

ERIE COUNTY LEGISLATURE
MEETING NO. 13
JUNE 22, 2023

The Legislature was called to order by Chair Baskin.

All members present.

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

The Pledge of Allegiance was led by Mr. Greene.

Item 1 – No tabled items.

Item 2 – No items for reconsideration from previous meeting.

Item 3 – MR. MEYERS moved for the approval of the minutes for Meeting Number 12 from 2023. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

Item 4 – No Public Hearings.

MISCELLANEOUS RESOLUTIONS

Item 5 – Miscellaneous Resolutions were offered, as follows:

BASKIN & JOHNSON	Celebrating African American Music Appreciation Month
VINAL	Congratulating and Recognizing Chris McDuffie - New Principal of Mill Middle School
BASKIN	In Remembrance of Barbara Kirkland Dennis
VINAL	Celebrating the 20th Anniversary of Garden Walk Williamsville
JOHNSON	Recognizing Home Beneath Our Feet, Inc.
BASKIN & JOHNSON	Honoring National Soul Food Month
KOOSHOIAN & BARGNESI	Congratulating and Recognizing Michael Godzisz on Completing His Eagle Scout Project

BARGNESI & KOOSHOIAN	Recognizing William Strassburg Retiring After 33 Years of Service - City of Tonawanda Police Department
VINAL	Honoring Chris Marcello
GILMOUR	In Remembrance of Charod C. Chambers
VINAL	In Remembrance of Elaine Apczynski - Former Teacher, Williamsville School District
GILMOUR	In Remembrance of Elijo Rodriguez
GREENE	Recognizing Ainsley Stoll on Being Named to the Oneonta Athletics Hall of Fame Class of 2023
MALCZEWSKI	Celebrating the Grand Opening of Mario's Bistro and Brews
TODARO	Honoring Depew's Varsity Baseball Team on Earning the Class B New York State Championship Title
MINORITY CAUCUS	Honoring Russell Stoll on His Retirement
MALCZEWSKI	Honoring Diane Meaney on Her Retirement from West Seneca Central School District and Being Awarded the Lifetime Achievement Award
MALCZEWSKI	Recognizing and Honoring Cam Geising for Being Named Super 7 Athlete of the Week
GREENE	Congratulating Smaranda Stan McNerney on Being Named the Intercollegiate Tennis Association Northeast Region Assistant Coach of the Year
TODARO	Celebrating the Grand Opening of The Yard at Buffalo Airport Hotel
TODARO	Honoring Isabella Klink as Valedictorian for Depew High School
TODARO	Honoring Katelyn Greene as a Top 10 Student at Lancaster High School
TODARO	Honoring Jayden Neidel as a Top 10 Student at Lancaster High School

TODARO	Honoring Dylan Lumb as a Top 10 Student at Lancaster High School
TODARO	Honoring Madison Buscaglia as a Top 10 Student at Lancaster High School
TODARO	Honoring Eleanor Zybala as a Top 10 Student at Lancaster High School
TODARO	Honoring Sophia Khangis as a Top 10 Student at Lancaster High School
TODARO	Honoring Addyson Buechi as a Top 10 Student at Lancaster High School
TODARO	Honoring Olivia Connors as a Top 10 Student at Lancaster High School
TODARO	Honoring Nicolena Fazio for Scholastic Achievement
TODARO	Honoring Riley Streit for Scholastic Achievement
TODARO	Honoring Sophia Daddario for Scholastic Achievement
TODARO	Honoring Jordan Kanick as Salutatorian for Depew High School
TODARO	Recognizing and Honoring Samuel William Tadio, Founding Member of the Western New York Good Government Club
MILLS	Recognizing the Village of Angola on Its Sesquicentennial Celebration
MILLS	Celebrating the Hamburg House Garden Club “Where Work, Play and Growth Flourish”
MILLS	Celebrating Orchard Park Little League “One Team, One Little League, One Community”
MILLS	Recognizing Springville Little League Baseball in Conjunction with National Little League Baseball Week in Erie County
GREENE	Honoring Hope Totes Buffalo Founders Colleen Marchetta and Amy Velez as Citizens of the Month

GREENE Recognizing James E. Thielmann as a Clarence Veterans Memorial Wall Honoree

GREENE Recognizing Richard A. Marquart as a Clarence Veterans Memorial Wall Honoree

GREENE Recognizing John F. Griffin as a Clarence Veterans Memorial Wall Honoree

GREENE Recognizing Thomas M. Thielmann as a Clarence Veterans Memorial Wall Honoree

MR. MEYERS moved for consideration of the above forty-three items. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

MR. MEYERS moved to amend the above forty-three items by including Et Al Sponsorship. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

MR. MEYERS moved for approval of the above forty-three items as amended. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

LOCAL LAWS

Item 6 – CHAIR BASKIN directed that Local Law No. 1 (Print #1) 2022 remain on the table and in the ENERGY & ENVIRONMENT COMMITTEE.

GRANTED.

Item 7 – CHAIR BASKIN directed that Local Law No. 3 (Print #1) 2022 remain on the table and in the HEALTH & HUMAN SERVICES COMMITTEE.

GRANTED.

Item 8 – CHAIR BASKIN directed that Local Law No. 3 (Print #1) 2023 remain on the table and in the FINANCE & MANAGEMENT COMMITTEE.

GRANTED.

