

**ERIE COUNTY LEGISLATURE  
MEETING NO. 6  
MARCH 26, 2009**

The Legislature was called to order by Chair Marinelli.

All members present.

An Invocation was held, led by Mr. Reynolds, who requested a moment of silence.

The Pledge of Allegiance was led by Mr. Mills.

Item 1 – No tabled items.

Item 2 – No items for reconsideration from previous meeting.

Item 3 – MS. WHYTE moved for the approval of the minutes for Meeting Number 5 from 2009. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 4 – No Public Hearings.

**MISCELLANEOUS RESOLUTIONS**

Item 5 – CHAIR MARINELLI presented a resolution Recognizing 100 Years of Probation Services in Erie County.

Item 6 – MS. WHYTE presented a resolution Honoring Jackie Erckert During Women's History Month.

Item 7 – CHAIR MARINELLI presented a resolution recognizing A Day Long Celebration of Disney at Shea's on April 4, 2009.

Item 8 – MS. IANNELLO presented a resolution Congratulating Tim Hersey on Being Selected a News 4 Scholar Athlete.

Item 9 – MS. IANNELLO presented a Memorial Resolution for Shirley G. Tucker Heublum.

Item 10 – MR. WROBLEWSKI presented a resolution Congratulating Deputy Sheriff Gregory G. Kent on Receiving the William Dillemoth Outstanding Service Award.

Item 11 – MS. IANNELLO presented a Memorial Resolution for James L. Creedon.

Item 12 – MR. WROBLEWSKI presented a resolution Honoring Charlotte Buczko Rosen for Her 90th Birthday on March 25.

Item 13 – MR. RATH presented a resolution Commending Stephen Crane on Achieving the Rank of Eagle Scout.

Item 14 – MR. REYNOLDS presented a resolution Congratulating Jim Connolly for the Exemplary Standard of Service that He Has Exhibited in Both His Personal and Professional Life, and Wishing Him a Long and Happy Retirement.

Item 15 – MS. IANNELLO, CHAIR MARINELLI, MS. WHYTE, MR. MILLS, MR. KOZUB, MR. KENNEDY, MR. WALTER, MR. MAZUR, MR. WROBLEWSKI, MR. REYNOLDS, MR. LOUGHRAN & MR. RATH presented a Proclamation Naming April 3, 2009 “Stand Against Racism Day in Erie County.”

MS. WHYTE moved for consideration of the above eleven items. MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to amend the above eleven items by including Et Al Sponsorship. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved for approval of the above eleven items as amended. MS. IANNELLO seconded.

CARRIED UNANIMOUSLY.

### **LOCAL LAWS**

Item 16 – CHAIR MARINELLI directed that Local Law No. 2 (Print #1) 2008 remain on the table and in the ECONOMIC DEVELOPMENT COMMITTEE.

GRANTED.

Item 17 – CHAIR MARINELLI directed that Local Law No. 5 (Print #1) 2008 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

### **COMMITTEE REPORTS**

Item 18 – MS. KONST presented the following report, moved to separate item Number 1-a, and moved to approve the balance of the report. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 87

March 16, 2009	FINANCE & MANAGEMENT COMMITTEE REPORT NO. 5
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ALL MEMBERS PRESENT, EXCEPT LEGISLATOR GRANT.  
CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items have hereby failed:
  - a. COMM. 2E-36 (2009)  
COUNTY EXECUTIVE: COPS Reimbursement Funding  
(1-4) Legislators Konst, Marinelli, Reynolds and Whyte voted in the negative.
  - b. COMM. 2E-37 (2009)  
COUNTY EXECUTIVE: State Reimbursement Funding Cut Resolution  
(0-5) Legislators Konst, Marinelli, Mills, Reynolds and Whyte voted in the negative.
2. RESOLVED, the following items are hereby received and filed:
  - a. INTRO 5-5 (2009)  
MILLS, MARINELLI & WALTER: Opposing Taxation of Participatory Sports  
(4-0) Chair Marinelli not present for vote.
  - b. COMM. 5M-2 (2009)  
SENECA COUNTY BOARD OF SUPERVISORS: Copy of Resolution Urging Governor Paterson to Collect Sales & Excise Taxes on Cigarette Purchases by Non-Indians  
(4-0) Chair Marinelli not present for vote.
3. RESOLVED, the following item is hereby received, filed and printed:
  - a. COMM. 4D-4 (2009)  
DIRECTOR OF REAL PROPERTY AS AMENDED  
TAX SERVICES: NYS Grant Funded Study of Centralized Property Tax Administration  
(5-0) Chair Marinelli not present for vote  
See attachment of study.
4. COMM. 19D-2 (2008)  
REAL PROPERTY TAX SERVICES AS AMENDED  
WHEREAS, the Erie County Director of Real Property Tax Services has received applications for corrected tax billings and / or refunds for taxes previously paid in accordance with New York State Real Property Tax Law sections 554 and 556; and

WHEREAS, the Director has investigated the validity of such applications (see attached listing).

NOW, THEREFORE, BE IT

RESOLVED, that petitions numbered 209066 through 209108, inclusive be hereby approved or denied based upon the recommendation of the Director of Real Property Tax Services and be charged back to the applicable towns and/or cities:

FISCAL YEAR	2008	Petition No.	209,066.00
ASSESSOR		Cancel	\$714.02
S-B-L	353.00-1-9	143689 COLLINS	
Acct. No. 112	\$0.00	County	
Acct. No. 132	\$714.02	Town/SpecialDist/School	
<u>Charge To :</u>	143689 COLLINS		\$714.02
Relevy School		\$714.02	143801 SPRING-GRIFFITH

RPTL 550(2): DUPLICATE PARCEL UNDER DIFFERENT SBL  
DELETE ENTIRE PARCEL FROM THE TAX ROLL

FISCAL YEAR	2009	Petition No.	209,067.00
ASSESSOR		Cancel	\$409.75
S-B-L	353.00-1-9	143689 COLLINS	
Acct. No. 112	\$216.83	County	
Acct. No. 132	\$192.92	Town/SpecialDist/School	
<u>Charge To :</u>	143689 COLLINS		\$192.92

REPTL 550(2): DUPLICATE PARCEL UNDER DIFFERENT SBL  
DELETE ENTIRE PARCEL FROM THE TAX ROLL

FISCAL YEAR	2009	Petition No.	209,068.00
ASSESSOR		Refund	\$500.20
S-B-L	89.350-4-17	140200 BUFFALO	
Acct. No. 112	\$0.00	County	
Acct. No. 132	\$500.20	Town/SpecialDist/School	
52850 RPTL520		\$500.20	
<u>Charge To :</u>	140200 BUFFALO		\$0.00

RPTL 550(2): WRONG PARCEL CHARGED AN RPTL 520  
REFUND TO BE ISSUED TO: JOHN HOLENSKI

FISCAL YEAR	2009	Petition No.	209,069.00
ASSESSOR		Cancel	\$109.09

S-B-L 100.420-1-11 140200 BUFFALO

Acct. No. 112 \$0.00	County
Acct. No. 132 \$109.09	Town/SpecialDist/School
52850 RPTL520	\$109.09
<u>Charge To :</u>	140200 BUFFALO \$0.00

RPTL 550(2): WRONG PARCEL CHARGED FOR A RPTL 520  
NEW TAX BILL TO BE ISSUED TO: RENEE TIPPS

FISCAL YEAR 2009	Petition No.	209,070.00
ASSESSOR	Cancel	\$7.27

S-B-L 111.500-1-34 140200 BUFFALO

Acct. No. 112 \$0.00	County
Acct. No. 132 \$7.27	Town/SpecialDist/School
52850 RPTL520	\$7.27
<u>Charge To :</u>	140200 BUFFALO \$0.00

RPTL 550(2): WRONG PARCEL CHARGED FOR A RPTL 520  
NEW TAX BILL TO BE ISSUED TO: AD PRICE I HOUSING DEVELOPMENT FUND COR

FISCAL YEAR 2009	Petition No.	209,071.00
ASSESSOR	Cancel	\$126.09

S-B-L 112.310-1-4 140200 BUFFALO

Acct. No. 112 \$10.48	County
Acct. No. 132 \$115.61	Town/SpecialDist/School
52850 RPTL520	\$115.61
<u>Charge To :</u>	140200 BUFFALO \$0.00

RPTL 550(2): INCORRECT ASSESSED VALUE APPLIED TO THE TAX ROLL  
NEW TAX BILL TO BE ISSUED TO: CARMEN JULIANO

FISCAL YEAR 2009	Petition No.	209,072.00
ASSESSOR	Refund	\$103.72

S-B-L 77.51-4-18 140200 BUFFALO

Acct. No. 112 \$0.00	County
Acct. No. 132 \$103.72	Town/SpecialDist/School
52850 RPTL520	\$103.72

Charge To : 140200 BUFFALO \$0.00

RPTL 550(2): WRONG PARCEL CHARGED FOR RPTL520  
REFUND TO BE ISSUED TO: DOMINIC & PATRICIA PISCITELLO

FISCAL YEAR 2009 Petition No. 209,073.00

ASSESSOR Cancel \$1,576.50

S-B-L 28.00-1-45.2 142289 AMHERST

Acct. No. 112 \$0.00 County  
Acct. No. 132 \$1,576.50 Town/SpecialDist/School

Charge To : 142289 AMHERST \$1,576.50

RPTL 550(2): INCORRECT NUMBER OF SEWER UNITS CHARGED  
NEW TAX BILL TO BE ISSUED TO: SOTIRIOS GOGOS & JOANNE

FISCAL YEAR 2006 Petition No. 209,074.00

ASSESSOR Refund \$1,200.25

S-B-L 211.00-5-27.2 142600 BOSTON

Acct. No. 112 \$877.82 County  
Acct. No. 132 \$322.43 Town/SpecialDist/School

Charge To : 142600 BOSTON \$322.43

RPTL 550(2): ERROR IN THE COMPUTATION OF A PILOT  
REFUND TO BE ISSUED TO: NORTH BOSTON LIMITED PARTNERSHIP

FISCAL YEAR 2007 Petition No. 209,075.00

ASSESSOR Refund \$6,228.04

S-B-L 211.00-5-27.2 142600 BOSTON

Acct. No. 112 \$4,542.44 County  
Acct. No. 132 \$1,685.60 Town/SpecialDist/School

Charge To : 142600 BOSTON \$1,685.60

RPTL 550(2): ERROR IN THE COMPUTATION OF A PILOT  
REFUND TO BE ISSUED TO: NORTH BOSTON LIMITED PARTNERSHIP

FISCAL YEAR 2008 Petition No. 209,076.00

ASSESSOR Refund \$4,810.17

S-B-L 211.00-5-27.2 142600 BOSTON

Acct. No. 112	\$3,549.22	County	
Acct. No. 132	\$1,260.95	Town/SpecialDist/School	
<u>Charge To :</u>	142600 BOSTON		\$1,260.95

RPTL 550(2): ERROR IN THE COMPUTATION OF A PILOT  
REFUND TO BE ISSUED TO: NORTH BOSTON LIMITED PARTNERSHIP

FISCAL YEAR 2008 Petition No. 209,077.00

ASSESSOR Refund \$293.14

S-B-L 192.16-3-14 144489 EVANS

Acct. No. 112	\$0.00	County	
Acct. No. 132	\$293.14	Town/SpecialDist/School	
<u>Charge To :</u>	144489 EVANS		\$293.14
Relevy School		\$293.14	144401 LAKE SHORE CENTRAL

RPTL 550(2): INCORRECT ASSESSED VALUE APPLIED TO THE TAX ROLL  
REFUND TO BE ISSUED TO: DUSTIN J DUPREE

FISCAL YEAR 2009 Petition No. 209,078.00

ASSESSOR Cancel \$306.61

S-B-L 192.16-3-14 144489 EVANS

Acct. No. 112	\$100.99	County	
Acct. No. 132	\$205.62	Town/SpecialDist/School	
44072 ERIE CO SEW DST 2	\$20.53		
<u>Charge To :</u>	144489 EVANS		\$185.09

RPTL 550(2): INCORRECT ASSESSED VALUE APPLIED TO THE TAX ROLL  
NEW TAX BILL TO BE ISSUED TO: DUSTIN J DUPREE

FISCAL YEAR 2009 Petition No. 209,079.00

ASSESSOR Refund \$257.91

S-B-L 90.830-4-19 140200 BUFFALO

Acct. No. 112	\$0.00	County	
Acct. No. 132	\$257.91	Town/SpecialDist/School	
52850 RPTL520	\$257.91		
<u>Charge To :</u>	140200 BUFFALO		\$0.00





Acct. No. 112 \$154.45 County  
Acct. No. 132 \$109.00 Town/SpecialDist/School  
56010 WATER TANK \$1.47  
56126 WD #10 PHASE 1A & AB \$31.79  
Charge To : 145689 NEWSTEAD \$75.74

RPTL 550(2): INCORRECT ASSESSED VALUE APPLIED TO THE TAX ROLL  
NEW TAX BILL TO BE ISSUED TO: WILLIAM & TAMARA VOLLMER

FISCAL YEAR 2009 Petition No. 209,084.00

ASSESSOR Cancel \$156.75

S-B-L 235.15-5-21 144489 EVANS

Acct. No. 112 \$71.75 County  
Acct. No. 132 \$85.00 Town/SpecialDist/School  
Charge To : 144489 EVANS \$85.00

RPTL 550(2): FAILED TO APPLY A VETERANS EXEMPTION  
NEW TAX BILL TO BE ISSUED TO: BRANDON R & MEGAN A THICKSTUN

FISCAL YEAR 2007 Petition No. 209,085.00

ASSESSOR Refund \$176.31

S-B-L 28.00-1-45.2 142289 AMHERST

Acct. No. 112 \$0.00 County  
Acct. No. 132 \$176.31 Town/SpecialDist/School  
Charge To : 142289 AMHERST \$176.31

RPTL 550(2): INCORRECT SEWER UNITS CHARGED TO THE TAX ROLL  
REFUND TO BE ISSUED TO: SOTIRIOS GOGOS & JOANNE

FISCAL YEAR 2008 Petition No. 209,086.00

ASSESSOR Refund \$49.00

S-B-L 28.00-1-45.2 142289 AMHERST

Acct. No. 112 \$0.00 County  
Acct. No. 132 \$49.00 Town/SpecialDist/School  
Charge To : 142289 AMHERST \$49.00

RPTL 550(2): INCORRECT SEWER UNITS CHARGED TO THE TAX ROLL  
REFUND TO BE ISSUED TO: SOTIRIOS GOGOS & JOANNE

FISCAL YEAR 2009                      Petition No.                      209,087.00

ASSESSOR                                      Cancel                      \$137,071.9

S-B-L 193.09-1-1.1                                      144489 EVANS

Acct. No. 112 \$0.00                                      County

Acct. No. 132 \$137,071.99 Town/SpecialDist/School

Charge To :                                      144489 EVANS                                      \$137,071.99

RPTL 550(2): DELIQUENT WATER CHARGED INERROR  
NEW TAX BILL TO BE ISSUED TO: CHARLES CARBONE

FISCAL YEAR 2009                      Petition No.                      209,088.00

ASSESSOR                                      Cancel                      \$1,045.00

S-B-L 104.16-3-1.1                                      145289 LANCASTER

Acct. No. 112 \$0.00                                      County

Acct. No. 132 \$1,045.00 Town/SpecialDist/School

52702 ECSD#4 USER CHARGE                      \$1,045.00

Charge To :                                      145289 LANCASTER                                      \$0.00

RPTL 550(2): INCORRECT SEWER UNITS CHARGED TO THE TAX ROLL  
NEW TAX BILL TO BE ISSUED TO: POOLSIDE LEASING LLC

FISCAL YEAR 2009                      Petition No.                      209,089.00

ASSESSOR                                      Cancel                      \$113.36

S-B-L 90.08-7-51                                      143089 CHEEKTOWAGA

Acct. No. 112 \$0.00                                      County

Acct. No. 132 \$113.36 Town/SpecialDist/School

Charge To :                                      143089 CHEEKTOWAGA                                      \$113.36

Relevy School                                      \$113.36                      143007 DEPEW UNION-CHEEK

RPTL 550(2): RELEVIED SCHOOL CHARGED INERROR  
NEW TAX BILL TO BE ISSUED TO: FRANCIS L DUQUETTE

FISCAL YEAR 2009                      Petition No.                      209,090.00

ASSESSOR                                      Cancel                      \$158.25

S-B-L 79.20-11-31                                      143089 CHEEKTOWAGA

Acct. No. 112 \$58.41 County  
Acct. No. 132 \$99.84 Town/SpecialDist/School  
Charge To : 143089 CHEEKTOWAGA \$99.84

RPTL 550(2): FAILED TO APPLY A VETERANS EXEMPTION  
NEW TAX BILL TO BE ISSUED TO: R. YVONNE MORTON

FISCAL YEAR 2009 Petition No. 209,091.00

ASSESSOR Cancel \$28,620.00

S-B-L 103.07-7-2.11 143089 CHEEKTOWAGA

Acct. No. 112 \$0.00 County  
Acct. No. 132 \$28,620.00 Town/SpecialDist/School  
Charge To : 143089 CHEEKTOWAGA \$28,620.00

RPTL 550(2): INCORRECT SEWER UNITS CHARGED  
NEW TAX BILL TO BE ISSUED TO: QUEBECOR WORLD

FISCAL YEAR 2009 Petition No. 209,092.00

ASSESSOR Cancel \$1,117.56

S-B-L MULTIPLE PAR 143889 CONCORD

Acct. No. 112 \$585.90 County  
Acct. No. 132 \$531.66 Town/SpecialDist/School  
Charge To : 143889 CONCORD \$531.66  
Relevy School \$35.99 143801 SPRING-GRIFFITH

RPTL 550(2): PROPERTY IS OWNED BY THE DOT  
NEW TAX BILL TO BE ISSUED TO: NYS DOT

FISCAL YEAR 2007 Petition No. 209,093.00

ASSESSOR Refund \$3,335.33

S-B-L 57.09-8-3 142289 AMHERST

Acct. No. 112 \$0.00 County  
Acct. No. 132 \$3,335.33 Town/SpecialDist/School  
Charge To : 142289 AMHERST \$3,335.33

RPTL 550(2): INCORRECT NUMBER OF SEWER UNITS CHARGED  
REFUND TO BE ISSUED TO: WP PROPERTIES LLC

FISCAL YEAR 2008                      Petition No.                      209,094.00

ASSESSOR                                      Refund                      \$2,323.01

S-B-L 57.09-8-3                                      142289 AMHERST

Acct. No. 112 \$0.00                                      County  
Acct. No. 132 \$2,323.01                      Town/SpecialDist/School

Charge To :                                      142289 AMHERST                                      \$2,323.01

RPTL 550(2): INCORRECT NUMBER OF SEWER UNITS CHARGED  
REFUND TO BE ISSUED TO: WP PROPERTIES LLC

FISCAL YEAR 2009                      Petition No.                      209,095.00

ASSESSOR                                      Cancel                      \$1,958.96

S-B-L 57.09-8-3                                      142289 AMHERST

Acct. No. 112 \$0.00                                      County  
Acct. No. 132 \$1,958.96                      Town/SpecialDist/School

Charge To :                                      142289 AMHERST                                      \$1,958.96

