUTIVE**  
WHEREAS, the Erie County Legislature has secured the services of Malcolm Pirnie, to provide engineering services for Erie County Sewer District No. 1, and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management, has advised the Legislature that all engineering services are now complete, and

WHEREAS, the Erie County Department of Environment and Planning, Division of Sewerage Management, has recommended the formal close-out of the Engineering Agreement with Malcolm Pirnie, Inc. dated July 15, 1999 at the final contract amount of \$236,482.00.

NOW, THEREFORE, BE IT

RESOLVED, that the Engineering Agreement dated July 15, 1999 between the County of Erie/Erie County Sewer District No. 1 and Malcolm Pirnie, Inc. be formally closed-out in the final contract amount of \$236,482.00 from the Erie County Business Site Development Fund (110 922 302 830 1030), and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to formally close-out the Engineering Agreement between the County of Erie/Erie County Sewer District No. 1 and Malcolm Pirnie, Inc., dated July 15, 1999, and be it further

RESOLVED, that the Clerk of Legislature be directed to send two (2) certified copies of this resolution to Michael J. Quinn, P.E., Department of Environment and Planning, and one certified copy each to Gregory Dudek, Assistant County Attorney and the Erie County Comptroller's Office. (6-0)

3. COMM. 5E-23 (2008)  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bid for the Erie County Sewer District No. 4, Broadway & Pavement Sanitary Sewer Extension, Contract No. 39, at 2:00 P.M. on February 21, 2008.

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount Bid</u>
Contract 39	Tom Greenauer Development, Inc. P.O. Box 250 Springbrook, New York 14140	\$46,159.00

and

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

WHEREAS, there is adequate Fund Balance in Erie County Sewer District No. 4.

NOW, THEREFORE, BE IT

RESOLVED, that the Broadway & Pavement Sanitary Sewer Extension, Contract No. 39, be awarded to Tom Greenauer Development, Inc., P.O. Box 250, Springbrook, New York 14140, in the not-to-exceed amount of \$46,159.00; 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 from the Project Fund Balance or an authorized advance from the General Fund by the Comptroller's Office; and be it further

RESOLVED, that the Budget Director is authorized and directed to increase appropriations in the amount of \$46,159.00 as follows: in account 516020 (Professional Services) in Fund 220 Business Area 181 and the Use of Fund Balance Account 402190 Fund 220 Business Area 1811040; and be it further

RESOLVED, that the Clerk of the Erie County Legislature be directed to send one certified copy each of this Resolution to the County Executive; Director of Budget; Erie County Comptroller's Office; Gregory Dudek, Assistant County Attorney and two (2) certified copies to Michael J. Quinn, P.E., Department of Environment and Planning, Rath Building, 10<sup>th</sup> Floor.  
(6-0)

4. **COMM. 7E-12 (2008)**  
**COUNTY EXECUTIVE**

WHEREAS, the Erie County Legislature did pass a resolution on October 11, 2007 (17E-8) authorizing the County to apply for an Environmental Restoration Program grant of \$480,000 for the environmental investigation of 5335 River Road and committing \$50,000 in matching funds for the project; and

WHEREAS, the Riverview Industrial Center, 5335 River Road in the Town of Tonawanda is an abandoned petroleum tank farm and brownfield site that presents a blighting influence on the waterfront and a health and safety risk to the community; and

WHEREAS, the Town of Tonawanda and Erie County collaborated to obtain a U.S. Environmental Protection Agency grant to allow a Phase I environmental review to be performed for the site; and

WHEREAS, that Phase I environmental review documented an over fifty year usage of this property as a petroleum tank farm with 12 tanks in use at times and recommended further intrusive investigation into the site to determine levels and extent of contamination; and

WHEREAS, the County of Erie is interested in working together with the Town of Tonawanda to develop information on the condition of this site and costs of remediation for the 26-acre site; and

WHEREAS, after thorough consideration of the various aspects of the Riverview Industrial Center site and study of available data, the County of Erie has determined that certain work, as described in the application and attachments is desirable, is in the public interest and is required in order to implement the project; and

WHEREAS, the New York State Department of Environmental Conservation Environmental Restoration Grant Program provides a 90% reimbursement for eligible project costs for investigation and remediation of publicly owned brownfield sites; and

WHEREAS, Article 56 of the Environmental Conservation Law authorizes State assistance to municipalities for environmental restoration projects by means of a contract and the Municipalities deem it to be in the public interest and benefit under this law to enter into a contract therewith; and

WHEREAS, the County may take title to the Riverview Commerce Center, 5335 River Road site in order to carry out the anticipated investigation, remediation and redevelopment activities; and

WHEREAS, the Town of Tonawanda has decided to be a co-applicant with Erie County for the grant request and has committed a minimum of \$10,000 towards investigation, remediation and demolition costs; and

WHEREAS, there will be additional demolition and site preparation costs that may not be covered by the New York State Department of Environmental Conservation program; and

WHEREAS, pursuant to a New York State Department of Environmental Conservation memorandum dated August 19, 2005, one of the applicants in a joint application must be identified as the lead agent in matters of reimbursement.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is authorized to act in behalf of the County in all matters related to State assistance under Article 56, Title 5. The County Executive is also authorized to make application, execute the State Assistance Contract, submit project documentation, and otherwise act for the County in all matters related to the Project and to State assistance; and be it further

RESOLVED, that the County Executive is authorized to place this property in a Temporary Incidence of Ownership status and to foreclose on the property if necessary for entering into the remediation phase of this project; and be it further

RESOLVED, that authorization is provided to carry forward available 2007 funding into 2008 within the Aid to Local Government Fund Center monitored by the Department of Environment and Planning, in the amount of \$49,385.09 for the Cheektowaga Golf Course project; and be it further

RESOLVED, that authorization is provided to carry forward available 2007 funding into 2008 within the Economic Development fund Center monitored by the Department of Environment and Planning, which has been reserved in the amount of \$50,000 authorized in Communication 17E-8 of 2007 for the Riverview Industrial Center; and be it further

RESOLVED, that said funding shall then be de-obligated from the Golf Course project and added in 2008 to the \$50,000 for costs associated with the investigation, remediation, demolition and site preparation of the Riverview Industrial Center at 5335 River Road, Town of Tonawanda; and be it further

RESOLVED, that Erie County and the Town of Tonawanda will be co-applicants for this project and that the Town of Tonawanda is authorized to be the lead in matters of reimbursement under the New York State Bond Act Program for this project; and be it further

RESOLVED, that the County Executive is authorized to enter into contracts with the Town of Tonawanda in amounts not to exceed \$99,385.09 for the purpose of providing services and activities for the purpose of brownfield investigation, testing, remediation, demolition and site preparation; and be it further

RESOLVED, that the County agrees that it will fund its portion of the cost of the Project and that funds will be available to initiate the Project's field work within twelve (12) months of written approval of its application by the Department of Environmental Conservation; and be it further

RESOLVED, that one (1) certified copy of this Authorization be prepared and sent to the Albany office of the New York State Department of Environmental Conservation together with the Application for State Assistance; and be it further

RESOLVED, that this Authorization take effect immediately; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive; the Director of the Division of Budget, Management and Finance; the Comptroller; the Commissioner of the Department of Environment and Planning; and the County Attorney.

(6-0)

**DANIEL M. KOZUB  
CHAIR**