Item 9 – MR. MEYERS moved to take Local Law No. 2 (Print #2) 2023 from the table. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

COUNTY OF ERIE

LOCAL LAW INTRO. NO. 2-2-2023

LOCAL LAW NO. _____-2023

THE PUBLIC ART ACT OF ERIE COUNTY

A Local Law providing for public financial support for public art in the County of Erie.

Be it enacted by the Legislature of the County of Erie as follows:

Section 1. Legislative Findings and Intent

The Erie County Legislature desires to support and promote worthwhile initiatives that help to promote the public good and improve the quality of life of our community. Like many other municipalities and local governments around the country, the Legislature wishes to further develop the County's financial support of public art through the County's construction of new infrastructure. This initiative seeks to make art accessible to all Erie County residents and visitors and to foster a sense of community connection and civic pride.

The County already has a robust financial contribution and commitment to arts and cultural institutions, through annual budgetary funding and occasional, one-time capital or operational funding for cultural assets. In addition, the County has been funding a position of Public Art Curator located at the Albright-Knox Art Gallery for several years.

The County also values artists and believes that artists should be compensated in a manner consistent with their experience. This will ensure that artists' expenses and labor on public art projects are adequately compensated and will strengthen our public art artists community by properly valuing their need in Erie County.

As contrasted with annual operational funding for the County's cultural assets (which are already financially subsidized and supported by the County of Erie), this initiative proposes to create a funding mechanism for public art related to certain Erie County capital construction projects. Under the proposal, depending on the size and type of the project, the County would allocate 1% of the cost of a building construction project (up to a maximum of \$10,000 allocated). The Committee will decide where in Erie County the public art will be installed in an annual Public Art Master Plan. Art won't need to be implemented where every capital improvement exists. All the 1% monies collected from the previous year's capital improvements will be allocated to fund the design, supplies and commission of the next year's Public Master Art Plan.

Section 2. Funding

Capital projects on buildings that are \$250,000 or greater, whether funded by capital (bonded) funds or operating funds, shall include the appropriation of funds equal to 1% of the cost of the project, with said funds to be appropriated for the acquisition, maintenance and management of public art, except where the appropriating resolution, bond resolution or budget may provide otherwise; provided, however, that, where applicable, such amount shall be reduced to the extent that state funds, federal government funds, and funding derived from water rates, water quality treatment charges, sewer rents and sewage, wastewater and refuse collection charges in the County, are not authorized to be used for such purpose. The maximum allocated for public art shall be \$10,000 from each eligible capital project.

A “Public Art Fund” shall be created by the Division of Budget and Management to hold funds for implementation of the projects finalized in the Master Public Art Plan and/or projects chosen by the Arts in Public Places Committee.

The use of any funds appropriated for any project for public art purposes shall be in accordance with the Master Public Art Plan, except that any such funds provided from the proceeds of County serial bonds or notes shall be used only for public art purposes related to the project for which such bonds or notes were authorized. To the extent the total appropriation of a project is not used for the acquisition of works of art for said project, upon the approval of the County Legislature, the remainder may be used for:

1. Arts program administrative costs, insurance costs or for the repair and maintenance of any works of art acquired under this law; or
2. Supplementing other appropriations for the acquisition of works of art under this law or to place works of art in or near government facilities which have already been constructed.

Section 3. Definitions

As used in this law, the following terms shall have the meanings indicated:

“Public Art” includes any application of skill and taste to production of tangible objects according to aesthetic principles, including but not limited to paintings, sculptures, engravings, carvings, frescoes, mobiles, murals, collages, mosaics, statues, bas-reliefs, tapestries, photographs, fountains, streetscapes, drawings and ceramics, as well as decorative seating, topiary, and other decorative public use features.

“Capital Projects” includes: (a) new construction of a building or of additional space added to a building; and/or (b) any reconstruction or renovation of a building or part of a building, whether financed through the issuance of bonds or pay-as-you-go funding or other (non-County) sources of funds.

“Projects” shall not include those which are solely for rehabilitation of equipment.

“Cost of a Project” includes design, architectural and engineering fees, site work, construction, and contingency allowances for a project.

“Public Art Fund” means the new fund to which 1% of the value of a new capital project will be allocated to pursue Public Art initiatives (to a maximum of \$10,000 for each capital project).

“Committee” refers to the Arts in Public Places Committee.

“Master Public Art Plan” (“Plan”) means the annual plan created by the Committee by March 1 to ensure a coherent acquisition program and implementation guidelines for Public Art.

Section 4. The Arts in Public Places Committee

A. There shall be an Arts in Public Places Committee, hereinafter referred to as the “Committee,” consisting of five (5) members. The County Executive shall appoint three (3) members, and the Majority Caucus and Minority Caucus of the Legislature shall each appoint one member. All five members shall be subject to Legislature confirmation. The Chairperson of such Committee shall be selected from the members of the Committee for a term of one year.

B. The five (5) members shall be experts in the fields of art, art history, architecture or architectural history and must be Erie County residents and may not serve on any other County advisory board or be a County employee or officer. The members shall be professionally associated with local visual arts groups, such as art galleries or art schools, or have at least ten (10) years’ experience in creating professional art.

C. In addition to the five (5) voting members of the Committee, The County Executive, the Chairperson of the Legislature, the Chairperson of the Legislature’s Community Enrichment Committee, the Legislature Minority Leader, and the Commissioner of Public Works or their designees, shall serve as ex officio non-voting members of the Committee.