RPTL 550(2): INCORRECT NUMBER OF SEWER UNITS CHARGED  
NEW TAX BILL TO BE ISSUED TO: WP PROPERTIES LLC

FISCAL YEAR 2007                      Petition No.                      209,096.00

ASSESSOR                                      Refund                      \$1,927.81

S-B-L 57.09-8-4                                      142289 AMHERST

Acct. No. 112 \$0.00                                      County  
Acct. No. 132 \$1,927.81                      Town/SpecialDist/School

Charge To :                                      142289 AMHERST                                      \$1,927.81

RPTL 550(2): INCORRECT NUMBER OF SEWER UNITS CHARGED  
REFUND TO BE ISSUED TO: WP PROPERTIES LLC

FISCAL YEAR 2008                      Petition No.                      209,097.00

ASSESSOR                                      Refund                      \$2,067.19

S-B-L 57.09-8-4                                      142289 AMHERST

Acct. No. 112 \$0.00                                      County  
Acct. No. 132 \$2,067.19                      Town/SpecialDist/School

Charge To : 142289 AMHERST \$2,067.19

RPTL 550(2): INCORRECT NUMBER OF SEWER UNITS CHARGED  
REFUND TO BE ISSUED TO: WP PROPERTIES LLC

FISCAL YEAR 2009 Petition No. 209,098.00

ASSESSOR Cancel \$3,241.49

S-B-L 57.09-8-4 142289 AMHERST

Acct. No. 112 \$0.00 County

Acct. No. 132 \$3,241.49 Town/SpecialDist/School

Charge To : 142289 AMHERST \$3,241.49

RPTL 550(2): INCORRECT NUMBER OF SEWER UNITS CHARGED  
NEW TAX BILL TO BE ISSUED TO: WP PROPERTIES LLC

FISCAL YEAR 2009 Petition No. 209,099.00

ASSESSOR Refund \$510.69

S-B-L 80.13-9-4 142289 AMHERST

Acct. No. 112 \$0.00 County

Acct. No. 132 \$510.69 Town/SpecialDist/School

Charge To : 142289 AMHERST \$510.69

RPTL 550(2) PARCEL CHARGEDFOR GARBAGE PICK-UP IN ERROR  
REFUND TO BE ISSUED TO: THOMAS & SHELLY SCHRATZ

FISCAL YEAR 2008 Petition No. 209,100.00

ASSESSOR Refund \$27,331.77

S-B-L 81.02-3-29 142289 AMHERST

Acct. No. 112 \$0.00 County

Acct. No. 132 \$27,331.77 Town/SpecialDist/School

Charge To : 142289 AMHERST \$27,331.77

Relevy School \$27,331.77 142203 WILLIAMSVILLE CENT

RPTL 550(2): PROPERTY SHOULD HAVE BEEN WHOLLY EXEMPT  
REFUND TO BE ISSUED TO: 1955 WEHRLE LLC C/O TOA IDA

FISCAL YEAR 2009 Petition No. 209,101.00

ASSESSOR Cancel \$14,023.33

S-B-L 81.02-3-29 142289 AMHERST

Acct. No. 112	\$7,626.61	County	
Acct. No. 132	\$6,396.72	Town/SpecialDist/School	
<u>Charge To :</u>	142289 AMHERST		\$6,396.72

FISCAL YEAR 2009 Petition No. 209,102.00

ASSESSOR Refund \$145.51

S-B-L 145203 LANCASTER

Acct. No. 112	\$60.30	County	
Acct. No. 132	\$85.21	Town/SpecialDist/School	
<u>Charge To :</u>	145203 LANCASTER		\$85.21

RPTL 550(2): ERROR IN THE COMPUTATION OF INCOME FOR A AGED EXEMPTION  
REFUND TO BE ISSUED TO: WILLIAM & DIANNE HAMM

FISCAL YEAR 2009 Petition No. 209,103.00

ASSESSOR Cancel \$257.42

S-B-L 65.06-3-17.3 146489 TONAWANDA

Acct. No. 112	\$0.00	County	
Acct. No. 132	\$257.42	Town/SpecialDist/School	
64999 EXEMPTION REMOVAL		\$257.42	
<u>Charge To :</u>	146489 TONAWANDA		\$0.00

RPTL 550(2): ERROR IN THE COMPUTATION OF A RPTL520  
NEW TAX BILL TO BE ISSUED TO: TWO MILE MANAGEMENT LLC

FISCAL YEAR 2009 Petition No. 209,104.00

ASSESSOR Cancel \$217.28

S-B-L 65.06-3-17.2 146489 TONAWANDA

Acct. No. 112	\$0.00	County	
Acct. No. 132	\$217.28	Town/SpecialDist/School	
64999 EXEMPTION REMOVAL		\$217.28	
<u>Charge To :</u>	146489 TONAWANDA		\$0.00

RPTL 550(2): ERROR IN THE COMPUTATION OF A RPTL520  
NEW TAX BILL TO BE ISSUED TO: TWO MILE MANAGEMENT LLC

FISCAL YEAR 2008                      Petition No.                      209,105.00

                    ASSESSOR                                      Refund                      \$894.95

S-B-L 67.72-1-22                                      142289 AMHERST

                    Acct. No. 112 \$0.00                                      County

                    Acct. No. 132 \$894.95                      Town/SpecialDist/School

Charge To :                      142289 AMHERST                                      \$894.95

                    Relevy School                                      \$894.95                      142201 AMHERST CENTRAL

RPTL 550(2): FAILED TO APPLY AN AGED EXEMPTION  
REFUND TO BE ISSUED TO: ARTHUR J FOSTER

FISCAL YEAR 2009                      Petition No.                      209,106.00

                    ASSESSOR                                      Cancel                      \$476.29

S-B-L 67.72-1-22                                      142289 AMHERST

                    Acct. No. 112 \$264.32                                      County

                    Acct. No. 132 \$211.97                      Town/SpecialDist/School

Charge To :                      142289 AMHERST                                      \$211.97

RPTL 550(2): FAILED TO APPLY AN AGED EXEMPTION  
REFUND TO BE ISSUED TO: ARTHUR J FOSTER

FISCAL YEAR 2008                      Petition No.                      209,107.00

                    ASSESSOR                                      Refund                      \$27.61

S-B-L 227.00-6-16.111                                      142600 BOSTON

                    Acct. No. 112 \$20.38                                      County

                    Acct. No. 132 \$7.23                      Town/SpecialDist/School

Charge To :                      142600 BOSTON                                      \$7.23

RPTL 550(2): FAILED TO APPLY A VETERANS EXEMPTION  
REFUND TO BE ISSUED TO: DEKAY CLINTON R & LINDA L

FISCAL YEAR 2009                      Petition No.                      209,108.00

                    ASSESSOR                                      Cancel                      \$27.74

S-B-L 227.00-6-16.111                                      142600 BOSTON

                    Acct. No. 112 \$20.75                                      County

                    Acct. No. 132 \$6.99                      Town/SpecialDist/School

Charge To : 142600 BOSTON \$6.99

RPTL 550(2): FAILED TO APPLY A VETERANS EXEMPTION  
NEW TAX BILL TO BE ISSUED TO: DEKAY CLINTON R & LINDA L

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Director of Real Property Tax Services.

(5-0) Chair Marinelli not present for vote.

**KATHY KONST  
CHAIR**

MS. KONST moved to approve item Number 1-a. MS. WHYTE seconded.

CHAIR MARINELLI directed that a roll-call vote be taken.

AYES: MR. MILLS, MR. RATH, MR. WALTER and MR. KOZUB. NOES: MS. GRANT, MS. IANNELLO, MR. KENNEDY, MS. KONST, MR. LOUGHRAN, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. WHYTE and MR. WROBLEWSKI. (AYES: 4; NOES: 11)

FAILED.

Item 19 – MR. MAZUR presented the following report and moved for immediate consideration and approval. MS. MILLER-WILLIAMS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 88

MARCH 19, 2009	HEALTH & HUMAN SERVICES COMMITTEE REPORT NO. 4
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ALL MEMBERS PRESENT. CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. COMM. 5E-10 (2009)  
COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature has already appropriated funds for the Congregate Dining Program (III-C-1) grant for the period January 1, 2008 to December 31, 2008; and

WHEREAS, one of the nutrition sites, Town of Amherst, served more meals during 2008, and the related contract for food preparation and clean-up reimbursement needs to be amended to reflect actual costs; and



WHEREAS, the III-C-1 grant budget needs to be revised.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to amend the nutrition contract with the Town of Amherst; and be it further

RESOLVED, that the budget for the III-C-1 grant, 163III-C-12008, be revised as follows:

	CURRENT BUDGET	CHANGES	AMENDED BUDGET
APPROPRIATIONS			
516010 Town of Amherst Dining Site	\$93,989	\$5,935	\$99,924
516020 Clean-Up and Escort Services	88,387	<u>-5,935</u>	82,452
TOTAL APPROPRIATIONS		<u>\$0</u>	

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive's Office, the Division of Budget and Management, the County Attorney's Office, the Comptroller's Office and the Department of Senior Services.

(5-0) Chair Marinelli not present for vote.

2. COMM. 5E-12 (2009)  
COUNTY EXECUTIVE

RESOLVED, that the Erie County Legislature does hereby confirm the appointment of Dr. Nathaniel Webster, MD to the Board of Health for a term expiring on December 31, 2013.

(5-0) Chair Marinelli not present for vote.

3. COMM. 5E-13 (2009)  
COUNTY EXECUTIVE

RESOLVED, that the Erie County Legislature does hereby confirm the appointment of Dr. Kevin E. Cichocki to the Board of Directors of the Erie County Medical Center Corporation for a three year term, ending on December 31, 2011.

(5-0) Chair Marinelli not present for vote.

4. COMM. 5E-28 (2009)  
COUNTY EXECUTIVE

WHEREAS, the New York State Executive Budget proposed includes recommendations in the Department of Social Services budget that would result in millions of dollars in cost shifts to counties including the transfer of the Local Administrative Fund (LAF) to the Flexible Fund for Family Services (FFFS), the elimination of NYS Office of Child & Family Services (OCFS) funding for Community Optional Preventive Services (COPS) retroactive to October 1, 2008 and the implementation of a Block Grant for Youth Detention and Youth Bureau programming; and

WHEREAS, the LAF is reimbursement to counties of the State's share of the costs of administering mandated programs including cash assistance programs – Temporary Assistance for

Needy Families (TANF) and Safety Net, Food Stamp program, and Emergency Assistance and Employment Services programs; and

WHEREAS, the State plans to convert this funding to 100% Federal TANF funds and then make these funds available to counties through a dollar for dollar swap in counties' FFFS fund, but Federal and State rules will prevent counties from using these Federal TANF dollars to pay for any of the mandated costs of the Safety Net program or the Food Stamp program; and

WHEREAS, Erie County's initial estimate of the price of this particular cost shift is \$11.1 million causing a budget gap for mandated programs; and

WHEREAS, as part of its 2008-2009 contingency budget recommendation, NYS Office of Children and Family Services(OCFS) is eliminating COPS funding retroactive to October 1, 2008, shifting the cost of this program from 36% county cost to 100% county cost in the fourth quarter of 2008 with an annual cost of \$5.2 Million; and

WHEREAS, the Executive Budget through OCFS also includes a 53% increase in the Child Welfare Threshold within FFFS without adding additional dollars to the FFFS fund which will require counties to spend more FFFS funding on child welfare programs without adding any additional funding to FFFS; and

WHEREAS, Governor Paterson has also submitted a proposal to create a "Youth Development Block Grant" which would consolidate Youth Development and Delinquency Prevention (YDDP), Special Delinquency Prevention Program (SSPP), Runaway and Homeless Youth Act (RHYA), Alternatives to Detention, Alternatives to Residential Placement and Secure and Non Secure Detention Service funds; and

WHEREAS, this proposal would result in decreased state funding to Erie County by an estimated \$1.1 Million; and

WHEREAS, the proposed cost saving measures and enhanced local control, combining mandated, non-secure and secure detention services with prevention funding would pit comprehensive community based programs against the more costly and mandated provision of detention programs; and

WHEREAS, this Erie County Legislature believes that providing services and programs for youth is an investment, not only in delinquency prevention but also in the development of our young people in all ways thus enriching our society and nation; and

WHEREAS, these cost shift and budget reduction proposals could result in a property tax increase in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that this Erie County Legislature calls on the State legislature to vote against any cost shifts to counties for mandated DSS services that do not include any increase in funding to the overall FFFS fund and to assure that the rules associated with the LAF to FFFS swap for mandated DSS programs do not result in a cost shift to counties; and be it further

RESOLVED, that this Erie County Legislature urges the State to retain the commitment to COPS funding; and be it further

RESOLVED, that this County Legislature urges the Legislature to maintain the current youth services funding stream and eliminate the concept of block grant funding and uphold Executive Law 420 Article 19a in order to maintain the Youth Bureau system which is in the best interest of youth served by youth development and prevention services in Erie County; and be it further

RESOLVED, that the Clerk of the Erie County Legislature shall forward copies of this resolution to the Western New York State Legislative Delegation, the Majority and Minority leaders of the State Legislature, the County Executive, the Commissioner of Social Services, the Erie County Comptroller and the Director of the Division of Budget and Management, and all others deemed necessary and proper.

(4-0) Chair Marinelli and Legislator Walter not present for vote.

**THOMAS J. MAZUR**  
**CHAIR**

Item 20 – MS. GRANT presented the following report and moved for immediate consideration and approval. MS. IANNELLO seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 89

MARCH 19, 2009	COMMUNITY ENRICHMENT COMMITTEE REPORT NO. 4
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ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 23M-2 (2008)  
BUFFALO NIAGARA CONVENTION & VISITORS BUREAU: Financial, Sales & Marketing Plan for Third Quarter that Ended 9/30/08  
(6-0)
  - b. COMM. 23M-5 (2008)  
BUFFALO NIAGARA CONVENTION & VISITORS BUREAU: CVB's Five-Year Strategic Plan  
(6-0)
  - c. COMM. 5M-8 (2009)  
YOUNG AUDIENCES ARTS FOR LEARNING: 2008 Annual Report  
(6-0)

**BETTY JEAN GRANT  
CHAIR**

Item 21 – MR. KENNEDY presented the following report and moved for immediate consideration and approval. MS. KONST seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 90

MARCH 19, 2009	ECONOMIC DEVELOPMENT COMMITTEE REPORT NO. 4
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ALL MEMBERS PRESENT.

CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:

a. COMM. 5E-1 (2009)

MARINELLI: Federal Stimulus Dollars Disbursement  
(5-0) Chair Marinelli not present for vote.

b. COMM. 5M-3 (2009)

NFTA: Minutes from NFTA Board Meeting Held 1/20/09  
(5-0) Chair Marinelli not present for vote.

c. COMM. 5M-4 (2009)

ECIDA: Notification of ECIDA Board Meeting to be Held 3/9/09  
(5-0) Chair Marinelli not present for vote.

2. INTRO 5-6 (2009)

WHYTE, REYNOLDS, KENNEDY, AS AMENDED  
MARINELLI, MILLER-WILLIAMS, IANNELLO,  
KOZUB, GRANT, MAZUR, WROBLEWSKI & LOUGHRAN

WHEREAS, in 1935, the United States established, by law, that workers must be free to form unions; and

WHEREAS, the freedom to form or join a union is internationally recognized by the 1948 Universal Declaration of Human Rights as a fundamental human right; and

WHEREAS, the free choice to join with others and bargain for better wages and benefits is essential to economic opportunity and good living standards; and

WHEREAS, unions benefit communities by strengthening living standards, stabilizing tax bases, promoting equal treatment and enhancing civic participation; and

WHEREAS, states in which more people are union members are states with higher wages, better benefits and better schools; and

WHEREAS, union workers receive better wages and benefits, with union workers earning 29 percent more than workers without a union, 35 percent more likely to have access to health insurance, and are four times more likely to have access to a guaranteed defined benefit pension; and

WHEREAS, unions help raise workers' pay and narrow the income gap for minorities and women, by increasing median weekly earnings by 31 percent for union women workers, 31 percent for African-American workers, 50 percent for Latino workers, 9 percent for Asian American workers; and

WHEREAS, workers across the nation are routinely denied the freedom to form unions and bargain for a better life, with 25 percent of private-sector employers illegally firing at least one worker for union activity during organizing campaigns; and

WHEREAS, 77 percent of the public believes it is important to have strong laws protecting the freedom for workers to make their own decision about having a union, and 58 percent of workers would join a union if they had the chance; and

WHEREAS, employers often refuse to bargain fairly with workers after forming a union by dragging out first contract bargaining for up to two years in 45 percent of successful campaigns; and

WHEREAS, each year millions of dollars are spent to frustrate workers' efforts to form unions, and most violations of workers' freedom to choose a union occur behind closed doors, with 78 percent of employers forcing employees to attend mandatory anti-union meetings; and

WHEREAS, when the right of workers to form a union is violated, wages fall, race and gender pay gaps widen, workplace discrimination increases and job safety standards disappear; and

WHEREAS, a worker's fundamental right to choose a union free from coercion and intimidation is a public issue that requires public policy solutions, including legislative remedies; and

WHEREAS, the Employee Free Choice Act has been introduced in the U.S. Congress in order to restore workers' freedom to join a union; and

WHEREAS, The Employee Free Choice Act will safeguard workers' ability to make their own decisions with these abuses, provide for first contract mediation and arbitration, and establish meaningful penalties when employers violate workers' rights.

**NOW, THEREFORE, BE IT**

**RESOLVED** that the Erie County Legislature supports the Employee Free Choice Act which would authorize the National Labor Relations Board to certify a union as the bargaining representative when a majority of employees voluntarily sign authorizations designating that union to represent them; provide for first contract mediation and arbitration; and establish meaningful penalties for violations of a worker's freedom to choose a union; and be it further

RESOLVED that we urge President Barack Obama and the United States Congress to pass the Employee Free Choice Act to protect and preserve for America's workers their freedom to choose for themselves whether or not to form a union; and be it further

RESOLVED that certified copies of this Resolution go to President Barack Obama, House Speaker Nancy Pelosi, Senate Majority Leader Harry Reid, New York State Senators Chuck Schumer and Kirsten Gillibrand, and all members of the WNY Congressional Delegation.  
(4-2) Legislators Konst and Rath voted in the negative.