D. The Committee shall choose the methods of acquisition of public art for each project. Such methods of acquisition may include but are not limited to projects of preexisting art, direct commission, art competition, request for proposals, or acceptance of donations.

E. The Committee may, for each project, convene a project panel comprised of at least three members of the Committee, one of whom shall be designated Chairperson. The Committee may also appoint additional art experts as members of the project panel. The Committee may appoint additional members to the panel to serve as advisors, who may be community representatives, County employees, project managers or others who will have frequent contact with the public art when it is completed. An architect or engineer shall be an ex officio member of each panel. The panel shall review the scope of each project and shall make recommendations to the Committee on the nature of the public art to be considered for the project, on the method of acquisition for each project, on the specific artist and the specific art for each project and what portion of the budget for each project shall be used for refurbishing or restoring existing works of art or to be set aside for the maintenance of a work of art.

F. The acquisition and siting of all art work shall be approved by the County Executive and the County Legislature.

G. Ownership and title of all works of public art acquired by the County under this section shall be vested in the County of Erie.

H. The Committee shall create by-laws which will govern the conduct and operations of the Committee.

I. The Erie County Department of Environment and Planning shall serve as coordinator for the program and provide staff support to the Committee.

J. The Committee shall deliver an annual report to the County Executive and the County Legislature detailing its operations, Plan and art created under its auspices.

Section 5. Master Public Art Plan

The Committee shall prepare a Master Public Art Plan (“Plan”) annually to ensure a coherent acquisition program and implementation guidelines, which shall be approved by the Erie County Legislature. The Committee shall hold a public hearing on the Plan prior to its approval. The Plan shall be approved by the Committee and submitted to the Legislature annually by March 1.

1. All acquisitions and sales of public art shall be in accordance with the Master Public Art Plan. The Committee shall recommend acquisitions, the hiring of artists, and shall oversee the public education and curatorial aspects of the acquisition program.
2. The Plan shall make affirmative efforts to be equitable and diverse and to include artists selected for public art projects who are racially and ethnically diverse. The siting of such art projects shall be throughout the County, but with efforts undertaken to place art in areas of diversity.
3. The Plan shall strive to use artists that are County residents.
4. The Plan shall emphasize the importance of adequate compensation of artists.
5. The Plan shall be voted on by the Legislature and presented to the Department of Environment and Planning by May 1st annually.
6. The Committee shall, through the Plan and its acquisition efforts, make efforts to call for artist submissions and publicize the intention to find appropriate art within thirty (30) days of the Plan’s approval annually.
7. Final contracts for authorizing public art contracts and hiring of artists are subject to approval by the Erie County Legislature.

Section 6. Effective Date

This Local Law shall take effect upon filing with the New York State Secretary of State.

Section 7. Severability

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or business shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its specific application.

Sponsors:

April N.M. Baskin
Timothy Meyers
Howard Johnson
Jeanne Vinal
Michael Kooshoian
John Bargnesi
John Gilmour

***MR. GILMOUR entered the Legislature Chamber at 12:29 P.M.

MR. MEYERS moved to approve Local Law No. 2 (Print #2) 2023. MR. JOHNSON seconded.

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

AYES: MR. GREENE, MR. MALCZEWSKI, MR. MILLS, MR. TODARO, MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN, MR. MEYERS and MS. VINAL. NOES: None. (AYES: 11; NOES: 0)

CARRIED UNANIMOUSLY.

Item 10 – CHAIR BASKIN directed that Local Law No. 6 (Print #1) 2023 remain on the table and in the PUBLIC SAFETY COMMITTEE.

GRANTED.

COMMITTEE REPORTS

Item 11 – MR. JOHNSON presented the following report and moved for immediate consideration and approval. MR. MILLS seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 93

June 15, 2023	PUBLIC SAFETY COMMITTEE REPORT NO. 9
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ALL MEMBERS PRESENT.

1. COMM. 12E-3 (2023)
COUNTY EXECUTIVE

WHEREAS, the Erie County Probation Department is responsible for public safety through the community supervision of justice involved adults and juveniles; and

WHEREAS, our community has seen criminal, antisocial, and violent behavior incidents at the Walden Galleria Mall impacting negatively on the public safety and requiring a large law enforcement presence to disperse; and

WHEREAS, the Erie County Probation Department, Cheektowaga Police Department, and the Pyramid Walden Company, L.P. have worked together over the last year to implement a pilot Community Engagement Services program at the Walden Galleria Mall to reduce the negative behavior and engage in non-confrontational, violence de-escalation and preventative interventions; and

WHEREAS, Probation Commissioner Michelle Olszowy has submitted a 40-week status report on the project, highlighting positive community interaction, increased opportunities for Probation Officers to foster relationships with probationers and their families, and the opportunities to deescalate emerging issues; and

WHEREAS, the Erie County Probation Department, Cheektowaga Police Department, and the Pyramid Walden Company, L.P. agree the results of the pilot project have been favorable and are interested in the continuation of program beyond the pilot period; and

WHEREAS, no County funds will be necessary for the Erie County Probation Department to continue collaborating in this project.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the County Executive to enter into a successor one year agreement and any amendments with the Pyramid Walden Company, L.P. to reimburse the county for overtime and related fringes for County Probation Officers to provide Community Engagement Services at the Walden Galleria Mall; and be it further

RESOLVED, that authorization is hereby authorized to make the following budgetary adjustment in the Probation Departments 2023 General Fund Budget:

Erie County Department of Probation
Fund 110, Fund Center 12610

Revenue	Increase
Account 479100 – Other Contributions	\$33,510

Appropriations	Increase
Account 501000 - Overtime	\$26,009
Account 500300 - Shift Differential	\$ 1,092
Account 502000 - Fringe Benefits	\$ 6,409

and be it further

RESOLVED, that revenue and expenses of the project for the following years will be reflected in the Probation Department's 2024 budget submission, and subsequent years budget submissions; and be it further

RESOLVED, that authorization is hereby given for the Erie County Division of Budget and Management to make any budgetary adjustments to properly reflect the revenue and expense of the project, provided all program expenses are paid for by the Pyramid Walden Company, L.P.; and be it further

RESOLVED, that certified copies of this resolution be furnished to the: Erie County Executive's Office, Comptroller's Office, Division of Budget and Management, Department of Law and the Department of Probation.

(5-0)

2. COMM. 12E-16 (2023)
DISTRICT ATTORNEY

WHEREAS, the District Attorney's Office's has been awarded \$1,862,145 under the NYS Division of Criminal Justice Services (DCJS) Gun Involved Violence Elimination (GIVE) initiative to help combat gun violence in Erie County; and

WHEREAS, authorization is required by the Erie County Legislature for the County Executive to enter into a grant contract and accept funding for an additional three prosecutors; and

WHEREAS, Section 2507b of the Erie County Charter states that independent elected officials, including the District Attorney, have the power to manage their departments within the parameters of their adopted budget.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to enter into a contract with the New York State Division of Criminal Justice Services to fund additional prosecutors for the District Attorney's Office; and be it further

RESOLVED, that effective July 1, 2023, authorization is hereby provided to add two positions of Assistant District Attorney VII (JG 18) and one position of Assistant District Attorney VI (JG 17) in fund 281, cost center 1140050, grant 114GIVE2324; and be it further

RESOLVED, that the Erie County Legislature does hereby provide authorization to reallocate funds within the GIVE grant to comply with State approved funding levels, to be adjusted as follows:

Gun Involved Violence Elimination Grant
 114GIVE2324
 July 1, 2023– June 30, 2024

	<u>ORIGINAL</u>	<u>CHANGE</u>	<u>FINAL</u>
<u>Revenue</u>			
409000 State Aid Revenue	\$ 772,758	\$1,089,387	\$1,862,145
479000 County Share Cont.	<u>223,274</u>	<u>(200,274)</u>	<u>23,000</u>
Total Revenue	<u>\$ 996,032</u>	<u>\$ 889,113</u>	<u>\$1,885,145</u>
<u>Appropriation</u>			
500000 Full Time Salaries	\$ 668,142	\$629,184	\$1,297,326
502000 Fringe Benefits	327,390	254,845	582,235
510100 Out of Area Travel	500	2,500	3,000
516060 Professional Services	<u>- 0 -</u>	<u>2,584</u>	<u>2,584</u>
Total Appropriations	<u>\$ 996,032</u>	<u>\$889,113</u>	<u>\$1,885,145</u>

and be it further

RESOLVED, that the Erie County Legislature does hereby provide authorization to reallocate funds in the 2023 District Attorney budget to allow for additional equipment, technology and other case related expenses, to be adjusted as follows:

Fund 110, Fund Center 11400

	<u>CHANGE</u>
516020 Professional Services	\$ 40,000
561410 Lab & Technical Equipment	60,000
559000 County Share Contribution	<u>(100,000)</u>
	<u>\$ - 0 -</u>

and be it further

RESOLVED, that during the grant fiscal year, the Director of Budget and Finance is hereby authorized to adjust budgets to comply with grantor approved funding levels, including interdepartmental billing adjustments; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Erie County District Attorney, the Erie County Executive, Erie County Personnel, Erie County Comptroller and the Director of Budget and Management.

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

HOWARD J. JOHNSON, JR.
CHAIR

Item 12 – MR. JOHNSON presented the following report and moved for immediate consideration and approval. MR. GILMOUR seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 94

June 15, 2023	ECONOMIC DEVELOPMENT COMMITTEE REPORT NO. 9
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ALL MEMBERS PRESENT.

1. RESOLVED, the following item is hereby received and filed:
 - a. COMM. 12D-2 (2023)
BUDGET DEPARTMENT: “Capital Projects Update”
(Chair’s Ruling)
2. COMM. 12E-2 (2023)
COUNTY EXECUTIVE
WHEREAS, the County regularly contracts with NYSDOT for the design and construction of projects utilizing federal aid; and

WHEREAS, NYSDOT has instituted a new web based civil rights reporting system called Equitable Business Opportunities (EBO); and

WHEREAS, NYSDOT has made use of the EBO system mandatory on all federal aid projects; and

WHEREAS, NYSDOT requires that in order to access the EBO system Erie County must designate an EBO administrator.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby approves the County Executive’s designation of the Director of the Division of Equal Employment Opportunity (EEO), James Blackwell, as the County’s EBO Administrator; and be it further

RESOLVED, that authorization is hereby given to the Director of the Erie County Division EEO, James Blackwell, to complete the EBO application and submit it to NYSDOT; and be it further