3. COMM. 5E-19 (2009)  
COUNTY EXECUTIVE

WHEREAS, a project for reconstruction of BR 215-RR1, Seneca Street Bridge, over Norfolk Southern Railroad, West Seneca, Erie County, PIN 5755.25 (the "Project") was authorized by this honorable body on May 19, 2005 via Communication 8E-36; and

WHEREAS, in order to facilitate the reconstruction of the bridge, it will be necessary for the County to acquire by permanent easement or temporary easement, portions of real property in the vicinity of the bridge:

<u>PORTIONS OF TAX MAP SBL NUMBERS</u>	<u>TOWNSHIP</u>
134.13-2-21.11	West Seneca
134.13-4-3.11	West Seneca
134.13-4-5.1	West Seneca
134.13-4-6	West Seneca
134.13-4-7	West Seneca
134.14-4-30	West Seneca
134.17-3-8	West Seneca
134.17-3-9	West Seneca
134.17-3-11	West Seneca
134.18-1-1	West Seneca

such property to be acquired by the County is herein referred to as the "Subject Properties;" and

WHEREAS, in order to acquire the permanent easement or temporary easement for the Project, it will be necessary for the County to establish an amount which it believes to represent just compensation for the real property interests to be acquired and to thereafter make a written offer to purchase the real property interests for the respective just compensation amounts; and

WHEREAS, the acquisitions of the portions of the Subject Properties are de minimis in nature so that the public interest will not be prejudiced by the reconstructed bridge and other general improvements to the subject section of Seneca Street (CR 215); and

WHEREAS, the work authorized in the 1999 Federal Aid Road and Bridge Project Program (SAP B.00007) has been completed and funds are available; and

WHEREAS, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not exceeding fair market value, it will be necessary for the County to acquire the Subject Properties by commencing eminent domain proceedings.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the above subject actions; and be it further

RESOLVED, that the sum of \$94,000.00 has previously been appropriated from the 1999 Federal Aid Road and Bridge Project Program (SAP B.00007) via County Resolution 8E-36 adopted May 19, 2005 and made available to cover the cost of Right-of-Way acquisition; and be it further

RESOLVED, that the County of Erie is authorized to acquire easement title to the aforementioned Subject Properties for the purpose of reconstructing and improving the aforementioned Seneca Street Bridge (BR 215-RR1) Project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to establish the amounts which he believes to represent just compensation for the real property to be acquired; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are hereby authorized to negotiate and offer just compensation amounts to the owners of the Subject Properties for the purpose of acquiring interests in portions of their respective parcel of real property by permanent easement or temporary easement, which acquisitions are necessary for the Seneca Street Bridge (BR 215-RR1) reconstruction project; and be it further

RESOLVED, that the Commissioner of Public Works, or his authorized representatives, are authorized to act on behalf of the County of Erie in connection with the acquisition of the portions of the aforementioned Subject Properties; and be it further

RESOLVED, that based upon the factors previously set forth herein, it is the determination of this County Legislature that such acquisitions of portions of the aforementioned Subject Properties are de minimis in nature; and be it further

RESOLVED, that the County Attorney shall prepare and the County Executive shall execute all appropriate documents relating to acquiring fee and/or easement interests in the Subject Properties; and be it further

RESOLVED, should one or more owners of the Subject Properties refuse to convey such portions of their real property to the County for an amount not to exceed the just compensation determined by the Commissioner of Public Works, or his authorized representatives, the County is authorized to commence eminent domain procedures; and be it further

RESOLVED, that the Clerk of the Legislature forward ten (10) certified copies of this resolution to the Department of Public Works, Office of the Commissioner, to be forwarded to the

New York State Department of Transportation and also one copy each to the Office of the County Executive, the Office of Budget, Management and Finance and the Office of the Commissioner.  
(5-0) Chair Marinelli not present for vote.

4. COMM. 5E-21 (2009)  
COUNTY EXECUTIVE

WHEREAS, as the result of high water of December 26 to 28, 2008 a large logjam formed at Mill Street Bridge over Cattaraugus Creek, BR 82-1, BIN 3228370; requiring emergency removal to protect the bridge and to reduce the possibility of ice jam flooding; and

WHEREAS, this bridge is jointly owned and maintained by Cattaraugus and Erie Counties, the two County Department of Public Works, Division of Highways have agreed to share the cost of the repairs; and

WHEREAS, Cattaraugus County Department of Public Works has said that they will pay Erie County half of the cost of the logjam removal as their share.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County be authorized to accept payment from Cattaraugus County for their share of the emergency logjam removal in an amount not to exceed \$8,447.06; and be it further

RESOLVED, that the 2009 Road Fund item for Road and Bridge Maintenance, Revenues Fund 210, Cost Center 1231010, Account 466000 and Expense Fund 210, Cost Center 1231010, Account 516020 be equally increased by the amount of \$8,447.06 for the purposes of future road and bridge maintenance; and be it further

RESOLVED, that three (3) certified copies of this resolution be sent to the Department of Public Works, Division of Highways, 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) Chair Marinelli not present for vote.

**TIMOTHY M. KENNEDY  
CHAIR**

Item 22 – MR. KOZUB presented the following report, moved to separate item Number 5, and moved to approve the balance of the report. MR. LOUGHRAN seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 91

MARCH 19, 2009	ENERGY & ENVIRONMENT COMMITTEE REPORT NO. 4
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ALL MEMBERS PRESENT, EXCEPT LEGISLATOR MILLS.  
CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.



1. RESOLVED, the following items are hereby received and filed:
  - a. INTRO 4-3 (2008)  
REYNOLDS & MILLS: Erie County Forestland Resource Management Proposal  
(6-0)
  - b. COMM. 22M-4 (2008)  
CHAUTAUQUA COUNTY PLANNING BOARD: Letter to Legislator Whyte Supporting  
Establishment of an EC Regional Planning Board  
(6-0)
  - c. COMM. 22M-5 (2008)  
SOUTHERN TIER WEST - REGIONAL PLANNING & DEVELOPMENT BOARD: Letter  
to Legislator Whyte Supporting Establishment of an EC Regional Planning Board  
(6-0)
  - d. COMM. 22M-6 (2008)  
WYOMING COUNTY PLANNING & DEVELOPMENT: Letter to Legislator Whyte  
Supporting Establishment of an EC Regional Planning Board  
(6-0)
  - e. COMM. 4M-11 (2009)  
NYS DEC: Goals for 2010: Ecosystem Protection  
(6-0)
  - f. COMM. 5E-7 (2009)  
COMPTROLLER: Results of Erie County Comptroller's Office Tip Line Investigation  
(6-0)
  - g. COMM. 5E-17 (2009)  
COUNTY EXECUTIVE: ECSD No. 4 - Professional Services Agreement, Overflow  
Retention Facility Upgrades - Change Order No. 1  
(6-0)
  - h. COMM. 5D-2 (2009)  
COUNTY ATTORNEY: Competitive Bid Contracts Awarded by the Division of Purchase  
(6-0)
  - i. COMM. 5M-1 (2009)  
MAYOR OF THE CITY OF LACKAWANNA: Letter in Opposition to the Establishment of  
an Erie County Planning Board  
(6-0)
2. COMM. 5E-9 (2009)  
COUNTY EXECUTIVE  
WHEREAS, the Erie County Legislature had awarded Contract No. 61PSA to Kandey  
Company, Inc. for the rehabilitation of 3 existing pumping stations; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all scheduled improvements are now completed; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract No. 61PSA, Herr Road, Buffalo Beach and Shore Cliff Pumping Stations Modifications, in the final contract amount of \$2,320,031.64 which includes Change Order No. 3 (final), a decrease of \$28,060.55 and approval for final payment.

NOW, THEREFORE, BE IT

RESOLVED, that Contract No. 61PSA, Herr Road, Buffalo Beach and Shore Cliff Pumping Station Modifications between the County of Erie and Kandey Company, Inc., 19 Ransier Drive, West Seneca, New York 14224 is accepted in the amount of \$2,320,031.64, which includes (final), Change Order No. 3, a decrease of \$28,060.55 and is allocated in the following Erie County Sewer District No. 2 Capital Projects:

<u>BOND ACCOUNTS</u>	<u>AMOUNT</u>
C.00002	\$ 308,655.64
C.00004	\$ 546,376.00
C.00028	<u>\$ 465,000.00</u>
	\$2,320,031.64

and be it further

RESOLVED, that the Clerk of the 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 to the County Executive, the Erie County Comptroller, the Director of Budget and Management and Martin A. Polowy, Second Assistant, Erie County Attorney.  
(6-0)

3. COMM. 5E-11 (2009)  
COUNTY EXECUTIVE

RESOLVED, the Erie County Legislature does hereby approve the appointments of the following individuals to the Erie County Environmental Management Council for a term expiring May 31, 2009:

Mr. Jerrold Brown  
140 Pearl St.  
Buffalo, NY 14202

Mr. Robert Lennartz  
51 Timberlake Dr.  
Orchard Park, NY 14127

Mr. Peter Sorgi, Esq.  
491 Griggs Pl.  
East Aurora, NY 14052

Mr. Gene Majchrzak  
34 Birdsong Pkwy.  
Orchard Park, NY 14127

Mr. Jerold Bastedo  
1472 North Creek Rd.  
Lake View, NY 14085

Mr. Brian Smith  
227 McConkey Dr.  
Tonawanda, NY 14223

Ms. Evelyn Hicks  
276 Seneca Creek Rd.  
West Seneca, NY 14224

Ms. Julie Barrett O'Neill, Esq.  
563 Potomac Ave.  
Buffalo, NY 14222

Mr. John Whitney  
1518 Hubbard Rd.  
East Aurora, NY 14052

Mr. James Simon  
1094 Elmwood Ave., Apt. 1  
Buffalo, NY 14222

Mr. Paul Fuhrmann  
3221 Ransom Rd.  
Lancaster, NY 14086

Ms. Rosa Gonzalez  
8 Lakewood Dr.  
Orchard Park, NY 14127

(6-0)

4. COMM. 5E-14 (2009)  
COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature had awarded Contract No. 38, to Frey Electric Construction Company for the replacement of an existing generator and load bank including all appurtenant work, at the Pleasantview Drive Pumping Station and installation of a new generator and load bank at the Northern Region Office; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all scheduled improvements are now completed; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract No. 38, Pleasantview Drive Pumping Station Generator Replacement and Northern Region Office General Installation, in the final contract amount of \$209,772.00, which includes Change Order No. 1 (final), a decrease of \$2,228.00.

NOW, THEREFORE, BE IT

RESOLVED, that Contract 38, Pleasantview Drive Pumping Station Generator Replacement and Northern Region Office General Installation, between the County of Erie and Frey Electric Construction Company, 100 Pearce Avenue, Tonawanda, New York 14150 is accepted in the amount of \$209,772.00, which includes Change Order No. 1 (final), a decrease of \$2,228.00 and was allocated in Sewer Capital as follows:

Erie County Sewer District No. 4	C.00063	\$146,272.00
Erie County Sewer District No. 1	C.00057	\$ 44,450.00
Erie County Sewer District No. 5	C.00056	<u>\$ 19,050.00</u>
	Total	\$209,772.00

and be it further

RESOLVED, that the Erie County Comptroller is hereby authorized and directed to finalize Contract No. 38, Pleasantview Drive Pumping Station Generator Replacement and Northern Region Office General Installation, between the County of Erie and Frey Electric Construction Company in the amount of \$209,772.00 and release all retention; and be it further

RESOLVED, that the Clerk of the 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 to the County Executive, the Erie County Comptroller, the Director of Budget and Management and Martin A. Polowy, Second Assistant County Attorney.

(6-0)

5. COMM. 5E-15 (2009)  
COUNTY EXECUTIVE

WHEREAS, The Rules and Regulations for Erie County Sewer Districts require adoption to meet new federal, state and local requirements; and

WHEREAS, the amended Rules and Regulations have been prepared by the Department of Environment and Planning in consultation with the County Attorney's Office; and

WHEREAS, the amended Rules and Regulations have been distributed for comments pursuant to State Environmental Quality Review Act requirements and comments received have been adequately addressed; and

WHEREAS, the Board of Managers for Erie County Sewer Districts 1, 2, 3, 4, 5, 6 and 8 have reviewed the amended Rules and Regulations and requests their adoption; and

WHEREAS, the County Legislature is empowered to adopt these Rules and Regulations pursuant to Article 5-A, Section 264 of County Law.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby adopts the Rules and Regulations for Erie County Sewer Districts as submitted by the Department of Environment and Planning for the operation of the Erie County Sewer Districts effective immediately; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two certified copies of this resolution to Michael J. Quinn, P.E., Deputy Commissioner, Department of Environment and Planning; and one copy each to the Erie County Comptroller's Office; Martin Polowy, Assistant County Attorney and to the Director of Budget and Management.

(6-0)

6. COMM. 5E-16 (2009)  
COUNTY EXECUTIVE

WHEREAS, the Erie County Legislature had awarded Contract No. 61PSD to O'Connell Electric Company for the electrical rehabilitation of 3 existing pumping stations in Erie County Sewer District No. 2; and

WHEREAS, the Erie County Division of Sewerage Management has advised the Legislature that all scheduled improvements are now completed; and

WHEREAS, the Erie County Department of Environment and Planning has recommended the acceptance of Contract No. 61PSD, Herr Road, Buffalo Beach and Shore Cliff Pumping Stations

Modifications, in the final contract amount of \$269,166.90 which includes Change Order No. 1 (final), a decrease of \$10,333.10 and approval for final payment.

NOW, THEREFORE, BE IT

RESOLVED, that Contract No. 61PSD, Herr Road, Buffalo Beach and Shore Cliff Pumping Station Modifications between the County of Erie and O'Connell Electric Company, 830 Phillips Road, Victor, New York 14564 is accepted in the amount of \$269,166.90 which includes (final), Change Order No. 1, a decrease of \$10,333.10 and is allocated in Erie County Sewer District No. 2, Bond Account C.00002; and be it further

RESOLVED, that the Clerk of the 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 to the County Executive, the Erie County Comptroller, the Director of Budget and Management and Martin A. Polowy, Second Assistant, Erie County Attorney.  
(6-0)

7. COMM. 5E-22 (2009)  
COUNTY EXECUTIVE

WHEREAS, the United States Environmental Protection Agency (USEPA) provides grant assistance to assist with the retrofit of diesel school buses; and

WHEREAS, the United States Environmental Protection Agency (USEPA) solicited proposals for retrofit projects for school districts; and

WHEREAS, the Erie County Department of Environment and Planning (DEP) developed and submitted a proposal for funding from USEPA to manage and fund a retrofit program for six school districts in Erie County; and

WHEREAS, the USEPA granted approval of the application allocating funding of \$523,395 over two years for a Erie County Clean School Bus Initiative to be implemented in Erie County; and

WHEREAS, the funding available for personnel services and fringe benefits will cover the services of an existing Environmental Education Specialist (JG 9) whose funding through the Phase 2 grant budget will be expiring before the end of 2009; and

WHEREAS, the new grant resources would enable the Department of Environment and Planning to transfer the existing Environmental Education Specialist (JG 9) position to the new grant budget from the existing Diesel School Bus grant budget (162DIESEL\_BUS 0809) when funding expires; and

WHEREAS, the required County match will be met through overhead and in-kind expense contributions.

NOW, THEREFORE BE IT

RESOLVED, that the County Executive is authorized to enter into the necessary agreements with the USEPA to accept and implement the Erie County Clean School Bus Initiative Phase 3

(grant period: 01/01/09 to 12/31/10) in an amount not to exceed \$523,395 in grant resources; and be it further

RESOLVED, that the revenue from the Erie County Clean School Bus Initiative is hereby appropriated in the Department of Environment and Planning, Business Area 162 in the grant as follows:

REVENUE: 162DIESEL\_BUS0910

414000 Federal Aid – United States Environmental Protection Agency	\$523,395
TOTAL REVENUE	\$523,395

APPROPRIATIONS:

500000 Personnel Services	\$47,840
502000 Fringe Benefits	\$20,505
510000 Local Travel and Mileage	\$50
516020 Professional Service Contract & Fees	\$455,000
TOTAL APPROPRIATIONS	\$523,395

and be it further

RESOLVED, that the following position will be transferred from the Erie County Clean School Bus Initiative grant budget (162DIESEL\_BUS0809) to (162DIESEL\_BUS0910):

Environmental Education Specialist (JG 9) Position  
Position Number: 51001528  
Budgeted Annual Salary: \$46,377

RESOLVED, that certified copies of this resolution be sent to the Director of Budget and Management; Holly Sinnott, Commissioner of Environment and Planning; William M. Murray, Esq., Deputy Commissioner of Environment and Planning; Tom Hersey, Coordinator –Pollution Prevention Program; the County Comptroller; the Commissioner of Personnel; and the County Attorney.

(6-0)

8. COMM. 5E-24 (2009)  
COUNTY EXECUTIVE

WHEREAS, Erie and Niagara Counties completed the Framework for Regional Growth to provide a tool for county departments, regional agencies, and others making decisions that affect physical development; and

WHEREAS, said Framework for Regional Growth includes general policies that will assist users make decisions within certain geographic planning areas; and

WHEREAS, a web mapping application is essential for the functionality of the Framework for Regional Growth as an important land use decision-making tool; and

WHEREAS, funding for the web mapping application has been secured from General Ledger Account No. 516020 Professional Services Contractual, Fees as follows: Fund 281, New York State Quality Communities Grant, 162QUALCOM0708 (\$10,000), Fund 410, WBS #A.00058.1 (\$3,173.12), Fund 290, WBS #J.00505.1.1 (\$1,410.00), and Fund 290, WBS #J.00506.1.9 (\$1,416.88); and

WHEREAS, the request for proposal provision of Section 19.08 of the Erie County Administrative Code was complied with and a summary of the process is attached to this resolution.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Executive is authorized to execute any and all agreements with Buffalo Computer Graphics in an amount not to exceed \$16,000 for the purpose of completing a web mapping application; and be it further

RESOLVED, that the funding source will be secured from General Ledger Account No. 516020 Professional Services Contractual, Fees as follows: Fund 281, New York State Quality Communities Grant, 162QUALCOM0708 (\$10,000), Fund 410, WBS #A.00058.1 (\$3,173.12), Fund 290, WBS #J.00505.1.1 (\$1,410.00), and Fund 290, WBS #J.00506.1.9 (\$1,416.88); and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive; the County Comptroller; the Director of Budget and Management; the County Attorney; and the Commissioner of the Department of Environment and Planning.  
(6-0)

9. COMM. 5E-27 (2009)  
COUNTY EXECUTIVE

RESOLVED, the Erie County Legislature does hereby approve the re-appointment of the following individual to the New York State Region 9 Fish and Wildlife Management Board as the landowner representative for a term ending December 31, 2010:

Mr. Ken Brown  
6550 Vermont Hill Rd.  
South Wales, NY 14139

(6-0)

**DANIEL M. KOZUB**  
**CHAIR**

MR. KOZUB moved to amend item Number 5. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

Insert the Following Rules & Regulations:

**DEPARTMENT OF ENVIRONMENT & PLANNING  
DIVISION OF SEWERAGE MANAGEMENT**

**RULES AND REGULATIONS  
FOR  
ERIE COUNTY SEWER DISTRICTS**

ADOPTED: March 26, 2009

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**INTRODUCTION**

The protection of Sanitary Sewerage facilities can be achieved through the prevention of discharge of deleterious substances and Surface Runoff of other liquids for which they were not intended and which can render them a public nuisance and hazard instead of a public service. These regulations are for the purpose of securing optimum performance from the facilities installed and to

insure compliance with all applicable state and federal laws, including the Clean Water Act (United States Code 33 Section 1251 et.seq.) and the General Pretreatment Regulations (40 CFR 403).

The County Law Article 5-A, section 264 states; The board of supervisors (now known as "County Legislature") shall have the power to adopt, amend and repeal, from time to time, rules and regulations for the operation of a county district and the use of water in a water district including regulation of the manner of making connections and the construction of the county system and all facilities and appurtenances.

## **ARTICLE I**

### **DEFINITIONS**

**Section 101** "Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

**Section 102** "Board" shall mean the Board of Managers of an Erie County Sewer District, or its authorized representatives.