RESOLVED, that once approved as Erie County's EBO administrator the Director, Division of EEO will be responsible for providing access to other County staff as required for the management of NYSDOT sponsored federal aid projects; and be it further

RESOLVED, that ten (10) certified copies of this resolution be forwarded to the Department of Public Works, Office of the Commissioner and one each to the Office of the County Executive, the Division of Budget and Management, the Office of the County Attorney, the Office of the Comptroller and the Division of the Equal Employment Opportunity.
(5-0)

3. COMM. 12E-8 (2023)
COUNTY EXECUTIVE

WHEREAS, the Department of Public Works, Division of Highways, and the New York State Department of Transportation (NYSDOT) perform annual and biannual inspections of County-owned bridges and culverts; and

WHEREAS, conditions noted from these inspections, department engineering or maintenance staff, or taxpayer notifications, Erie County desires to respond to conditions which may restrict access or present a hazard to the traveling public with a plan of action as soon as practicable; and

WHEREAS, engineering and design services are necessary for the annual bridge inspection and maintenance program; and

WHEREAS, the Department of Public Works, Division of Highways, determined that CHA Consultants, Inc. has the appropriate expertise and experience in emergency bridge design, technical/engineering services, construction management and inspection, short schedule projects and bridge maintenance design through an RFP process; and

WHEREAS, the Department of Public Works, Division of Highways, must be able to respond to these cited County bridge and culvert deficiencies with appropriate action, and deemed emergency conditions Legislative approval is required to authorize the County Executive to award a contract to CHA Consultants, Inc.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into a contract with CHA Consultants, Inc. for the 2023-2024 On-Call/Emergency Bridge and Culvert Engineering Services project in an amount of \$547,176 for this contract; and be it further

RESOLVED, that funds, in the total amount of \$547,176, be made available for the Project from the following Projects in Fund 420, Funds Center123:

B.16050 – 2016 Capital Overlays	\$ 98,176
B.20053 – 2020 Federal Aid Bridge Preservation – Design	\$200,000
B.20056 – 2020 Preservation of Bridges & Culverts – Design	\$149,000
<u>B.21151 – 2021 As Directed/Emergency Engineering Design Services</u>	<u>\$100,000</u>

TOTAL

\$547,176

and be it further

RESOLVED, a possible two (2) year extension to this contract and the necessary funding for it may be appropriated pending legislative approval in the future; and be it further

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

4. COMM. 12E-9 (2023)
COUNTY EXECUTIVE

WHEREAS, authorization is being requested for the County Executive to execute an amendment to the Professional Services Agreement for the Back Creek Road (CR438) Slope and Slide Remediation (the "Agreement"), which was authorized through COMM. 4E-21 on March 5, 2019 under the retired 2018-2021 On-Call Civil & Geotechnical Engineering Term Agreement, which was subsequently extended to the end of 2022, with Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C. (Bergmann Associates) for additional and alternative design phase engineering services performed under the Agreement; and

WHEREAS, the estimated total cost of the amendment shall not exceed \$48,178.00 and funds are available in Fund 420, Funds Center 123, Capital Projects B.16011 and B.17014.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to execute an amendment to the Professional Services Agreement with Bergmann Associates for additional and alternative design phase engineering services in an amount not to exceed \$48,178; and be it further

RESOLVED, the sufficient funding to cover the costs associated with this amendment budget exist in the Division of Highways' Capital Projects (Fund 420, Funds Center 123) B.16011 – 2016 Road Design Countywide, and B.17014 – 2017 Road Slide Design Countywide; and be it further

RESOLVED, that the Clerk of the Legislature be instructed to forward five (5) certified copies of this resolution to the Department of Public Works, Division of Highways, and one (1) certified copy each to the Office of the County Executive, the Division of Budget and Management, and the Office of the Comptroller. (5-0)

5. COMM. 12E-11 (2023)
COUNTY EXECUTIVE

WHEREAS, consistent with Erie County's Commitment to Paris goals, the County encourages the development of solar facilities which reduce dependence upon fossil fuels and further climate goals to mitigate global warming; and

WHEREAS, Project Owner, (Gowans Road Solar, LLC) has submitted a Notice of Intent to the Taxing Jurisdictions that it plans to build and operate a Solar Energy System as defined in New York Real Property Tax Law (“RPTL”) Section 487(1)(b) (the “Project”) with an expected nameplate capacity (“Capacity”) of approximately 3.75 Megawatts AC on six parcels totaling approximately 128 acres of land located within the Town of Evans on Gowans Road and Eden Evans Center Road and identified by SBL numbers 236.00-1-28, 236.00-1-2.11, 236.00-1-1, 236.00-1-3.1, 236.00-1-2.12, and 236.00-1-29; and

WHEREAS, the County has not opted out of RPTL § 487; and

WHEREAS, pursuant to RPTL § 487(9)(a) the County has indicated their intent to require a Payment in Lieu of Taxes Agreement (“PILOT”) with the Project Owner, under which the Project Owner will be required to make annual payments to the Taxing Jurisdictions for each year during the term of this Agreement; and

WHEREAS, the Project Owner has submitted or will submit to the Assessor of the Town of Evans an Application for Tax Exemption of Solar or Wind Energy Systems or Farm Waste Energy Systems (“Form RP-487”); and