**Section 103** "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees centigrade, expressed in milligrams per liter.

**Section 104** "Building (House) Drain" shall mean that part of the lowest horizontal piping of the drainage system which receives the discharge from soil, waste and other sanitary drainage pipes inside the walls of the building and conveys it to the Building Sewer, which begins 5 feet outside of the building.

**Section 105** "Building (House) Sewer" shall mean the Sewer from the Building Drain beginning at a point five (5) feet outside of the building wall and extending to its point of connection to the District Sewerage System. A building sewer is privately owned and maintained.

**Section 106** "Categorical Pretreatment Standards" shall mean standards promulgated pursuant to the Act specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a Sewage Treatment Plant by existing or New Sources in specific industrial categories.

**Section 107** "Construction Specifications For Erie County Sewer Districts" shall mean the standard list of materials, specifications and standard details of construction as approved by the Erie County Sewer Districts, published by and available from the Erie County Department of Environment & Planning, Division of Sewerage Management.

**Section 108** "Cooling Water" shall mean the water discharged from any system where fresh water is used for cooling but does not come into direct contact with the process reactants or products.

**Section 109** "District" shall mean Erie County Sewer Districts 1, 2, 3, 4, 5, 6 and 8 and their employees.

**Section 110** "Flash Point" shall mean the lowest temperature at which the vapor of a volatile substance will ignite as determined by using the test methods specified in 40 CFR Part 261.21.

**Section 111** "Flow Rate" shall mean the volume of Sewage wastes or liquid over a specified period of time.

**Section 112** "Garbage" shall mean solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

**Section 113** "Ground Water" shall mean all subsurface water, including, but not limited to that part which is in the zone of saturation.

**Section 114** "Industrial User" shall mean any industrial, institutional, commercial User, or a User contributing Sewage from any other non-domestic source, which utilizes the services of an Erie County Sewer District.

**Section 115** "Industrial Waste" shall mean any liquid, gaseous, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources, which cause or might reasonably be expected to cause pollution.

**Section 116** "Industrial Waste Surcharge – User Charge" shall mean a financial charge levied on Industrial Users of the Sewerage System for the additional cost of treating abnormal strength Sewage.

**Section 117** – "I/I" shall mean Infiltration/Inflow, where ground water and surface water enters the sanitary sewer system.

**Section 118** "Inspection" shall mean the observation for the purpose of certification of the installation or modification of Sewers or Sewerage Systems under a valid permit issued by the District, or a District approved Sewer extension or Subdivision plan; or the verification of Pretreatment for compliance to a District Pretreatment program or Industrial Wastewater Discharge Permit. The presence of a District employee or District representative at or on a Person's premises or visits by a District employee or representative to a location where an activity has or is occurring and where a valid permit or approved Sewer extension or Subdivision plan does not exist shall not be construed as an Inspection. District representative shall include, but not be limited to, personnel designated to perform

Inspection under District contracts for Sewage treatment.

**Section 119** "Interference" shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the Sewage Treatment Plant, its treatment processes or operations; or its sludge processes, use, or disposal, and therefore, causes a violation of the Sewage Treatment Plant's NPDES or SPDES permit or any other permit, or which prevents Sewage sludge use or disposal in compliance with specified applicable federal, state or local statutes, regulations or permits.

**Section 120** "may" is permissive.

**Section 121** "mg/l" Shall mean milligrams per liter.

**Section 122** "NYSDEC" Shall mean the New York State Department of Environmental Conservation.

**Section 123** "NPDES" Shall mean the National Pollutant Discharge Elimination System established pursuant to the Act.

**Section 124** "National Pretreatment Standard" Shall mean any regulation containing pollutant discharge limits promulgated by USEPA under Sections 307(b) and (c) of The Act applicable to Industrial Users, including the general and specific prohibitions found in 40 CFR 403.5.

**Section 125** "New Source" Shall mean any building structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of Section 307(c) of The Act which will be applicable to such source, provided that: the building, structure, facility or installation is constructed at a site at which no other source is located; or the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or the production or Wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

**Section 126** "Other Wastes" Shall mean Garbage, refuse, decayed wood, sawdust, shavings bark, sand, lime, cinders, ashes, offal, manure, tar, dyestuffs, acids, chemicals, and all other discarded matter not Sewage or Industrial Waste which may cause or might reasonably be expected to cause pollution.

**Section 127** "Pass Through" Shall mean a discharge which exits the Sewage Treatment Plant in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Sewage Treatment Plant's National or State Pollutant Discharge Elimination System discharge permit, including an increase in the magnitude or duration of a violation.

**Section 128** "Person" or "Persons" Shall mean any individual, public or private corporation, political Subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.

**Section 129** "pH" shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter.

**Section 130** "Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in Wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly owned Sewage Treatment Plant.

**Section 131** "Pretreatment Requirement" Shall mean any substantive or procedural requirement, related to Pretreatment other than a National Pretreatment Standard imposed on an Industrial User.

**Section 132** "Privately Owned" Shall mean ownership of Sewers and Sewerage System components by a Person other than the District.

**Section 133** "Receiving Waters" Shall mean a natural water course or body of water into which treated or untreated Sewage is discharged.

**Section 134** "SEQRA" Shall mean the New York State Environmental Quality Review Act.

**Section 135** "SPDES" Shall mean the State Pollutant Discharge Elimination System established by New York State under a delegation agreement with USEPA pursuant to the Act.

**Section 136** "Sanitary Sewer" Shall mean a Sewer which carries Sewage and to which storm, surface, and ground waters are not intentionally admitted.

**Section 137** "Septage" Shall mean all liquids and solids in and removed from a septic tank, cesspool or other domestic Sewage treatment system and which does not contain Industrial Waste and/or Wastewater.

**Section 138** "Sewage" Shall mean the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. Wastewater or the admixture with Sewage of Industrial Wastes or Other Wastes as herein also is considered "Sewage".

**Section 139** "Sewage Treatment Plant" Shall mean a facility for the purpose of treating, neutralizing or stabilizing Sewage, including treatment or disposal plants, the necessary intercepting, outfall and outlet Sewers, pumping stations integral to such plants or Sewers, equipment and furnishings thereof and their appurtenances.

**Section 140** "Sewer" Shall mean a pipe or conduit for carrying Sewage including all other constructions, devices and appliances appurtenant thereto.

**Section 141** "Sewerage System" Shall mean pipe lines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting Sewage, Industrial Waste or Other Wastes to a point of ultimate disposal.

**Section 142** "Shall" is mandatory.

**Section 143** "Significant Industrial User" Shall mean any User subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N, any other User which discharges an average 25,000 gallons or more of process Wastewater per day (excluding sanitary, cooling and boiler blowdown water), contributes an Industrial Waste which makes up five percent (5%) or more of the dry weather average hydraulic or organic capacity of the Sewage Treatment Plant or is designated as such by the District on the basis that the Industrial User

has a reasonable potential to adversely affect the Sewage Treatment Plant's operation or to violate a Pretreatment Requirement or standard.

**Section 144** "Slug Discharge" Shall mean any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

**Section 145** "Subdivision" Shall have the same meaning as such term is defined in Section 17-1501 of the New York State Environmental Conservation Law.

**Section 146** "Surface Runoff" Shall mean water which results when the rate of precipitation, including snowmelt, exceeds the rate at which water infiltrates the ground.

**Section 147** – "SSO" Shall mean Sanitary Sewer Overflow

**Section 148** "Suspended Solids" (SS) Shall mean solids that either float on the surface of, or are in suspension in water, Sewage or other liquids and which are removable by floatation, skimming, sedimentation or filtration.

**Section 149** – "Tamper" Shall mean to interfere with or bring about an improper situation or condition, which includes, without limitation, covering or concealing a sanitary manhole cover, or any other practice which hinders access to the same.

**Section 150** "Toxic Pollutant" Shall mean those pollutants, or combinations of pollutants, including disease-causing agents, which upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, are known to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. Toxic Pollutants shall include, but not be limited to, any pollutant identified pursuant to Section 307 (a) of the Act.

**Section 151** "Use" Shall mean that a Building Sewer is joined to the Sewerage System.

**Section 152** "USEPA" Shall mean the United States Environmental Protection Agency.

**Section 153** "User" Shall mean any Person who contributes, causes or permits the contribution of Sewage into the District's Sewerage System either directly or indirectly.

**Section 154** "Wastewater" Shall mean fluid-carried Industrial Waste including admixtures with human or animal wastes.

**Section 155** Words, if defined in or pursuant to the Act and not otherwise defined herein, shall have the meaning so defined in or pursuant to the Act.

## **ARTICLE II**

### **USE OF SANITARY SEWERS REQUIRED**

**Section 201 - Connection of Facilities**

The owner of any building which has internal plumbing and is used for human occupancy, employment, recreation or other human activity, situated within a District and accessible to a Sanitary Sewer is required at the property owner's expense to connect the Building Sewer to the Sanitary Sewer in accordance with the provisions of the Construction Specifications For Erie County Sewer Districts. The connection shall be made within ninety (90) days after date of official notice to connect, providing that said Sanitary Sewer is available to the building to be serviced. Buildings located beyond three hundred (300) feet from the Sanitary Sewer or which cannot be economically connected because of unusual physical limitations may be exempt from connecting if they have a private Sewage disposal system which is operating properly and which has been approved by the Erie County Health Department or the New York State Department of Environmental Conservation, and they receive permission from the District.

**ARTICLE III**

**BUILDING SEWER AND SEWERAGE SYSTEM EXTENSIONS**

**Section 301 - Permit**

No Person shall uncover, make any connection to, opening into, use, tamper, or disturb any District Sanitary Sewer or appurtenance thereof without a permit. Connection shall be permitted under Inspection only with a written permit from the District. The owner or his agent shall make application for a permit for connection or other work pertaining to the Sewerage System on the form furnished by the District office, supplemented by any plans, specifications or other information considered pertinent in the judgment of the District. Plans are required for multiple dwellings, non-residential, industrial, institutional, or public buildings. All applications for non-residential connections shall provide information on proposed Wastewater discharges, or if none, a certification that no Industrial Waste or other waste will be discharged. For connections where oil and grease may be discharged, calculations for separators shall be provided by the owner or his engineer. The minimum tank size acceptable to the County is 750 gallons.

The application becomes a permit to connect when signed by a District representative. Applications when made by the owner's agent, must show written authorization from the property owner. The property owner or his agent shall also obtain all necessary Federal, State, County, City, Town or Village permits. The applicant shall advise the District, and if required, the municipality when the connection is ready for Inspection

**Section 302 - Cost of Building Sewer**

All expenses incident to the installation and connection of the Building Sewer shall be borne by the owner. The owner shall indemnify the County for any loss or damages it sustains that may directly or indirectly be occasioned by the installation of the Building Sewer.

**Section 303 - Separate Building Sewer**



A separate Building Sewer shall be provided for each building except where special permission is received from the Erie County Department of Environment and Planning, Division of Sewerage Management (hereafter "Division of Sewerage Management").

**Section 304 - Use of Existing Building Sewer**

Existing Building Sewers may be used only when they are found, after inspection, examination and testing, to meet all requirements of the Construction Specifications For Erie County Sewer Districts as published by and available from the Division of Sewerage Management. The cost of said inspection shall be borne by the owner.

**Section 305 - Footing Drains and Roof Drains**

Footing drains, roof drains, sump pumps, or other drains discharging Surface Runoff or Ground Water shall not be connected to the Sanitary Sewer.

**Section 306 - Sewerage System Extensions - Subdivisions**

Persons desiring to construct extensions to the District Sewerage System as part of a Subdivision plan shall make application to the Division of Sewerage Management. Three (3) sets of applications to construct a Sewerage System consisting of SEQRA determination, a NYSDEC Application (No. 92-19-4), Project Data (No. 92-15-8), an engineer's report, and six (6) sets of construction plans showing the proposed construction, shall be forwarded to the Division of Sewerage Management. Such submission shall conform to the requirements of Title 6 NYCRR Part 653.3.

Extensions to the Sewerage System shall be designed and constructed in accordance with the Design Requirements for Subdivision and Sanitary Sewer Extensions as published by and available from the Division of Sewerage Management.

The Division of Sewerage Management will review the application for conformance to the Construction Specifications For Erie County Sewer Districts. Following review, the application will be submitted by the Division of Sewerage Management to the New York State Department of Environmental Conservation or their representative for final review and approval.

Any extension to the Sewerage System constructed as part of a Subdivision plan shall become the property of the District upon acceptance and connection to the District's Sewerage System, unless such extensions are approved by the District as Privately Owned Sewers. Privately Owned extensions to the Sewerage System shall only be permitted if a duly formed homeowner's association, condominium corporation, mobile home park, transportation corporation or similar legal entity exists and requests to own, maintain and operate the extension. Approval of Privately Owned Sewers shall be limited to Subdivision plans not capable of being further extended to real property outside of the Subdivision boundary.

An easement and title form, furnished by the Division of Sewerage Management, conveying to the County of Erie the required easement and title for the planned Sewerage System shall be submitted to the Division of Sewerage Management prior to submission of the plans to the

NYSDEC. For facilities other than Sanitary Sewers, such as but not limited to, pumping stations, the District may require fee simple title of the facility's site.

Inspections during construction will be made by a District representative. The Sewerage System shall not be covered until such Inspection has been completed. The Division of Sewerage Management will certify to the approving agency that installation, inspection, and testing have been completed, and the Sewerage System has been accepted.

Inspection and acceptance does not relieve the owner of the responsibility for any extra expense to the District due to faulty installation or materials nor does it relieve the owner of the responsibility to correct such faulty installation or materials. The electronic files of the record drawing containing the plans and profiles showing the final construction, locations and other pertinent information shall be submitted by the owner to the Division of Sewerage Management prior to acceptance.

Sewerage System extensions shall not be connected to the District's Sewerage System until all required tests have been completed and approved by the Division of Sewerage Management.

**Section 307 - Sewerage System Extensions - Other**

Persons may apply to the District to allow the extension of a Sewerage System where such extension is not part of a new Subdivision plan.

The District upon finding that Sewer service can be extended to the property as proposed, and finding that the requirements of this section have been met, may authorize the extension to be installed and specify the size and location thereof.

The design, easements, construction, Inspection, testing and acceptance requirements shall be as provided in Section 306.

The Person applying shall provide to the Division of Sewerage Management SEQRA determination, three (3) sets of a NYSDEC Application (No. 92-19-4), Project Data (No. 92-15-8) and engineer's report and six (6) sets of construction plans showing the proposed construction.

Any extension to the Sewerage System approved under this section shall become the property of the District upon acceptance and connection to the District's Sewerage System, unless such extensions are approved by the District as Privately Owned. Privately Owned Sewers are required where they are located on or serve only one real property and are not capable of being further extended to serve other real property. Privately Owned Sewers may also be approved where they meet the conditions for Privately Owned Sewers pursuant to Section 306 of these Rules and Regulations.

The Person making application under this Section may petition the Board, in writing, for financial assistance in extending the Sewerage System. The petition shall demonstrate to the satisfaction of the Board that the benefits of such extension accrue to properties in the District other than the parcel or tract immediately served by said Sewerage System extension.

The District may, in consideration of the benefit to the District as a whole, supply a portion of the Sewer at the District's expense in an amount not to exceed the budgetary amount available and determined in the following manner:

The District may provide design, pipe and manhole materials only for a proposed public Sewerage System extension.

Where a road crossing was not installed by the District at the time of Sewer installation the District may provide the pipe and manhole materials necessary for the installation of a service of sufficient size to permit future extension.

If the Board provides materials, the applicant shall, before proceeding with construction, provide a performance bond, security deposit or certified check, payable to the Erie County Comptroller, in an amount equal to the cost of materials provided by the District. In the event materials supplied by the District are lost or rendered unusable by reason of the applicant's action or inaction, the bond, security or certified check supplied by the applicant shall be forfeited.

The person making the application shall provide insurance, naming the County as insured. The insurance form shall be acceptable to the County Attorney's Office prior to commencement of any work on any proposed Sewerage System installation for which the District supplies materials.

The extension shall become the property of the District upon acceptance and connection to the District's sewerage system, unless such extension is approved by the District as Privately Owned Sewers.

An easement and title form, furnished by the Division of Sewerage Management, conveying to the County of Erie the required easement and title for the planned Sewerage System shall be submitted to the Division of Sewerage Management by the owner prior to submission of the plans to the NYSDEC. For facilities other than Sanitary Sewers, such as but not limited to, pumping stations, the District may require title of the facility's site.

Inspections during construction will be made by a District representative. The Sewerage System shall not be covered until such Inspection has been completed. The Division of Sewerage Management will certify to the owner that installation, inspection, and testing have been completed, and the Sewerage System has been accepted.

Inspection and acceptance does not relieve the owner of the responsibility for any extra expense to the District due to faulty installation or materials nor does it relieve the owner of the responsibility to correct such faulty installation or materials. A complete set of record drawings on a hard copy, including the electronic file of same, showing the final construction, locations and other pertinent information shall be submitted by the owner to the Division of Sewerage Management prior to acceptance.

Sewerage System extensions shall not be connected to the District's Sewerage System until all required tests have been completed and approved by the Division of Sewerage Management

**Section 308 - Posting of Maintenance Bonds**

Any Person installing an extension of a 750 feet or more to a District Sewerage System shall post a bond with the County of Erie, guaranteeing the Sewerage System for a period of two (2) years from the time of acceptance by the Division of Sewerage Management. During this period, any defects in the Sewerage System, directly or indirectly occasioned by the installation of the extension, shall be corrected at the expense of said Person. The maintenance bond shall be in an amount equal to 25% of the cost of construction of the Sewerage System.

**Section 309 - Construction Specifications for Sewerage System Extensions and Building Sewers**

Sewerage System extensions and Building Sewers shall be constructed in accordance with the specifications set forth in Construction Specifications For Erie County Sewer Districts.

**Section 310 - Sewer Disconnection**

A District permit is required before a Building Sewer is disconnected or the building demolished or otherwise changed or allowed to change such that the Building Sewer is susceptible to the entrance of ground or Surface Runoff. The property owner or his authorized representative or contractor shall expose the Building Sewer at the right-of-way line when the Sanitary Sewer is located near the pavement and/or sidewalk area or at the actual Sewer connection when located in unpaved areas. A permanent water tight plug or device acceptable to the District shall be installed in the Building Sewer. District personnel shall inspect the work prior to the backfilling of the excavation.

Where the Building Sewer is exposed to Surface Runoff or groundwater inflows due to damage or abandonment, the Sewer shall be immediately disconnected from the District Sanitary Sewer. All costs for exposing, installing a plug or otherwise disconnecting the Building Sewer and backfilling are to be borne by the property owner.

If the property owner fails to disconnect the Building Sewer, the District may disconnect the Building Sewer 20 days after written notice, and assess the cost against the property.

**ARTICLE IV**

**I/I REMEDIAL WORK MANDATE**

**Section 401 – I/I Removal Requirement**

Infiltration/Inflow (I/I) removal is required for any project that is consistent with Article III; Section 306 or Section 307. These projects shall provide remedial/rehabilitation work to remove I/I from the existing sanitary sewer system equal to four times their proposed peak flows. The amount of I/I contribution per source shall be as determined by the District and approved by NYSDEC. The locations of each rehabilitation site will be identified by the District. This remedial work must be completed prior to the project's final acceptance and certification by the District.