WHEREAS, the Real Property not part of the Project will be assessed for any statutory real property taxes levied by the Taxing Jurisdictions.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive is hereby authorized to execute a Payment in Lieu of Taxes (PILOT) Agreement with Gowans Road Solar, LLC, and any other organizations necessary to complete this PILOT Agreement, pertaining to the Real Property located on Gowans Road and Eden Evans Center Road, Evans New York (SBL numbers 236.00-1-28, 236.00-1-2.11, 236.00-1-1, 236.00-1-3.1, 236.00-1-2.12, and 236.00-1-29); and be it further

RESOLVED, that said Agreement shall include an annual approximate PILOT payment in the amount \$2,793, subject to annual escalation of 2%; and be it further

RESOLVED, that said Agreement shall include an estimated annual PILOT based on the amount of taxes due as set forth on Schedule A attached hereto; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the Office of County Executive; the Division of Budget and Management; the Division of Real Property Tax Services; the Department of Environment and Planning; the Office of County Comptroller; and the County Attorney’s Office.

Schedule A
PILOT Schedule

Calendar Year*	Term Year	County PILOT Payment**
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2024	1	\$2,793
2025	2	\$2,849
2026	3	\$2,906
2027	4	\$2,964
2028	5	\$3,023
2029	6	\$3,084
2030	7	\$3,145
2031	8	\$3,208
2032	9	\$3,272
2033	10	\$3,338
2034	11	\$3,405
2035	12	\$3,473
2036	13	\$3,542
2037	14	\$3,613
2038	15	\$3,685
	TOTAL	\$48,299

* The following schedule is for illustrative purposes only. The PILOT will commence in accordance with Section 2(b) of the Agreement.

**Per the Agreement, this payment schedule is subject to adjustment if the capacity of the Project changes.

(5-0)

HOWARD J. JOHNSON, JR.
CHAIR

Item 13 – MR. MEYERS presented the following report and moved for immediate consideration and approval. MR. TODARO seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 95

June 15, 2023	ENERGY & ENVIRONMENT COMMITTEE REPORT NO. 7
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ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
 - a. COMM. 12E-13 (2023)
COUNTY EXECUTIVE: “ECSD No. 8 - Engineering Term Contract Agreement”

(Chair's Ruling)

- b. COMM. 12E-14 (2023)
COUNTY EXECUTIVE: "ECSD No. 3 - Engineer Term Contract Agreement"
(Chair's Ruling)
- c. COMM. 12E-15 (2023)
COUNTY EXECUTIVE: "ECSD No. 3 - Engineering Term Contract Agreement"
(Chair's Ruling)
- d. COMM. 12M-1 (2023)
NYSDEC: "Notification of Brownfield Cleanup Program Application from Amherst Commons, LLC"
(Chair's Ruling)

- 2. COMM. 7E-23 (2023) AS AMENDED
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bid for Contract No. 74P-R at 10:00 a.m. on May 25, 2023:

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount</u>
74P-R	O'Connell Electric 20 Lancaster Parkway Lancaster, NY 14086	\$6,027,231.00

and

WHEREAS, the aforementioned lowest responsible bidder has successfully completed projects for the Division of Sewerage Management in the past; and

WHEREAS, the Division of Sewerage Management has determined this project is a New York State Environmental Quality Review (SEQR) Unlisted Action and after due consideration a Negative Declaration was issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

NOW, THEREFORE, BE IT

RESOLVED, that the Southtowns Advanced Wastewater Treatment Facility Electrical Substation and Plant-Wide Generator Equipment Procurement, Erie County Sewer District No. 3, Contract No. 74P-R be awarded as follows:

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount</u>
74P-R	O'Connell Electric 20 Lancaster Parkway Lancaster, NY 14086	\$6,027,231.00

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute a Contract with the aforementioned lowest responsible bidder, subject to approval as to form by the County Attorney's office and approval as to content by the Commissioner of Environment and Planning; and be it further

RESOLVED, that the Director of Budget and Management and the County Comptroller are authorized to allocate up to \$5,718,996.00 in Capital Account No. C.21150 (American Rescue Plan funds), Fund 430, Funds Center 180 to fund Contract No. 74P-R; and be it further

RESOLVED, that authorization is hereby provided for the partial closing of up to \$308,235.00 in ECSD No. 3 Capital Reserve Account C.00007, Fund 430, Funds Center 183 to fund Contract No. 74P-R; and be it further

RESOLVED, that authorization is hereby provided for the Division of Budget and Management to process a residual equity transfer of up to \$308,235.00 from ECSD No. 3 Capital Reserve Account C.00007 to Erie County Sewer District No. 3 Capital Bond Account C.23350, Fund 430, Funds Center 183; and be it further

RESOLVED, that \$308,235.00 be allocated in Erie County Sewer District No. 3 Capital Bond Account C.23350, Fund 430, Funds Center 183 to fund Contract Nos. 74P-R; and be it further

RESOLVED, that the Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments necessary to facilitate this funding; and be it further

RESOLVED, that unused funds for this Contract will be returned to the account(s) in which they originated based on guidance from the Division of Sewerage Management and the budgets for said account(s) be adjusted accordingly; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send a certified copy of this resolution to the County Executive, the County Comptroller, the Director of Budget and Management, Richard Stanton, Assistant County Attorney, and Joseph Fiegl, P.E., Deputy Commissioner, Department of Environment and Planning.

(5-0)

3. COMM. 8E-5 (2023) AS AMENDED
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has received the following lowest responsible bid for Contract No. 89 at 10:00 a.m. on May 10, 2023:

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount</u>
Contract No. 89	Kandey Company, Inc. 19 Ransier Drive West Seneca, NY 14224	\$1,048,419.50

and

WHEREAS, the aforementioned lowest responsible bidder has successfully completed projects for the Division of Sewerage Management in the past; and

WHEREAS, the Division of Sewerage Management has determined this project is a New York State Environmental Quality Review (SEQR) Unlisted Action and after due consideration a Negative Declaration was issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

NOW, THEREFORE, BE IT

RESOLVED, that the Various Sanitary Sewer Replacements, Erie County Sewer District Nos. 1 & 3, Contract No. 89 be awarded as follows:

<u>Contract</u>	<u>Lowest Responsible Bidder</u>	<u>Amount</u>
Contract No. 89	Kandey Company, Inc. 19 Ransier Drive West Seneca, NY 14224	\$1,048,419.50

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute Contracts with the aforementioned lowest responsible bidder, subject to approval as to form by the County Attorney's office and approval as to content by the Commissioner of Environment and Planning; and be it further

RESOLVED, that the Director of Budget and Management and the County Comptroller are authorized and directed to transfer up to \$632,126.60 from Erie County Sewer District No. 1 Capital Reserve Account C.00033 to Sewer Management Capital Account C.20001 and establish the budgets necessary to facilitate the transfer; and be it further

RESOLVED, that the Director of Budget and Management and the County Comptroller are authorized and directed to transfer up to \$416,292.90 from Erie County Sewer District No. 3 Capital Reserve Account C.00007 to Sewer Management Capital Account C.20001 and establish the budgets necessary to facilitate the transfer; and be it further

RESOLVED, that the Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments necessary to facilitate this funding; and be it further

RESOLVED, that any unused funds for this Contract will be returned to the Erie County Sewer District Capital Reserve Account from which they came based on guidance from the Division of Sewerage Management and budgets for the Capital Reserve Accounts will be adjusted accordingly; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send a certified copy of this resolution to the County Executive, the County Comptroller, the Director of Budget and Management, Richard Stanton, Assistant County Attorney, and Joseph Fiegl, P.E., Deputy Commissioner, Department of Environment and Planning.

(5-0)

4. COMM. 12E-12 (2023)
COUNTY EXECUTIVE

WHEREAS, the Big Sister Creek and Lackawanna Water Resource Recovery Facilities Roof Replacements Project – Contract No. 94 was bid on May 20, 2022 by the Division of Purchase, under Bid No. 222140-002; and

WHEREAS, pursuant to Section 19.08 of the Erie County Administrative Code, Contract No. 94 was awarded to Progressive Roofing, Inc., (331 Grote Street, Buffalo, New York 14207), to replace certain building roofs at the Big Sister Creek and Lackawanna Water Resource Recovery Facilities in Erie County Sewer District Nos. 2 & 6; and

WHEREAS, during the demolition of the existing roofs, Progressive Roofing encountered unforeseen damages that could not be repaired by the contingency amount within the formal bid; and

WHEREAS, the Division of Sewerage Management recommends that the unforeseen damages identified by Progressive Roofing be repaired as part of Contract No. 94.

NOW, THEREFORE, BE IT

RESOLVED, that this Honorable Body approves of increasing the total Contract amount for Contract No. 94 between the County of Erie and Progressive Roofing, Inc., (331 Grote Street, Buffalo, NY 14207) by an amount not to exceed \$217,000.00; and be it further

RESOLVED, that the Erie County Legislature hereby waives the procedures, as impractical, provided for in Section 19.08 of the Erie County administrative code for the purposes of securing the unforeseen roofing repairs while keeping the continuity of the current performing vendor; and be it further

RESOLVED, that the Erie County Legislature does hereby authorize the Division of Purchase to process all necessary documents to continue the roof repairs; and be it further

RESOLVED, that the Director of the Division of Purchase be authorized to execute Change Order No. 1 for Contract No. 94; and be it further

RESOLVED, that the Director of Budget and Management and the County Comptroller are authorized to allocate up to \$217,000.00 in Capital Account No. C.21150 (American Rescue Plan funds) to fund Change Order No. 1; and be it further

RESOLVED, that the Director of the Division of Budget and Management is hereby authorized to implement any budget adjustments necessary to facilitate this funding; and be it further

RESOLVED, that at the close of the project unused funds may be returned to the capital project and the budgets be adjusted accordingly; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send a certified copy of this resolution to the Office of the County Executive, the Office of the County Comptroller, the Division of Budget and Management, the County Attorney’s Office, the Division of Purchase, and the Division of Sewerage Management.

(5-0)

TIMOTHY J. MEYERS
CHAIR

Item 14 – MR. GILMOUR presented the following report and moved for immediate consideration and approval. MR. TODARO seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 96

June 15, 2023	HEALTH & HUMAN SERVICES COMMITTEE REPORT NO. 6
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ALL MEMBERS PRESENT.