**ARTICLE V**

**SEWAGE DISCHARGE REGULATIONS**

**Section 501 - Prohibited Discharges**

No Person shall discharge or cause to be discharged, either directly or indirectly to the Sewerage System, any pollutant, substance or Wastewater which causes or could cause Interference, Pass Through, be incompatible with the Sewerage System or sewerage treatment plant, limit sludge disposal options of a Sewage Treatment Plant or damages, inhibits or disrupts the operation or performance of the Sewerage System or the Sewage Treatment Plant.

Without limiting the generality of the foregoing, the following substances and Wastewaters are specifically prohibited from discharge to the District Sewerage System:

- a. Any pollutant(s) or substance(s) with a Flash Point of less than 140 degrees Fahrenheit (60 degrees Celsius), or which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Sewerage System or to the operation of the Sewage Treatment Plant. Prohibited substance(s) include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides and any other substance which is a fire hazard or a hazard to the Sewerage System;
- b. Waters or wastes containing any toxic waste, pollutant or poisonous solid, liquid, or gas in sufficient concentration, either singly or by interaction with other substances, to injure or interfere with any Sewage treatment process, or to constitute a hazard to humans or animals or create a public nuisance, or create any hazardous or toxic effects in the Receiving Waters of the Sewage Treatment Plant effluent;
- c. Waters or wastes containing substances which are not amenable to treatment or reduction by the Sewage treatment processes employed;
- d. Any noxious or malodorous liquid, gas, or solid which either singly or by interaction with other substances or waste is sufficient to create a public nuisance, cause acute worker health or safety problems or is sufficient to prevent entry into the Sewers for maintenance and repair;
- e. Floating solids and solid substances of such size, or viscous substances in quantities which cause or may be expected to cause obstruction to the flow in the Sewerage System or cause Pass Through or Interference, including, but not limited to: ashes, cinders, sand, spent lime, stone or marble dust, mud, metal, glass, grinding or polishing wastes, plastics, wood, shavings, rags, waste paper, grass clippings, straw, spent grains or hops, animal blood, paunch manure, hair, hides or fleshings, feathers, entrails, animal tissues, bones, fuel, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil;

Garbage is prohibited, except that Garbage grinders are permitted for the purpose of discharging food wastes to the Sewerage System. Such food wastes shall not contain particles greater than one-half inch (1/2") in any dimension. The installation and

operation of any Garbage grinder equipped with a motor of three-fourths (3/4) horse power (0.76 hp metric) or greater shall be subject to the approval of the District;

- f. Any Sewage containing oils and/or grease, or substances which may float, precipitate, solidify, congeal, or become viscous at temperatures between 32 degrees Fahrenheit (0 degrees Celsius) and 104 degrees Fahrenheit (40 degree Celsius). No User shall discharge oil and/or grease which attaches to or builds up on pipe walls or other sewerage structures, and such oil and grease shall be limited to no more than 100 mg/l. Discharge of emulsified, polarized or homogenized oil and grease may be permitted if specifically authorized by an industrial wastewater discharge permit issued by the Division of Sewerage Management;
- g. Any radioactive pollutant(s) or substance(s), or any radioactive isotope of half-life or concentration exceeding limits established pursuant to state or federal laws or regulations;
- h. Water or wastes having a pH lower than 5.0 or higher than 12, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the Sewerage System or Sewage Treatment Plant;
- i. All discharges at temperatures that will inhibit biological activity at the Sewage Treatment Plant or cause damage to the Sewerage System, but in no case liquid or vapor having a temperature higher than 122 degrees Fahrenheit (50 degrees Celsius) or a discharge of such quantity and temperature as to cause the temperature of the influent at the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius), except that a lower temperature may be required by the District for oil or grease removal facilities;
- j. Surface Runoff, ground water, roof runoff, sump pump discharge, subsurface drainage, or Cooling Water;
- k. Discolorations, such as, but not limited to, dye waters and vegetable tanning solution;
- l. Slug Discharges;
- m. Livestock wastes or Wastewater not specifically authorized by an Industrial Wastewater Discharge Permit issued by the District;
- n. Any trucked or hauled pollutant(s) except at designated discharge points as specifically authorized by a Wastehauler Discharge Permit issued by the District and the appropriate approved NYSDEC Waste Transporter Permit; or
- o. Any pollutant, including oxygen-demanding pollutants such as Biochemical Oxygen Demand (BOD), released in a discharge at a Flow Rate and/or pollutant concentration which will cause Interference.

**Section 502 - Procedures for Setting Discharge Limits**

The Board shall adopt specific limits for chemical elements, chemical compounds, other substances or physical characteristics of Wastewater discharge as the Board determines appropriate:

- a. For Sewage Treatment Plants owned by the District, the User discharge limits shall be determined by the Board based on the capability of the Sewage Treatment Plant, applicable State and Federal regulations and the District's Pretreatment program.
- b. For Sewage Treatment Plants owned or under the jurisdiction of a Sewer District, municipality, public authority or Person other than the District and to which the District discharges its Sewage for conveyance, treatment and/or disposal, the Board shall utilize the limits duly established by the owner of such Sewage Treatment Plant, applicable state and federal regulations and the District's Pretreatment program, to the extent such limits are more restrictive than the limits established pursuant to these Rules and Regulations.

The Board shall, by resolution, propose limits to be adopted. This resolution shall be published once in the official newspapers of the County and a newspaper of general circulation in the areas affected. The resolution shall identify each limit proposed by the Board for Sewage Treatment Plants owned by the District, otherwise the limits duly adopted for a Sewage Treatment Plant owned or controlled by another District, municipality, public authority or Person may be identified by reference to such ordinance, rule or regulation of the Sewage Treatment Plant owner. There shall be thirty (30) days provided for public comment, after which, at a regularly scheduled Board meeting, the Board shall hold a hearing on the proposed resolution so published. At such regularly scheduled meeting or at a regular meeting thereafter, the Board shall adopt limits by resolution taking into account any comments received at the hearing, including any comments sent by mail in time for presenting at the hearing.

In the event the Board determines that any of the limits hereunder established need to be changed, modified, added to or deleted, the Board shall follow the same procedures of this article as for the original adoption of limits.

**Section 503 - Discharge of Abnormal (Surchargeable) Strength Sewage**

No Person shall discharge or cause to be discharged to the public Sewerage System Wastewater or Other Wastes containing or causing in excess of the following:

- a) Abnormal concentrations of inert Suspended Solids (SS), which are defined as concentrations exceeding 250 mg/l;
- b) Abnormal concentrations of BOD, which are defined as concentrations exceeding 250 mg/l;
- c) Abnormal concentrations of phosphorus (P), which are defined as concentrations exceeding 5.0 mg/l measured as total phosphates expressed as phosphorus;
- d) Abnormal concentrations of any other chemical element, chemical compound, substance or characteristic not otherwise specifically prohibited by these Rules and Regulations where such abnormal concentrations are defined as exceeding by one and one half (1.5) times the concentration normally found in domestic Sewage, unless such Person has received written

prior permission from the District, or has been issued an Industrial Wastewater Discharge Permit for such discharge.

Abnormal strength pollutants or Wastewater not otherwise prohibited by these Rules and Regulations may be permitted by the Board through Industrial Wastewater Discharge Permits. In cases where effluent characteristics of a Wastewater discharge exceed the limits for BOD, SS, P, or other pollutants the acceptability of such Wastewater will be determined by the District based upon the volume and character of the discharge, compliance with these Rules and Regulations and the capacity of the Sewage Treatment Plant. The payment of an Industrial Waste Surcharge may be required to cover the costs of treatment for the abnormal strength Sewage.

#### **Section 504 - Oil and Grease and/or Sediment Separators**

Oil and grease and/or sediment separators shall be provided by the owner when, in the opinion of the District, they are necessary for the proper handling of Sewage containing oil and grease in excessive amounts, sediment or other harmful ingredients. Such separators may not be required for private living quarters that house greater than a single family home. All separators shall be of a type and capacity approved by the District and shall be located as to be readily and easily accessible for cleaning and Inspection. Such separators shall be designed and sized such that Wastewater residence time within the separator is sufficient to effect separation. Wastewater temperature, where coagulation is relevant to oil and grease removal, shall be limited pursuant to Section 501(f) of these Rules and Regulations. For buildings converted to Uses which require oil and grease and/or sediment separation, such separator shall be installed at the time of conversion.

Where local zoning permits a new building Use which would require oil and grease and/or sediment separators, the design of such building shall allow the future installation of oil and grease and/or sediment separation facilities.

All separators shall be maintained by the User, at the User's expense, in continuously efficient operation. Cleaning, pumping and off-site disposal records shall be maintained by the User for three (3) years and supplied to the District upon written request to the User.

#### **Section 505 - Spill Notification Procedures**

In cases of any unpermitted or Slug Discharge to the Sanitary Sewer, it is the responsibility of the User to immediately notify the District and the affected Sewage Treatment Plant of the discharge. The notification shall include the location, type, concentration and amount of material discharged, and corrective actions taken.

The User shall, within five (5) days of the unpermitted or Slug Discharge submit to the District a detailed written report describing the cause of the discharge and measures taken or to be taken to prevent future occurrences. Compliance with this section shall not relieve the User of any fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable laws.

#### **Section 506 - Excessive Sewerage System Maintenance and/or Repair Expense**



Any User who causes discharges of Sewage that creates a stoppage, plugging, breakage, reduction in Sewer capacity or any other damage to the Sewerage System shall be liable for any additional maintenance and/or repair expenses caused by such a discharge. Expenses attributable thereto will be charged to that User.

Any Person who causes damage, stoppage, plugging, breakage, removal or disturbance of covers, reduction in Sewer capacity or any other damage to the Sewerage System shall be liable for the additional maintenance and/or repair expense. Expenses attributable thereto will be charged to that Person.

Refusal to pay the additional maintenance and/or repair expenses duly determined and levied by the Board shall constitute a violation of these Rules and Regulations and may be subject to fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable laws.

### **Section 507 - Dilution of Discharge**

Except where expressly authorized to do so by an applicable Pretreatment Requirement or standard, no Industrial User shall ever increase the Use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Requirement or standard.

The Board may impose mass limitations on Users who are using dilution, or in the reasonable opinion of the Board may be using dilution. The Board may also impose mass limitations on Users in other cases where the imposition of mass limits may be appropriate in the reasonable opinion of the Board.

## **ARTICLE VI**

### **PRETREATMENT**

#### **Section 601 - Pretreatment of Industrial Wastewaters**

Users shall comply with National Pretreatment Standards and Pretreatment Requirements.

Pretreatment prior to discharge to the Sewerage System is required for Wastewaters which exceed the effluent limitations established by these Rules and Regulations or which fail to meet any State or Federal standards which may govern a particular Industrial Waste and any other limits established by the Board.

The District may require any Industrial User to install and operate an Industrial Wastewater Pretreatment system to treat industrial flows prior to discharge to the District Sewerage System when it is necessary to measure, sample, restrict or prevent the discharge to the Sewerage System of certain wastes and constituents, to more equally distribute peak discharges of Industrial Wastewater or to accomplish any Pretreatment results required by the District.

When Pretreatment is required, three sets of a report and plans of the proposed system, prepared and signed by a professional engineer licensed in the State of New York, shall be submitted

to the District for review and approval. The report shall contain the basis of design for the proposed facilities or processes. Plans shall include schematics or diagrams sufficient to describe the proposed facilities or processes. Such approval shall not relieve the User of the responsibility of meeting any required effluent limitations or complying with these Rules and Regulation or any other regulations, laws and codes.

Where Pretreatment facilities are provided for Wastewater, they shall be maintained continuously in satisfactory and effective operation, by the User at the User's expense.

## **ARTICLE VII**

### **INDUSTRIAL WASTEWATER DISCHARGE PERMIT**

#### **Section 701 - Industrial Wastewater Discharge Permit**

The Board may issue Industrial Wastewater Discharge Permits for any Wastewater discharge to the Sewerage System.

Prior to discharge of Industrial Waste to the District's Sewerage System the User shall make application for an Industrial Wastewater Discharge Permit. Application shall be made by completing an application form provided by the District. The completed application along with an application fee established by the Board shall be filed with the District. If after review of the application it is determined that a permit is necessary, the applicant shall provide any additional information necessary including, but not limited to, analyses of the Wastewater and measurement or estimate of Flow Rates.

Where spill potential has been identified by the District, the Industrial Wastewater Discharge Permit shall contain provisions for spill prevention requirements. An Industrial Wastewater Discharge Permit may be required even if no Wastewater is proposed to be discharged.

Spill prevention requirements shall include submitting a Spill Prevention and Control Plan and reporting yearly and upon significant change in conditions, that the plan has been followed. The plan shall contain, at a minimum, the following elements:

- a. Description of discharge practices, including non-routine batch discharge, wash waters and rinses;
- b. Description of stored materials, chemicals and Toxic Pollutants if any;
- c. Steps for immediately notifying the Sewage Treatment Plant of spills or any discharge that is prohibited under Section 501 herein;
- d. Procedures for submitting a written notification within five (5) days of a spill or prohibited discharge to the District; and
- e. Procedures used to prevent adverse impact from accidental spills or prohibited discharges to include, at a minimum, information on the following:

- 1) Inspection and maintenance of storage areas;
- 2) handling and transfer of materials;
- 3) loading and unloading operations;
- 4) control of plant site run-off;
- 5) employee training;
- 6) containment structures or equipment including means to prevent entry to the Sanitary

Sewer;

- 7) equipment available for spill response;
- 8) measures for containing, intercepting, absorbing and collecting pollutants;
- 9) Slug Control Plan - procedures to prevent Slug Discharge;
- 10) wash-up/cleanup operation; and
- 11) disposal of spilled materials.

### **Section 702 - Transfer of Permit**

Industrial Wastewater Discharge Permits are issued to a specific User for a specific operation or process. An Industrial Wastewater Discharge Permit shall not be reassigned, transferred or sold to a new owner, new User, different premises, or a new or changed operation without the written approval of the District.

### **Section 703 - Permit Duration**

All Industrial Wastewater Discharge Permits shall be for maximum three (3) year duration. The User shall apply for a permit reissuance no later than 90 days prior to the expiration of the User's existing permit. If the User fails to apply for a permit reissuance is not later than 90 days prior to the expiration of the User's permit, the User shall make a new application for an Industrial Wastewater Discharge Permit.

### **Section 704 - Changes of Industrial Wastewater Discharge Permits**

As USEPA or NYSDEC adds or amends specific effluent guidelines, or as the Board deems necessary to protect employees, the Sewerage System, operations of the sewerage treatment plant, or to comply with the Sewage Treatment Plant's discharge permit requirements, the conditions of an Industrial Wastewater Discharge Permit may be amended by the Division of Sewerage Management. Written notice of proposed changes shall be sent to the permittee.

USEPA or NYSDEC mandated changes shall be complied with in the time limits prescribed by the documents requiring the change. Changes required by the Board may include a reasonable time for compliance.

No fee shall apply to any amendment to a permit initiated by the Board.

When changes in permit conditions are necessary, the permittee shall submit a compliance schedule within thirty days of the notice of the proposed changes. If such compliance schedule extends beyond the time set by the Board, such compliance schedule shall be subject to approval by the Board.

**Section 705 - Substantial Changes in Wastewater Character**

Whenever a User substantially alters the volume, character or strength of its Wastewater discharge to the Sewerage System as a result of production process change, process addition or subtraction, or other change in conditions, the User must notify the Board 30 days prior to altering the discharge. If this change or alteration significantly alters an existing Industrial Wastewater discharge Permit, the permittee shall apply for a new permit as outlined in Section 701.

**Section 706 - Industrial Waste Survey/Discharge Permit Application**

Users shall, when requested, complete an Industrial Waste Survey/Discharge Permit Application. The District may request the survey/application to be updated annually.

**Section 707 - Reporting Requirements**

The following reports are required to be submitted by the User to the District within the time period stated:

**a. Baseline Monitoring Report:** A Baseline Monitoring Report is required from all New Sources and Industrial Users who fall under new Categorical Pretreatment Standards.

Requirements for existing sources are that within one hundred eighty (180) days after the EPA's final administrative decision made upon a Categorical Pretreatment Standard, existing Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a sewerage treatment plant are required to submit to the District the information listed in items (1) through (8) below.

Requirements for New Sources are that at least ninety (90) days prior to commencement of discharge, New Sources and sources that become Industrial Users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the District a report which contains the information listed in items (1) through (5) as well as item (7) as listed below. New Sources shall also be required to submit information on the method of Pretreatment that the User intends to Use to meet applicable Pretreatment standards.

- 1) The name and address of the facility, including the name of the operator and owners.
- 2) A list of any environmental control permits held by or for the facility.
- 3) A brief description of the nature, average rate of production and standard industrial classification of the operations carried out by the User. The description shall include a schematic process diagram showing the point of discharge to the Sewage Treatment Plant from the regulated processes.
- 4) The average daily and maximum daily flow of all regulated process streams and all nonregulated process streams which are combined with the regulated process streams prior to discharge to the Sewage Treatment Plant. The time, date, place and method of flow-monitoring shall be indicated.

- 5) The results of sampling and analysis showing the nature and concentration in parts per million by weight (mg/l) (or mass units when required by the standard or the District) of all regulated pollutants for each regulated process. The daily average and maximum shall be reported for each regulated pollutant. The time, date, place, method of sampling, and analysis shall be indicated.
- 6) For existing Users, a statement shall be included by an authorized representative of the Industrial User and certified by a professional engineer registered in the State of New York as to whether the Categorical Pretreatment Standards or other Pretreatment Requirements are being met on a consistent basis and, if not, whether additional operation, maintenance or additional Pretreatment or treatment is required to consistently meet the standards or requirements.
- 7) For new Users, a statement shall be included by an authorized representative of the Industrial User and certified by a professional engineer registered in the State of New York that the User will meet all Categorical Pretreatment Standards and other applicable Pretreatment Requirements on a consistent basis.
- 8) For existing Users that require increased operations and maintenance to achieve compliance or which require additional treatment or Pretreatment prior to discharge to the Sewage Treatment Plant, a compliance schedule shall be included. This compliance schedule shall contain increments of progress such as completion dates of major events leading to the construction and operation of the additional treatment or Pretreatment facilities. No increment of the schedule shall exceed nine (9) months. Final acceptance of this compliance schedule is dependent on the prior approval of the District.

**b. Ninety (90) Day Compliance Monitoring Report:** A Ninety-day Categorical Report is required for all Users subject to Categorical Pretreatment Standards. An initial report of compliance is required beginning ninety (90) days after the final issuance of Pretreatment standards as established by the EPA for existing Users, or for New Sources, ninety (90) days after commencement of discharge to the Sewage Treatment Plant.

**c. Operation and Maintenance/Pretreatment Certification:** An operation and maintenance/Pretreatment certification is required from a categorical Industrial User or non-categorical Significant Industrial User. This certification must consist of a Baseline Monitoring Report and a ninety (90) day categorical report, and the Industrial User must obtain a statement reviewed by an authorized representative of the Industrial User and certified by a New York State licensed Professional Engineer, indicating whether Pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional Pretreatment is required by the Industrial User to meet the Pretreatment standards.

**d. Changed Conditions Report:** Each Industrial User must notify the District of any planned significant changes to the User's operation or system which might alter the nature, quality, or volume of its Wastewater at least thirty (30) days before the change.

Immediate notification must be provided to the Division of Sewerage Management for any changes affecting the potential for a slug discharge, thereby allowing the District to reevaluate the need for a slug control plan or other actions to prevent such discharges.

1. The District may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater discharge permit application.
2. The District may issue an Industrial Wastewater Discharge Permit or modify an existing Industrial Wastewater Discharge Permit, in response to changed conditions or anticipated changed conditions.
3. For purposes of this requirement, significant changes include, but are not limited to, flow or mass loadings changes of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

**e. Periodic Compliance Report:** All Users subject to Categorical Pretreatment Standards and all significant non-categorical Users shall submit to the District a periodic compliance report twice yearly, unless more frequent reporting is required by their Industrial Wastewater Discharge Permit. Periodic compliance reports containing the information specified in Paragraphs a. 4) and a. 5) of this section.

**f. Notice of Violation/Resampling Requirements:** If sampling or analyses indicates a violation of the Industrial Wastewater Discharge Permit, the User subject to Categorical Pretreatment Standards or a significant non-categorical User shall notify the District immediately. The User shall also repeat the sampling and analysis and submit a written report with the results of the repeat analysis to the District within 30 days after becoming aware of the violation.

**g. Compliance Schedule Progress Reports:** All Users who have submitted a compliance schedule as part of the Baseline Monitoring Report shall, within fourteen (14) days of a compliance schedule milestone date and within 14 days of the final date for compliance, submit a progress report to the District indicating whether or not the milestone or final compliance date was met and, if not, when compliance with the milestone event is expected and its probable effect on the remainder of the compliance schedule.

**h. Notification of Discharge of Hazardous Wastes:** All Industrial Users shall notify the District, the EPA Regional Waste Management Division Director and the State Hazardous Waste Authority, in writing, of any discharge into the Sewage Treatment Plant of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261.

**i. Additional Reports:** Additional reporting requirements including, but not limited to, all water Uses, off-site Wastewater disposal and mass balances, may be specifically required by the Industrial Wastewater Discharge Permit, or by the District.

**j. Record Keeping:** All Industrial Users must keep records of monitoring activities and results for a minimum of three (3) years. In the case of pending litigation or when requested by the District, a longer retention period may be required.

**Section 708 - Discharge Monitoring**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in these Rules and Regulations shall be determined in accordance with procedures approved in 40 CFR, Part 136 and conform with the New York State Department of Health, Environmental Laboratory Approval Program for Environmental and Wastewater samples. The sampling procedures and reports shall conform to the District's Sampling, Measurement and Analytical Guidelines.

**Section 709 - Refusal to Sample and Analyze**

If a User refuses to sample and analyze the Wastewater as requested, the Board may arrange to have the sampling and analysis performed. The User shall be liable for all costs for the sampling and analysis of the Wastewater in addition to any penalties which may apply under Article XI.

An Industrial User classified as a high volume water User may request a credit due to partial retention of the metered water volume in their process. Said User may, at the User's expense, retain the services of an engineer to develop a report certifying the proportion of metered water usage that does not enter the sanitary sewer system. The engineering report shall be stamped by a licensed professional engineer and approved by the Division of Sewerage Management. Following approval of the engineering report, the Division of Sewerage Management will in subsequent years adjust the water meter data used for billing based on the proportion. As an alternative, the User may, at its expense, install and maintain a certified flow meter to monitor and record the actual wastewater flows discharged in the sanitary sewer system, with the flow data to be used in lieu of water meter data for billing purposes. Said flow meter shall be installed at a location on the User's property determined by the Division of Sewerage Management. The flow meter shall be calibrated a minimum of once a year with calibration reports submitted to and approved by the Division of Sewerage Management.

**Section 710 - Control Manhole**

An Industrial User shall provide an approvable sampling manhole(s) or other sampling point(s) if required by the District. Measurement of Wastewater Flow Rates at the sampling point, and/or the set up and maintenance on the premises of sampling devices in a manner approved by the District, shall be provided if required by the District. Sampling required under an Industrial Wastewater Discharge Permit shall be obtained from the approved sampling point(s). The Industrial User shall ensure unrestricted access by District personnel to any sampling point.

**Section 711 - Calibration of Flow Rate Measuring Equipment**

Devices to measure Flow Rates shall be calibrated and certified at least once per year by a service Person authorized by the equipment manufacturer or otherwise by an independent Person qualified to calibrate and certify the device to measure Flow Rates. A copy of the certification shall be provided to the District. The cost of the certification shall be paid by the User. Temporary Flow Rate measuring devices shall be installed and calibrated in a manner acceptable to the District.

**ARTICLE VIII**

**WASTEHAULERS**

**Section 801 – Wastehauler Discharge Permit**

The Board may issue a Wastehauler Discharge Permit for any operator of liquid transport vehicle wishing to discharge Septage or Sewage to the District's Sewerage System. The operator must have a NYSDEC Septic Tank Cleaner & Industrial Waste Collector Permit, which indicates the Sewer District as the location and manner of disposing of waste, and must have an approved Erie County Standard Insurance Certificate.

Prior to discharge of trucked waste to the Districts Sewerage System, the User shall make application for a Wastehaulers Discharge Permit. Application shall be made by completing an application form provided by the District. The completed application along with an application fee established by the Board, shall be filed with the District. If after review of the application it is determined that more information is necessary, the applicant shall provide such additional information.

The Wastehauler Discharge Permit may specify limitations on the type character, quantity, time and location of wastes permitted to be discharged and the conditions for and manner of discharge, Flow Rates, sampling, analysis, and record keeping requirements.

The Wastehauler Discharge Permit will be valid for a period of one (1) year and a fee to discharge as determined by the Board shall be paid by the date indicated in the Permit.

The Board may immediately amend or revoke a Wastehauler Discharge Permit for noncompliance to its terms, to protect the Sewerage System or Sewage Treatment Plant, protect human life, the environment or to eliminate a nuisance, upon written notice to the permit holder.

**ARTICLE IX**

**CONFIDENTIAL INFORMATION**

**Section 901 – Availability of Information to Public Restrictions**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the District's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the District, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state or federal law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the SPDES or pretreatment programs, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.



**ARTICLE X**

**INSPECTIONS**

**Section 1001 - Powers and Authority of Inspectors**

Per Erie County Administrative Code Section 9.02 (d); The commissioner of environment and planning or any authorized employee of the department may inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or for the purposes of ascertaining compliance or non-compliance with any rule or regulation or other promulgated pursuant to the County Charter or Code; provided, however, except in the case of emergency, such entry shall be at reasonable times and with due prior notice to the owner or occupant of said property.

Authorized representatives of the District, bearing proper identification, shall be permitted to enter all properties in the District and contracting areas which are served by a Sanitary Sewer for the purpose of Inspection, observation, records examination and copying, measurement, sampling and testing and the performance of any additional duties relative to the Use or connection to the Sanitary Sewer, in accordance with the provisions of these Rules and Regulations. Such access shall be provided during normal business hours upon notification to the owner, User, their employees, security personnel or representative. Inspection of sampling or measuring points identified in Industrial Wastewater Discharge Permits however, shall be permitted at any time. Unreasonable delays in allowing access to the User's premises or denial of such access shall be a violation of these Rules and Regulations.

In the event the District has reasonable cause to suspect that a violation exists, the District personnel shall be granted access upon so informing the owner, User, their employees, security personnel or representative that there is a suspected violation. In the event access is denied, or otherwise prevented, the District may seek a warrant from a court of competent jurisdiction to enter such property.

Pursuing a warrant to enter a property shall not limit the application of other remedies under these Rules and Regulations.

**ARTICLE XI**

**ENFORCEMENT**

**Section 1101 - Notice of Violation**

When the District finds that a User has violated or is violating any provision of these Rules and Regulations or the terms of an Industrial Wastewater Discharge Permit or order issued hereunder, or any other Pretreatment Requirement or standards, the District may serve upon that User a written Notice of Violation.

The User shall correct or eliminate the violation as soon as possible upon receipt of the Notice of Violation. Within twenty (20) days of the receipt of such Notice of Violation, the User

shall submit to the District a written explanation of the cause of the violation and, if not corrected or eliminated, a plan and schedule for the correction and prevention thereof. The plan and schedule are subject to approval by the District. Submission of this explanation and plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the District to take any action, including but not limited to, emergency actions or any other enforcement action, without first issuing a Notice of Violation.

### **Section 1102 - Consent Stipulations**

The Board may enter into a Consent Stipulation whereby a User agrees to voluntary compliance in lieu of further enforcement for noncompliance. Such Consent Stipulation shall include specific actions to be taken by the User to correct the noncompliance within time periods specified. Such Consent Stipulation shall have the same force and effect as a Compliance Order issued pursuant to Section 1103 of these Rules and Regulations and shall be judicially enforceable.

### **Section 1103 - Enforcement Hearing**

**a. Notice of Hearing:** Whenever it shall appear that there has been a violation of any provision of these Rules and Regulations, the Board may schedule a compliance hearing. If a User is other than the property owner, the Board may bring an enforcement action against either or both parties. The alleged violator(s) shall be served a Notice of Hearing at least twenty (20) days prior to the day specified for the hearing. The Notice of Hearing shall state the time and place designated for the holding of the hearing and particulars of the violation(s) charged.

**b. Hearing Procedure:** At the time of the hearing the alleged violator may be represented by legal counsel, and may present evidence, and shall have the opportunity to be heard. Failure to appear or to produce evidence or information relative to the alleged violation may be presumed an admission of the alleged violation(s).

The Board may, in lieu of conducting the hearing itself, appoint a hearing officer to conduct the hearing.

The Board shall determine if violation(s) have occurred based upon its own investigation as well as the evidence and statements presented at the hearing, and upon the hearing officer's report and recommendation where a hearing officer has been appointed.

**c. Hearing Findings:** Upon finding that a violation occurred the Board may levy a premium assessment for such violation pursuant to Section 1104. Where the Board finds that violations are continuing, or can be reasonably expected to continue, the Board may in addition to or in lieu of a premium assessment, issue a Compliance Order to the User requiring that the User come into compliance within a specified time frame, with milestone dates; or the Board may issue a Cease and Desist Order to the User directing the User to take such appropriate remedial or preventive action as may be needed to halt or prevent continuing or threatened violations including halting operations and/or suspending Wastewater discharge.

The Board may enforce these Rules and Regulations by stipulation, agreed settlement, consent order or other conciliation agreements.

A Compliance Order or Cease and Desist Order does not relieve the User of liability for any violation, including any continuing violation. The levy of a premium assessment or issuance of a compliance order or cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

**Section 1104 - Penalties**

Violations of Article III, Building Sewer and Sewerage System Extensions, Article V, Sewage Discharge Regulations, Article VI, Pretreatment of Industrial Wastewater, Article VII, Industrial Wastewater Discharge Permit Article VIII, Wastehauler's Discharge Permit, or Article X, Powers and Authority of Inspectors will be subject to a premium assessment not to exceed a maximum of ten thousand dollars (\$10,000) for each violation.

Violations of any other Article of these Rules and Regulations will be subject to a premium assessment not to exceed a maximum of five hundred dollars (\$500) for each violation. Violations include the failure to pay any fees, charges or surcharges imposed hereby.

In determining the amount of the above premium assessments the Board may consider factors such as, but not limited to, the nature of the violation, the magnitude of impact of the violation on human health, the environment and/or treatment plant operation, economic benefit, the Users past violation record, and any other relevant factors.

Each day a violation exists shall constitute a separate violation. A day shall be a twenty-four hour period beginning at 12:01 a.m. and ending the following 12:01 a.m.

**Section 1105 - Emergency Suspensions**

The District may immediately suspend a User's discharge whenever such suspension is deemed necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of Persons. In case of such emergency suspension, the District shall attempt to provide reasonable advance notice to the User to correct the threatening discharge.

The District may also immediately suspend a User's discharge after informal notice to the User, if the discharge does or threatens to interfere with the operation of the Sewage Treatment Plant and/or Sewerage System or the discharge presents, or may present, an endangerment to the environment. In case of such suspension, the District shall attempt to provide reasonable advance notice to the User to correct the threatening discharge.

Any User notified of a suspension of its discharge shall immediately stop or eliminate the discharge. In the event of a User's failure to immediately comply voluntarily with the suspension order, the District may take such steps as deemed necessary including immediate severance of the Sewer connection to prevent or minimize damage to the Sewage Treatment Plant, its receiving stream, or endangerment to any Persons. The District may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the District that the period of endangerment has passed, unless the revocation proceedings in Section 1107 of the Rules and Regulations are initiated against the User.

A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit, within five (5) days, a detailed written statement to the District describing the causes of the harmful contribution and the measures taken to prevent any future occurrence of the endangerment.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

**Section 1106 - Suspension of an Industrial Wastewater Discharge Permit**

The Board may suspend an Industrial Wastewater Discharge Permit after a hearing pursuant to Section 1103, if such suspension is found to be necessary to stop an actual or threatened discharge of Wastewater which presents, or may present, a hazard to public health, safety or welfare, to the environment, to the Sewerage System or sewerage treatment plant or which causes, or may be reasonably expected to cause, the Sewage Treatment Plant to violate its NPDES or SPDES discharge permit.

A User, when notified of the suspension of its Industrial Wastewater Discharge Permit, shall immediately cease the discharge of its Wastewater identified in such notice.

The Board may reinstate the User's Industrial Wastewater Discharge Permit when the User provides proof acceptable to the District that its discharge will not present a hazard or cause Interference, Pass Through or limit sludge disposal options.

**Section 1107 - Revocation of an Industrial Wastewater Discharge Permit**

The Board may revoke an Industrial Wastewater Discharge Permit, after a hearing, pursuant to Section 1103.

Any User who violates any of the following conditions may be subject to revocation of its Industrial Wastewater Discharge Permit:

- a) Violation of these Rules and Regulations which the Board has determined warrants revocation;
- b) Violation of an Industrial Wastewater Discharge Permit where the Board determines that future compliance cannot be expected to occur;
- c) Failure to accurately report the Wastewater constituents and characteristics of its discharge;
- d) Failure to report significant changes in operations or Wastewater volume, constituents, and characteristics prior to discharge;
- e) Refusal of reasonable access to the User's premises for the purpose of Inspection, monitoring, or sampling; or
- f) Falsification of data or information required or related to compliance.

- g) Failure to pay Sewer charges or premium assessments within ninety (90) days from the District's notice requesting payment of amounts past due.

Any User whose permit has been revoked shall immediately cease all discharge of Wastewater covered by the permit. The Board may order the Wastewater discharge line(s) that are in violation to be disconnected or blocked from the Sanitary Sewer to insure compliance with the order of revocation.

The Board may authorize the issuance of a new permit upon proof of satisfactory compliance with all discharge requirements of these Rules and Regulations and receipt of a new application and payment of all fees and premium assessments. Costs incurred by the Board in revoking the permit and disconnecting or blocking the industrial discharge shall also be paid by the permittee before a new permit can be issued.

### **Section 1108 - Liability**

Any Person violating any of the provisions of these Rules and Regulations shall become liable to the District for any expense, loss or damage occasioned the District by reason of such violation.

In addition, if the NYSDEC and/or USEPA fines the District as the result of any Person violating any of the provisions of these Rules and Regulations, the fine shall be passed on to the responsible Person.

### **Section 1109 - Legal Action**

Nothing in this article shall be construed to limit the right of the Board to enforce or avail themselves to the benefits of any and all other applicable laws and ordinances, including injunctive relief.

The Board has the right to seek injunctive relief for a User's non-compliance with any Pretreatment Requirements or standards or any other provisions of these Rules and Regulations.

When the Board finds that a User has violated, or continues to violate, any provision of these Rules and Regulations, an Industrial Wastewater Discharge Permit, or Order issued hereunder, or any other Pretreatment Requirement or standard, the Board may petition to a Court of competent jurisdiction, through the County Attorney's office, for the issuance of a temporary or permanent injunction. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action including but not limited to seeking specific performance or assessing civil penalties against a User.

### **Section 1110 - Publication of Violators**

The District shall make public, annually, a list of Industrial Users which over the previous 12 months were in significant noncompliance with the requirements or conditions of these Rules and Regulations or any National Pretreatment Standards or other Pretreatment Requirements.

The publication of violators shall be in a newspaper with circulation in the District. In the publication the District shall list each Industrial User with the following information:

- Name and address of the company;
- Description of the violation;
- Date of violation;
- Action taken by the District; and
- Whether the violation has been corrected.

Additionally, the publication will contain an address and telephone number for any Persons wishing to request more information with regards to this publication.

For the purposes of these Rules and Regulations significant non-compliance shall occur when any of the following conditions arise:

- a) Chronic violations of Wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH.)
- c) Any other violation of a Pretreatment effluent limit (daily maximum or longer-term average) that the District determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the District's or Treatment Agency's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B);
- e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- g) Failure to accurately report noncompliance;
- h) Any other violation or group of violations which the District determines will adversely affect the operation or implementation of the District Pretreatment program.

**ARTICLE XII**

**CONFIDENTIALITY**

**Section 1201 - Confidentiality**

Confidentiality must be specifically requested by the User at the time of submission of any information required under these Rules and Regulations. If a written request for confidentiality is not made, such information will be made available to the public without further notice. Data on Wastewater constituents and characteristics will not be recognized as confidential information.

The confidentiality granted any material submitted will be governed by applicable State and Federal laws.

**ARTICLE XIII**

**SEWER CHARGES TAXES AND FEES**

**Section 1301 - Fee for Permit to Connect and Inspection Charges**

Each applicant for a Permit to Connect shall pay a fee for the permit and applicable Inspection charges. The amount of the fee and Inspection charges shall be determined by the Board and will be posted in each District office. The fee and Inspection charges shall be paid at the time the permit is issued.

**Section 1302 – Sewer Taxes**

The sewer taxes are set and collected in accordance with the County Law Article 5-A, Sections 266, 270 and 271.

**Section 1303 - Unpaid Sewer Charges**

Payment of Sewer charges are due within thirty (30) days of invoice. Unpaid Sewer charges including premium assessments shall become a lien upon the real property for which, or in connection with which, sewer services were provided and from the first day fixed for payment of such charges. Interest shall be due and payable in the same manner as other County taxes.

**ARTICLE XIV**

**SAVING CLAUSE**

**Section 1401 - Validity**

The invalidity of any section, clause, sentence or provision of these Rules and Regulations shall not affect the validity of any other part of these Rules and Regulations which can be given effect without such invalid part or parts.

**ARTICLE XV**

**EFFECTIVE DATE**

**Section 1501 - Rules and Regulations in Force**

These Rules and Regulations shall be in full force and effect and shall supercede previous Rules and Regulations upon their adoption as provided by law.

Adopted by the Erie County Legislature at the 6th session on March 26, 2009.

MR. KOZUB moved to approve the item as amended. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

Item 23 – MR. WROBLEWSKI presented the following report and moved for immediate consideration and approval. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 92

MARCH 19, 2009	PUBLIC SAFETY COMMITTEE REPORT NO. 4
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ALL MEMBERS PRESENT, EXCEPT LEGISLATOR MILLS.  
CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following item is hereby received and filed:

a. COMM. 5E-26 (2009)  
COUNTY EXECUTIVE: DWI Victim Impact Panel Fee  
(5-0)

2. COMM. 5E-23 (2009)  
COUNTY EXECUTIVE

WHEREAS, the Department of Probation is responsible for making sentencing recommendations, providing supervision and services to address the needs of juveniles in the Juvenile Justice System and improve the quality of life in our community; and

WHEREAS, the New York State Division of Criminal Justice Services (DCJS) has awarded the Erie County Probation Department grant funds for the purpose of establishing a Juvenile Accountability Block Grant (JABG) Program that enables the probation department to establish and maintain an inter agency information sharing program with our regional Crime Analysis Center; and

WHEREAS, the grant award will enable the Probation Department to make more informed decisions regarding control, supervision, and treatment of juveniles.

NOW, THEREFORE, BE IT



RESOLVED, that the County Executive is hereby authorized to accept an award from the New York State Division of Criminal Justice Services in the amount of \$32,960; and be it further

RESOLVED, that the necessary funds to cover the cost of this program have been appropriated using the grant funds covered in this resolution; and be it further

RESOLVED, that the budget for the JBAG grant, JB08-1040-E00 contract T612014, be established as follows:

Erie County Probation Department  
Fund 281- Business Area 126  
Juvenile Accountability Block Grant- Accountability Program  
April 1, 2009 – March 31, 2010

Revenue

<u>Account</u>	<u>Amount</u>
409000- State Aid Revenues	<u>\$32,960</u>
TOTAL	\$32,960

Appropriations

<u>Account</u>	<u>Amount</u>
500000 - Personnel	\$ 5,550
502000 - Fringe Benefits	\$ 2,292
505000 – Office Supplies	\$ 998
510000 – Local Mileage	\$ 4,545
561410 - Lab & Technical Equipment	<u>\$19,575</u>
TOTAL	\$32,960
NET IMPACT	\$ 0

and be it further

RESOLVED, that the Director of Budget & Management be authorized to adjust the budget as required to comply with federally approved funding levels.

(5-0)

**TIMOTHY M. WROBLEWSKI**  
**CHAIR**

Item 24 – MS. MILLER-WILLIAMS presented the following report and moved for immediate consideration and approval. MS. WHYTE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 93

MARCH 19, 2009

GOVERNMENT AFFAIRS  
COMMITTEE

REPORT NO. 3
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ALL MEMBERS PRESENT. CHAIR MARINELLI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, the following items are hereby received and filed:
  - a. INTRO 2-1 (2008)  
KONST & MAZUR: The Name of the New Federal Courthouse  
(6-0)
  - b. INTRO 3-4 (2008)  
KOZUB: Naming the Erie County Family Court Building "The Honorable Vincent E. Doyle Family Court Building"  
(4-2) Legislators Kozub and Miller-Williams voted in the negative.
  - c. COMM. 15M-4 (2008)  
STONEWALL DEMOCRATS OF WNY: Supporting the Institution of Domestic Partnership Benefits for Employees  
(6-0)
  - d. COMM. 17E-1 (2008)  
COMPTROLLER: Establishment of Whistleblower Policy  
(6-0)
  - e. INTRO 1-4 (2009)  
MARINELLI, WHYTE, KONST & REYNOLDS: Technical Amendments C for 2009 Budget  
(6-0)
  - f. COMM. 2E-4 (2009)  
COMPTROLLER: Audit of the EC Division of Purchase for the Period 7/1/06 to 6/30/08  
(6-0)
  - g. COMM. 4D-3 (2009)  
COUNTY ATTORNEY: Transmittal of New Claims Against Erie County  
(6-0)
  - h. COMM. 4M-5 (2009)  
EC COUNTY BAR ASSOCIATION AID TO INDIGENT PRISONERS SOCIETY:  
Quarterly Report of Assigned Counsel Program for 4th Quarter of 2008  
(6-0)
  - i. COMM. 4M-9 (2009)  
ALTERNATIVE CARE SERVICES OF WNY, INC.: Legislature Budget Accountability Act - 2008 Close-Out Report  
(6-0)
  - j. COMM. 5D-1 (2009)

COUNTY ATTORNEY: Transmittal of New Claims Against Erie County  
(6-0)

k. COMM. 5D-4 (2009)

COUNTY ATTORNEY: Letter to Erie County Legislature Concerning Local Law Intro 3 of 2008  
(6-0)

k. COMM. 5M-6 (2009)

NYS BANKING DEPARTMENT: Notice of Hearing Concerning NYS's Banking Development District Program  
(6-0)

2. RESOLVED, the following items are hereby received and filed and referred to the PUBLIC SAFETY COMMITTEE:

a. COMM. 4E-21 (2009)

SHERIFF: Personnel Adjustments  
(6-0)

b. COMM. 5D-3 (2009)

DEPUTY COMPTROLLER - AUDIT & CONTROL: Dept. of Probation - Audit of Cash Receipts & Disbursements, 1/1/06 - 9/30/08  
(6-0)

3. RESOLVED, the following items are hereby received and filed and referred to the COMMUNITY ENRICHMENT COMMITTEE:

a. COMM. 4M-6 (2009)

BUFFALO NIAGARA CONVENTION & VISITORS BUREAU: Legislature Budget Accountability Act - 2008 Close-Out Report  
(6-0)

b. COMM. 4M-7 (2009)

BUFFALO NIAGARA CONVENTION CENTER: Legislature Budget Accountability Act - 2008 Close-Out Report  
(6-0)

4. COMM. 5E-20 (2009)

COUNTY EXECUTIVE

WHEREAS, the Office of Real Property Tax Services received a request on behalf of the Town of Newstead regarding the referenced parcels; and

WHEREAS, these parcels were reviewed and approved for sale by the Advisory Review Committee; and

WHEREAS, these parcels were approved for purchase by the Town of Newstead in connection with the authorization of subdivisions for the purposes of acquiring and improving

greenspaces, parks and trails throughout the Town of Newstead for the benefit of the residents of the Town of Newstead; and

WHEREAS, these parcels which consist of approximately 2.9 acres on Cummings Road, SBL # 60.00-2-61.3 and 9.6 acres on Buell Street SBL # 61.00-1-48 would be suitable for construction of green space and a trail and/or bike path; and

WHEREAS, the Town of Newstead has offered the total sum of \$15,000.00 for these two parcels.

NOW, THEREFORE, BE IT

RESOLVED that these parcels of land be sold without public auction pursuant to Article 14, Section 14-1.0 of the Erie County Tax Act to the Town of Newstead, Church & John Streets, Akron, New York 14001, for the sum of Fifteen Thousand and 00/100 Dollars (\$15,000.00); and be it further

RESOLVED, that the Erie County Executive is hereby authorized and directed to execute a quit claim deed conveying the interest of the County of Erie in the above described properties to the aforesaid purchaser; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Division of Budget and Management, the County Comptroller, the County Attorney and the Director of Real Property Tax Service Office.

(6-0)

**BARBARA MILLER-WILLIAMS  
CHAIR**

Item 25 – MR. WALTER moved to reconsider the ECONOMIC DEVELOPMENT COMMITTEE report. MR. RATH seconded.

CHAIR MARINELLI directed that a roll-call vote be taken.

AYES: MR. MILLS, MR. RATH & MR. WALTER. NOES: MS. GRANT, MS. IANNELLO, MR. KENNEDY, MS. KONST, MR. KOZUB, MR. LOUGHRAN, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. WHYTE and MR. WROBLEWSKI. (AYES: 3; NOES: 12)

FAILED.

**LEGISLATOR RESOLUTIONS**

Item 26 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 94

RE: Invitation to UB Students Concerning

Renewable Energy Demonstration and  
Exhibits in Erie County  
(INTRO 6-1)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATOR KOZUB**

WHEREAS, it is important to raise public awareness in Erie County about the need to conserve energy and utilize renewable energy technologies in order to help reduce greenhouse gasses which contribute to global warming; and

WHEREAS, there is an community-wide effort to attract new renewable energy technology businesses and "green" jobs to our community; and

WHEREAS, exhibits and demonstrations of clean air technologies and energy conservation strategies can not only help our citizens make their homes and businesses more energy efficient to reduce their utility bills, but can also create a community of support for efforts to attract new businesses and jobs; and

WHEREAS, a team of UB students have been promoting the WNY Renewable Energy Demonstration Park and a Solar-Powered Carrousel in the City of Buffalo as a special project which would help create an image of a forward-looking city interested in reviving its leadership in innovations and inventions related to renewable energy technologies such as solar and wind, and which would encourage talented UB graduates to remain and help revitalize the economy and quality of life in Buffalo.

NOW, THEREFORE, BE IT

RESOLVED, the Erie County Legislature invites the UB students Ashley Humphreys, Josh Fuller, Malcolm Kim, and Justin Putnam to make a brief presentation to the Energy & Environment Committee as to why they are advocating for renewable energy demonstrations and exhibits in Erie County.

MS. WHYTE moved to amend the resolution by adding Et Al Sponsorship. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MR. KOZUB seconded.

CARRIED UNANIMOUSLY.

Item 27 – CHAIR MARINELLI directed that the following item be referred to the COMMUNITY ENRICHMENT COMMITTEE.

GRANTED.

INTRO 6-2 from RATH Supporting a Study to Examine Relocation of the Williamsville Branch of the Buffalo & Erie County Public Library to Old Red Mill in Williamsville.

Item 28 – MR. MILLS presented the following resolution and moved for immediate consideration. MS. WHYTE seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 95

RE: Requesting Support of the Western New York Federal and State Delegations on Behalf of the Roycroft Campus Corporation's Ongoing Efforts to Restore the Historic Roycroft Campus (INTRO 6-3)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATOR MILLS**

WHEREAS, the Roycroft Campus Corporation (RCC) has successfully raised \$2.4 million towards their \$3.5 million goal to reconstruct the historic Power House, an integral component of the unique Roycroft Campus located in East Aurora; and

WHEREAS, the RCC's ultimate goal is to bring back to life the Roycroft community and ideals by re-introducing working artisans on the Campus, developing comprehensive, compelling and multi-faceted interpretative and educational programming; encouraging the development of a center for creativity and innovation in the decorative arts, fine arts and literature; and most importantly, by restoring this important economic development project as a functioning business as well as creating a financially sustainable operation; and

WHEREAS, the Roycroft Campus was designated as a National Historic Landmark in 1986 and it is the best preserved and most complete complex of buildings remaining in the United States of the "guilds" that evolved as centers of craftsmanship and philosophy and the campus is the original and only authentic Arts and Crafts community in the United States; and

WHEREAS, the RCC's vision is to re-create the East Aurora campus and develop educational and programming interpretation as if the internationally recognized Elbert Hubbard and the Roycrofters never left the Roycroft Campus; and

WHEREAS, in the 1980's the Roycrofters were the vanguard of the creation of the uniquely American "Arts and Crafts" style, a decorative arts design that emphasizes space, clean lines and simplicity of design; and

WHEREAS, the Campus contains 14 structures including the Roycroft Inn, the Power House, the Copper Shop, the Chapel, the Print Shop, and the Furniture Shop, to name a few; and

WHEREAS, the Campus began to fall into disrepair over time and by 1989, was placed by the National Trust for Historic Preservation on its *11 Most Endangered Places* list of historic properties that are severely at risk; and

WHEREAS, the Campus has continued to deteriorate significantly since that time and over the last two decades, the Power House has been reduced to a ruin, large portions of the Furniture Shop and the Garages have been lost, historic features of other buildings have been removed or compromised and the threat to the historic integrity of the Campus as a whole is real and imminent; and

WHEREAS, the historic Power House was built with rusticated concrete blocks and half-timbering and stucco in 1910 and was the last major building added to the Roycroft Campus; and

WHEREAS, the Power House contained three coal-fired steam generators and provided electricity and heat to the Roycroft buildings in an underground system and the west end of the structure included a massive, square brick chimney centered on the façade, which extended to a height of 83 feet; and

WHEREAS, in February 1997, the Power House was virtually destroyed by a fire and in 2004, the building suffered additional losses and the extreme wind and winter conditions caused two exterior walls to collapse; and

WHEREAS, the RCC subsequently purchased the Power House in 2005 for \$225,000; and

WHEREAS, the RCC has completed an extensive Historic Structures Report which recommended that the RCC rebuild the historically significant Power House to the way it looked when originally built; and

WHEREAS, the preliminary plans for the building include public spaces, event and festival space, artisan and classroom space, a gift shop area, and smaller meeting/office rooms, as well as potential gallery space for a number of exhibits by various Roycrofters which would feature the distinctive and geometric decorative arts design that has become known as the "Arts and Crafts" movement; and

WHEREAS, restoration of the Power House will enhance the RCC's efforts to preserve, interpret and greatly enhance public access to, and understanding of, a historic place that was the creative center of an influential cultural and artistic movement that swept the country in the late 1880's and still resounds today; and

WHEREAS, the Campus will also serve as a Village Square, providing much needed green space for passive recreational opportunities and the restoration of the Power House will also enable the RCC to continue adaptive re-use of this historic structure for a wide-range of community purposes; and

WHEREAS, the Roycroft Campus currently welcomes over 150,000 visitors each year and a destination for those seeking cultural tourism.

NOW, THEREFORE, BE IT

RESOLVED, that the Members of the Erie County Legislature do hereby strongly urge the members of the Western New York Congressional Delegation and the members of the New York

State Assembly and Senate Delegation, as well as New York State Governor David Paterson to fund and actively support the Roycroft Campus Corporation's pending requests for \$500,000 in federal funds and \$500,000 in state funds towards the \$3.5 million reconstruction of the historic Power House; and be it further

RESOLVED, that a certified copy of this Resolution shall be forwarded to each member of the Western New York Congressional Delegation and the New York State Assembly and Senate Delegation, as well as New York State Governor David Paterson.

MS. WHYTE moved to amend the resolution by adding Et Al Sponsorship. MR. LOUGHRAN seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MR. WROBLEWSKI seconded.

CARRIED UNANIMOUSLY.

Item 29 – CHAIR MARINELLI directed that the following item be referred to the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

INTRO 6-4 from RATH Opposing Upstate Rate Increases by the New York State Power Authority.

Item 30 – MS. WHYTE presented the following resolution and moved for immediate consideration. MR. REYNOLDS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 96

RE: Expressing Support for Federal Funding  
for a Women's Bone Health Center at  
ECMC  
(INTRO 6-5)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATOR MAZUR**

WHEREAS, the population of Erie County and the greater Buffalo Niagara region is an aging one with multiple health risks; and

WHEREAS, one of the most common health risks facing this population is osteoporosis and other bone health issues as reported by the United States Surgeon General's Report on skeletal health, 2004; and



WHEREAS, the surgeon general referred to osteoporosis as a major public health threat for an estimated 44 million Americans, or 55% of people 50 years and older, with 10 million individuals having osteoporosis and an estimated 34 million at risk for developing osteoporosis; and

WHEREAS, approximately one in two women and one in four men will have a fracture related to osteoporosis; and a woman's risk of hip fracture equals the combined risk rate for breast, uterine and ovarian cancer; and

WHEREAS, through education and outreach the effects of osteoporosis can be significantly lessened, thereby reducing the cost of hospitalization, surgery and post- surgical care; and

WHEREAS, currently, Erie County Medical Center is requesting federal funding to fund a Woman's Bone Health Center to mitigate the risk of fractures related to osteoporosis and poor bone health; and

WHEREAS, ECMC is seeking to create a national model for bone and skeletal health care through preventative treatment; and

WHEREAS, the ECMC Woman's Bone Health Center will be the first of its kind in the nation and bring national attention to ECMC and Western New York; and

WHEREAS, education and outreach will lessen the burden and drain on Medicaid and Medicare health funds, as well as the human toll of bone-related illness and disability.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby endorse the ECMC Woman's Bone Health Center, a new and innovative approach to the treatment and prevention of bone and skeletal health issues; and be it further

RESOLVED, that the Erie County Legislature encourage the investment of federal funds to initiate such a precedent-setting program at ECMC; and be it further

RESOLVED, that certified copies of this resolution be sent to U.S. Senator Charles Schumer, U.S. Senator Kirsten Gillibrand and to the Western New York Delegation to the United States House of Representatives.

MS. WHYTE moved to amend the resolution by adding Et Al Sponsorship. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MR. MAZUR seconded.

CARRIED UNANIMOUSLY.

Item 31 – CHAIR MARINELLI directed that the following item be referred to the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

INTRO 6-6 from MAZUR, WHYTE, MILLER-WILLIAMS, GRANT & REYNOLDS  
Expressing Profound Disappointment in the County Executive's Unilateral Decision to Terminate  
Erie County's Administration of the Federally Funded WIC Nutrition Program.

Item 32 – CHAIR MARINELLI directed that the following item be referred to the HEALTH  
& HUMAN SERVICES COMMITTEE.

GRANTED.

INTRO 6-7 from WHYTE & MAZUR Pay Rate for Nurses.

Item 33 – MS. WHYTE presented the following resolution and moved for immediate  
consideration and approval. MR. KENNEDY seconded.

MS. WHYTE withdrew her motion.

MS. WHYTE presented the following resolution and moved for immediate consideration.  
MR. KENNEDY seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 97

RE: Urging the New York State Senate to  
Include Funding for the Community  
Optional Preventative Services Program  
in the 2009-10 State Budget  
(INTRO 6-8)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATORS MARINELLI, WHYTE, MILLS, KOZUB, KENNEDY, WALTER, KONST,  
MAZUR, WROBLEWSKI, IANNELLO, REYNOLDS, LOUGHRAN & RATH**

WHEREAS, Governor Paterson's proposed 2009-10 Executive Budget recommends the  
elimination of funding for the Community Optional Preventative Services (COPS) program  
retroactively from October, 2008; and

WHEREAS, this funding is received by Erie County from the State to reimburse the county  
for expenses incurred in providing preventative service programming for youth and families as well  
as recreational services; and

WHEREAS, if this funding source is eliminated in the 2009-10 New York State Budget, Erie  
County will be unable to provide these valuable services and recreational opportunities to hundreds  
of at risk children and their families in Buffalo and Erie County; and

WHEREAS, the elimination of this funding source will force the County to cut certain related expenses associated with delivering these services including the elimination of forty-six (46) annual salaried positions which are supported in part by COPS funding; and

WHEREAS, the loss of these forty-six (46) positions could have the direct impact of forcing Erie County to close several community and recreation centers throughout the City of Buffalo and Erie County thereby eliminating places in our community where children and families can engage in productive after-school activities; and

WHEREAS, the New York State Assembly has wisely chosen to include funding for the Community Optional Preventative Services Program in its 2009-10 state budget proposal which will insure that these invaluable services will be available for those in our community who need them the most.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does urge the New York State Senate Legislature to funding for the Community Optional Preventative Services (COPS) program, thereby allowing Erie County youth and their families access to these vitally important services in our community; and be it further

RESOLVED, that the Clerk of the Erie County Legislature present certified copies of this resolution to Senator Malcolm A. Smith the Majority Leader of the New York State Senate, Senators Dale M. Volker, Antoine M. Thompson, William T. Stachowski and Michael H. Ranzenhofer and the Commissioner of the Department of Social Services, the New York State Association of Counties and the Erie County Fiscal Stability Authority.

MR. WALTER moved to amend the resolution by adding MS. MILLER-WILLIAMS and MS. GRANT as Co-Sponsors. MS. MILLER-WILLIAMS seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

Item 34 – MS. WHYTE presented the following resolution and moved for immediate consideration. MS. IANNELLO seconded.

MR. MILLS moved to send the item to committee for further consideration. MR. RATH seconded.

CHAIR MARINELLI directed that a roll-call vote be taken.

AYES: MR. MILLS, MR. RATH & MR. WALTER. NOES: MS. GRANT, MS. IANNELLO, MR. KENNEDY, MS. KONST, MR. KOZUB, MR. LOUGHRAN, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. WHYTE and MR. WROBLEWSKI. (AYES: 3; NOES: 12)

FAILED.

CHAIR MARINELLI moved the previous question.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 98

RE: Supporting A.187/S.2715 to Promote the Generation of Renewable Electricity, to Strive for Energy Independence and to Reinvigorate Our Economy (INTRO 6-9)

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATORS IANNELLO, MARINELLI, WHYTE, KOZUB,  
KENNEDY, MAZUR, WROBLEWSKI, REYNOLDS & LOUGHRAN**

WHEREAS, the Green Actions Community Committee of the Erie County Legislature offers a sounding board and advocacy tool in support of initiatives that work toward “greening” our community and preparing our workforce for the “green” jobs of the 21<sup>st</sup> Century; and

WHEREAS, Assembly Bill 187, sponsored by Assemblyman Hevesi, and Senate Bill 2715, sponsored by Senator Antoine Thompson, are two such initiatives; and

WHEREAS, these legislative proposals establish incentives in the form of mandatory purchase agreements with utility companies that reward early installation of renewable energy generation equipment and guarantee a long-term return on investment; and

WHEREAS, this program would offer different rate schedules for the various modes of renewable generation allowing small entrepreneurs to compete on even terms with larger companies; and

WHEREAS, the rate schedule provides a guaranteed above market rate of return for the first 20 years after installation to provide strong incentives for early adoption; and

WHEREAS, the rate schedule will be adjusted on a bi-annual basis by the Public Service Commission to ensure an optimal level of continued development; and

WHEREAS, this legislation is necessitated by the reality that the current complement of incentive programs has not significantly increased the amount of renewable energy generated; and

WHEREAS, similar feed-in tariff legislation passed in Germany resulted in a doubling of the renewable energy generating capacity in only four years and the German government estimates that 12.5% of the nation’s energy will come from renewable sources in 2010 and 20% by 2020; and

WHEREAS, New York could become a national leader in the generation of renewable electricity and to guarantee economic prosperity through the development of new green jobs.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby go on record in support of Assembly Bill 187 and Senate Bill 2715, an act to amend the public service law by requiring certain providers of electric service to purchase electricity from eligible electric generators powered by renewable sources; and be it further

RESOLVED, that certified copies of this resolution be conveyed to Governor David A. Paterson, Assembly Speaker Sheldon Silver, Senate Majority Leader Smith, Assemblyman Andrew Hevesi, Senator Antoine Thompson, the WNY Delegation to the NYS Legislature and the Green Actions Sub-Committee of the Erie County Legislature.

MS. WHYTE moved to amend the resolution by adding MS. MILLER-WILLIAMS and MS. GRANT as Co-Sponsors. MS. GRANT seconded.

CARRIED UNANIMOUSLY.

MS. WHYTE moved to approve the resolution as amended. MS. IANNELLO seconded. MR. MILLS, MR. RATH and MR. WALTER voted in the negative.

CARRIED. (12-3)

**COMMUNICATIONS DISCHARGED FROM COMMITTEE**

Item 35 – MS. WHYTE moved to discharge the PUBLIC SAFETY COMMITTEE of further consideration of COMM. 4E-9 (2009). MR. WROBLEWSKI seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 99

RE: DWI Victim Impact Panel Fee  
(COMM. 4E-9, 2009)

WHEREAS, the Erie County DWI Victim Impact Panel (VIP) is comprised of crash survivors and surviving family members of DWI Victims; and

WHEREAS, in an effort to convince others not to Drink and Drive, VIP Members share with audiences the story of their horrible loss; and

WHEREAS, since 1992, over 170,000 persons have attended an Erie County VIP panel presentation; and

WHEREAS, Erie County Judges have increased demand for VIP presentations as a sentencing option; and

WHEREAS, expenses associated with operating and coordinating additional panels have risen steadily.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County STOP-DWI Office is authorized to collect a fee not to exceed \$20.00 from each DWI offender sentenced to attend a VIP presentation; and be it further

RESOLVED, that such funds shall be recorded in the budget of the STOP-DWI program and used to expand VIP panel presence and offset expenses associated with operation of the panels; and be it further

RESOLVED, that the following adjustments to the 2009 STOP-DWI Budget are authorized in order to reflect new revenue and expenses as follows:

CENTRAL POLICE SERVICES

Cost Center #1650060 STOP-DWI/TRAFFIC SAFETY

<u>APPROPRIATIONS</u>		<u>AMOUNT</u>
ACCT. #530000	Other Expense	2,950
ACCT. #516020	Professional Services	7,850
ACCT. #561410	Lab & Tech Equip	5,200
ACCT. #911490	ID DA Grants	2,000
ACCT. #980000	ID DISS Services	2,000
TOTAL APPROPRIATIONS		<u>20,000</u>

REVENUES

ACCT.	VIP Fees	<u>20,000</u>
TOTAL REVENUES		20,000

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Office of County Executive, the Office of the Comptroller, Division of Budget and Management, and the STOP-DWI Office.

MS. WHYTE moved to approve the item. MR. WROBLEWSKI seconded.

CHAIR MARINELLI directed that a roll-call vote be taken.

AYES: MR. MILLS, MR. RATH, MR. WALTER, MS. GRANT, MS. IANNELLO, MR. KENNEDY, MS. KONST, MR. KOZUB, MR. LOUGHRAN, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. WHYTE and MR. WROBLEWSKI.  
NOES: None. (AYES: 15; NOES: 0)

CARRIED UNANIMOUSLY.

**SUSPENSION OF THE RULES**

Item 36 - MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 6E-15 from the COUNTY EXECUTIVE Re: Award of Construction Contract & Change Order - Maple Rd. Rehabilitation, Town of Amherst

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 37 - MS. WHYTE moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 6E-16 from the COUNTY EXECUTIVE Re: Supplemental Agreement with NYS DOT - Maple Rd. Rehabilitation, Town of Amherst

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

**COMMUNICATIONS FROM ELECTED OFFICIALS**

**FROM LEGISLATOR WROBLEWSKI**

Item 38 – (COMM. 6E-1) Letter to Legislature Clerk Concerning Abstention on COMM. 4E-8 (2009) - Session No. 5, 3/12/09

Received, Filed and Printed.

March 12, 2009

Robert M. Graber, Clerk  
Erie County Legislature  
92 Franklin St., 4th Floor  
Buffalo, NY 14202

RE: ABSTENTION ON COMM. 4E-8 (2009)  
HOME Investment Partnership Program - Community Housing  
Development Organization Contracts

Dear Mr. Graber:

Pursuant to Rule 2.21 of the Rules of Order of the Erie County Legislature and in accordance with Section 5b of Erie County Local Law No. 10 - 1989, my abstention to the above referenced

communication was due to my private sector employment and to avoid any possible conflict of interest.

Sincerely,

Timothy M. Wroblewski  
Erie County Legislator – 9<sup>th</sup> District

FROM THE COMPTROLLER

Item 39 – (COMM. 6E-2) Erie County Payments - Bonded Capital Projects

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 40 – (COMM. 6E-3) EC Court Bldg. & Dr. Gajewski Human Serv. Cntr. - 2009 Roof Replacement

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 41 – (COMM. 6E-4) ECSD No. 2 - Herr Rd., Bflo. Beach & Shore Cliff Pumping Station Modifications Project - Contract Close Out

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 42 – (COMM. 6E-5) LEADSAFE for 2010 Grant - 1/15/09 - 1/14/12

Item 43 – (COMM. 6E-6) Komen for the Cure - 4/1/09 - 3/31/10

The above two items were received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 44 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MR. RATH seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 100

RE: Crash of Flight 3407 - Related Expenses  
(COMM. 6E-7)

WHEREAS, on Thursday, February 12, 2009, Continental Airlines Flight 3407 crashed in Clarence, New York; and

WHEREAS, numerous agencies and entities were mobilized for response and recovery operations; and



WHEREAS, Erie County provided necessary incident management at the crash site, Emergency Operations Center and Health Operations Center; and

WHEREAS, preliminary estimates of costs incurred by the County in regards to the crash of Flight 3407 will be approximately \$650,000; and

WHEREAS, Erie County is in the process of submitting a claim to the responsible insurance agencies to recoup these costs.

NOW, THEREFORE, BE IT

RESOLVED, that authorization is hereby provided to record revenue in the amount of \$650,000 in 422020 Insurance Recovery; and be it further

RESOLVED, that revenue in this amount be budgeted in the Medical Examiners Office, Cost Center 1274030, Emergency Response, to offset expenses; and be it further

RESOLVED, that the Director of Budget and Management is hereby authorized to make any budgetary adjustments required to properly manage the expenses and revenue related to the Crash of Flight 3407 response and recovery efforts; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Office of the Comptroller, the Division of Budget and Management, the Health Department, the Division of Purchase, and the Department of Law.

Item 45 – (COMM. 6E-8) Appointment to the Erie County Board of Ethics

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 46 – (COMM. 6E-9) Appointments to the Senior Services Advisory Board

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 47 – (COMM. 6E-10) Appointments to the EC Fisheries Advisory Board

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 48 – (COMM. 6E-11) Realignment of Youth Bureau into Division of Youth Services

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM LEGISLATORS MILLS, RATH & WALTER

Item 49 – (COMM. 6E-12) Copy of Letter to County Comptroller Concerning State Emergency Management Office (SEMO) Reimbursement

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 50 – (COMM. 6E-13) Right-of-Way Acquisition - Maple Rd. Intersection Improvement at Flint, N. Forest & Hopkins Rds., Town of Amherst

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 51 – MS. WHYTE presented the following resolution and moved for immediate consideration and approval. MR. MAZUR seconded.

CHAIR MARINELLI directed that a roll-call vote be taken.

AYES: MR. MILLS, MR. RATH, MR. WALTER, MS. GRANT, MS. IANNELLO, MR. KENNEDY, MS. KONST, MR. KOZUB, CHAIR MARINELLI, MR. MAZUR, MS. MILLER-WILLIAMS, MR. REYNOLDS, MS. WHYTE and MR. WROBLEWSKI. NOES: MR. LOUGHRAN. (AYES: 14; NOES: 1)

CARRIED.

RESOLUTION NO. 101

RE: Home Rule Requests - Assembly/Senate  
- State Legislation to Allow Erie County  
to Borrow Without ECFSA Approval  
(COMM. 6E-14)

HOME RULE REQUEST RESOLUTION - ASSEMBLY

WHEREAS, Assembly Bill A. 6083 and Senate Bill S. 3161, now pending before the New York State Legislature, would allow the County to borrow, without the approval of the Erie County Fiscal Stability Authority, provided that the County has investment grade ratings from at least two nationally recognized rating agencies at the time of such borrowing;

NOW THEREFORE, BE IT RESOLVED, THAT A HOME RULE REQUEST IS MADE TO THE NEW YORK STATE LEGISLATURE AS FOLLOWS:

TO THE LEGISLATURE:

Pursuant to Article IX of the Constitution, the County of Erie requests the enactment of Assembly Bill A. 6083, entitled “AN ACT to amend the public authorities law, in relation to the Erie County Fiscal Stability Authority’s borrowing determinations”

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows:

The local government does not have power to enact such legislation by local law.

Such request is made by the chief executive officer of such municipality, concurred with by a majority of the total membership of the local legislative body.

AND BE IT FURTHER RESOLVED, that the Clerk of the Legislature be directed to forward copies of this home rule request, certified by the Erie County Executive and the Clerk of the Erie County Legislature, as follows: two copies to the New York State Assembly and two copies to the New York State Senate.

**HOME RULE REQUEST RESOLUTION - SENATE**

WHEREAS, Senate Bill S. 3161 and Assembly Bill A. 6083, now pending before the New York State Legislature, would allow the County to borrow, without the approval of the Erie County Fiscal Stability Authority, provided that the County has investment grade ratings from at least two nationally recognized rating agencies at the time of such borrowing;

NOW THEREFORE, BE IT RESOLVED, THAT A HOME RULE REQUEST IS MADE TO THE NEW YORK STATE LEGISLATURE AS FOLLOWS:

**TO THE LEGISLATURE:**

Pursuant to Article IX of the Constitution, the County of Erie requests the enactment of Senate Bill S. 3161, entitled "AN ACT to amend the public authorities law, in relation to the Erie County Fiscal Stability Authority's borrowing determinations"

It is hereby declared that a necessity exists for the enactment of such legislation, and that the facts establishing such necessity are as follows:

The local government does not have power to enact such legislation by local law.

Such request is made by the chief executive officer of such municipality, concurred with by a majority of the total membership of the local legislative body.

AND BE IT FURTHER RESOLVED, that the Clerk of the Legislature be directed to forward copies of this home rule request, certified by the Erie County Executive and the Clerk of the Erie County Legislature, as follows: two copies to the New York State Senate and two copies to the New York State Assembly.

**COMMUNICATIONS FROM THE DEPARTMENTS**

**FROM THE COUNTY ATTORNEY**

Item 52 – (COMM. 6D-1) Letter to EC Legislature Concerning Local Law Intro No. 8 - 2008

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 53 – (COMM. 6D-2) Transmittal of New Claims Against Erie County

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE DIRECTOR, DIVISION OF PURCHASE

Item 54 – (COMM. 6D-3) Copy of Letter to County Comptroller Concerning Audit of EC Division of Purchase

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE COUNTY ATTORNEY

Item 55 – (COMM. 6D-4) Notice of Public Hearing - Local Law Intro. No. 3 - 2008 - Tax Payer Protection Law

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 56 – (COMM. 6D-5) Transmittal of New Claims Against Erie County

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 57 – (COMM. 6D-6) Notice of Public Hearing - Local Law Intro. No. 8 - 2008 - Lowest Responsible Bidder Requirements for EC Contracts

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE COMMISSIONER OF ENVIRONMENT & PLANNING

Item 58 – (COMM. 6D-7) Negative Declaration - Proposed Rules & Regulations for Sanitary Sewers for ECSD Nos. 1, 2, 3, 4, 5, 6 & 8

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

**COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES**

FROM THE NYS DEC

Item 59 – (COMM. 6M-1) Fact Sheet Concerning Leica Site in Town of Cheektowaga

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM COLUCCI & GALLAHER, P.C.

Item 60 – (COMM. 6M-2) ECMCC Agenda Items for Board of Directors Meeting Held 2/25/09

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

FROM THE TOWN OF TONAWANDA TOWN BOARD

Item 61 – (COMM. 6M-3) Copy of Certified Resolution Supporting the Continuation of NYS Empire Zone Program

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE NYS DEC

Item 62 – (COMM. 6M-4) Fact Sheet - Environmental Investigation & Cleanup Plan - 1132 & 1146 Seneca St. Site, Bflo. - Available for Public Comment

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE BUFFALO NIAGARA CONVENTION & VISITORS BUREAU, INC.

Item 63 – (COMM. 6M-5) 2009 Operating Budget

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE BUFFALO NIAGARA CONVENTION  
CENTER MANAGEMENT CORPORATION

Item 64 – (COMM. 6M-6) 2009 Operating Budget

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE BFLO. & EC PUBLIC LIBRARY

Item 65 – (COMM. 6M-7) Board of Trustees Agenda Items for Meeting Held 3/19/09

Received and referred to the COMMUNITY ENRICHMENT COMMITTEE.

FROM THE NYS FISH & WILDLIFE MANAGEMENT BOARD

Item 66 – (COMM. 6M-8) Agenda Items for Region 9 Board Meeting Held 3/12/09

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE CATTARAUGUS COUNTY LEGISLATURE

Item 67 – (COMM. 6M-9) Copy of Certified Resolution Concerning Proposed NYS Closure of Youth Residential Facilities in Cattaraugus County

Received and Filed.

FROM THE WAYNE COUNTY BOARD OF SUPERVISORS

Item 68 – (COMM. 6M-10) Copy of Certified Resolution Concerning NYS Legislature Action on STAR Distribution Formula for Wayne County

Received and Filed.

FROM THE TOWN OF BOSTON TOWN BOARD

Item 69 – (COMM. 6M-11) Copy of Certified Resolution Opposing Establishment of an Erie County Planning Board

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE EC SOIL & WATER CONSERVATION DISTRICT

Item 70 – (COMM. 6M-12) 2009 Budget Plan

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE WNY AREA LABOR FEDERATION

Item 71 – (COMM. 6M-13) Copy of Article, Entitled "Conclusions And Policy Options" Concerning Green Initiatives

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

FROM THE RE-MEDIA ELECTION TRANSPARENCY COALITION

Item 72 – (COMM. 6M-14) Letter to County Leaders Seeking Leadership & Support for Fiscal Responsibility: Save Our Lever Voting System

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

FROM THE FISCAL POLICY INSTITUTE

Item 73 – (COMM. 6M-15) Copy of Power Point Presentation Concerning NY's Empire Zone Program

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

FROM THE BUFFALO NIAGARA PARTNERSHIP

Item 74 – (COMM. 6M-16) Copy of Letter to Majority Leader Maria R. Whyte Concerning Proposed Erie County Planning Board

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

**ANNOUNCEMENTS**

Item 75 – CHAIR MARINELLI announced that the schedule of upcoming meetings has been distributed. She further reminded those in attendance that there will be a Regular Session of the Legislature next Thursday, April 2, 2009 at 2:00 P.M.

**MEMORIAL RESOLUTIONS**

Item 76 – Chair Marinelli requested that when the Legislature adjourns, it do so in memory of Lucy Tokasz, mother of former NYS Assembly Majority Leader Paul A. Tokasz.

Item 77 – Legislator Grant requested that when the Legislature adjourns, it do so in memory of Romeo Doyle Muhammad.

Item 78 – Legislator Kozub requested that when the Legislature adjourns, it do so in memory of Carla Anderson and Theresa Marino.

Item 79 – Legislator Konst requested that when the Legislature adjourns, it do so in memory of John L. Ricci.

Item 80 – Legislator Miller-Williams requested that when the Legislature adjourns, it do so in memory of Emanuel I. Humes Sr.

Item 81 – Legislator Mills requested that when the Legislature adjourns, it do so in memory of the Thomas R. Heine.

Item 82 – Legislator Iannello requested that when the Legislature adjourns, it do so in memory of James L. Creedon and Shirley G. Tucker Heublum.

**ADJOURNMENT**

Item 83 - At this time, there being no further business to transact, CHAIR MARINELLI announced that the Chair would entertain a Motion to Adjourn.

MR. MAZUR moved that the Legislature adjourn until Thursday, April 2, 2009 at 2:00 P.M. Eastern Standard Time. MR. WROBLEWSKI seconded.

CARRIED UNANIMOUSLY.

CHAIR MARINELLI declared the Legislature adjourned until Thursday, April 2, 2009 at 2:00 P.M. Eastern Standard Time.

**ROBERT M. GRABER  
CLERK OF THE LEGISLATURE**