1. RESOLVED, the following item is hereby received and filed:
 - a. COMM. 11D-2 (2023)
COMMISSIONER OF HEALTH: “COVID-19 Outbreaks at Nursing Homes (Intro. 20-2)”
(Chair’s Ruling)
2. COMM. 12E-4 (2023)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Homeland Security & Emergency Services is responsible for providing public safety through comprehensive emergency management planning, preparedness, training, response and coordination of emergency services resources in Erie County during actual or potential disaster events; and

WHEREAS, the Research Foundation (RF) is the largest comprehensive university-connected research foundation in the country that provides essential administrative services that enable State University of New York (SUNY) faculty to focus their efforts on educating students and performing life-changing research across a wide range of disciplines; and

WHEREAS, General Municipal Law § 99-r authorizes the County to enter direct negotiations with any unit of SUNY to contract for technology services, equipment, or any other services of government that the SUNY unit is authorized to provide; and

WHEREAS, authorization is required from the Erie County Legislature for the County Executive to enter into contact with the Research Foundation to execute the project; and

WHEREAS, funding is available in the Department of Homeland Security and Emergency Services as made available through the 2022 Year-End Budget Balancing Amendments and Designations Resolution COMM 8E-1 (2023); and

WHEREAS, the contract will be managed by the Erie County Department of Homeland Security and Emergency Services.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the County Executive to enter into contract with the Research Foundation in an amount not to exceed \$350,000 for the purposes of creating a winter storm rating system; and be it further

RESOLVED, that General Municipal Law § 99-r authorizes the County to enter direct negotiations with any unit of SUNY to contract for technology services, equipment, or any other services of government that the SUNY unit is authorized to provide without use of a Request for Proposal; and be it further

RESOLVED, that sufficient funding for this contract exists within the Department of Homeland Security and Emergency Services 2023 General Fund Budget (Fund 110, Funds Center 16700) Account 516020 – Professional Service Contract and Fees; and be it further

RESOLVED, that certified copies of this resolution be sent to the County Executive’s Office, the Comptroller’s Office, the Division of Budget and Management, the Department of Homeland Security Emergency Services, and the Department of Law.
(5-0)

3. COMM. 12E-5 (2023)
COUNTY EXECUTIVE

WHEREAS, Erie County, like many communities across New York, is experiencing a movement where there’s a significant reduction in certified ambulance personnel and volunteers to staff and respond in ambulances resulting in longer wait times for ambulances and delay in care; and

WHEREAS, the lack of available ambulances in designated areas have led to an increase in mutual aid requests with other surrounding agencies in order to provide some level of care, however this is not a sustainable solution to the areas with inadequate coverage; and

WHEREAS, the Erie County Executive and Legislature worked to address this need by allocating funding on April 27, 2023, to establish a municipal ambulance service to pay for the necessary costs of personnel, equipment, supplies, and location; and

WHEREAS, Erie County will be the “safety net” ambulance service and be available to assist the volunteer and commercial ambulance services across Erie County when needed; and

WHEREAS, Erie County seeking to apply to New York State for a Municipal Certificate of Need (Muni-CON) – Ambulance (Transport) that is required to operate a municipal ambulance

service as stated in New York State Public Health Law Article 30 to transport throughout all of Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes Erie County to apply for a Muni-CON as defined by New York State Public Health Law Article 30, Section 3005; and be it further

RESOLVED, that this resolution takes effect immediately upon passage by the Erie County Legislature; and be it further

RESOLVED, the Clerk of the Legislature shall forward certified copies of this Resolution to the County Executive, the Commissioner of Emergency Services and Homeland Security, the Department of Law, the New York State Department of Health, the New York State Emergency Medical Services Council, and the Commissioner of Health.

(5-0)

4. COMM. 12E-6 (2023)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Mental Health (ECDMH) is responsible for the delivery of a comprehensive range of mental and behavioral health services for the residents of Erie County; and

WHEREAS, the Erie Path Mobile Application was created via a Request for Proposal (RFP), entitled Solicit Community Input, Identify Features and Functionality, Organize and Assemble Content for a Mobile Application for Parents and Caregivers to Address Mental Health Challenges of Children and Adolescents-RFP #2022-036VF awarded to CCNY, Inc. and a second RFP, entitled Mobile App Development Services-RFP #2022-046VF awarded to V3iT, Inc.; and

WHEREAS, upon completion of the Erie Path App, the ECDMH requests to contract with V3iT for ongoing maintenance of the application and to contract with Well Connected, Inc. which provides the software platform that allows access to the 211 resource directory; and

WHEREAS, no additional County funds are necessary for this request in 2023; any funding needed moving forward will be requested via subsequent annual budget submissions.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature hereby authorizes the County Executive to enter into contract with V3iT, Inc. and Well Connected, Inc. for maintenance, hosting, and other costs related to the operations for the Erie Path application for the remainder of 2023, waiving the procedures in Section 26.08 of the Erie County Administrative Code; and be it further

RESOLVED, sufficient funding exists within the Department of Mental Health – Program Administration’s 2023 Budget (Fund 110, Funds Center 12410) Account 516020 Professional

Services, Contracts and Fees for an amount not to exceed \$27,600 in fiscal year 2023; and be it further

RESOLVED, that the Division of Budget and Management is hereby authorized to make any technical adjustments necessary to effectuate this resolution; and be it further

RESOLVED, that certified copies of this resolution be furnished to the County Executive’s Office, the Comptroller’s Office, the Department of Mental Health, Division of Information and Support Services, and the Division of Budget and Management.

(5-0)

5. COMM. 12E-7 (2023)
COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Mental Health (ECDMH) is responsible for the delivery of a comprehensive range of mental and behavioral health services to the residents of Erie County; and

WHEREAS, the need to provide emergency/disaster response services to the local population is critical for the proper function of the ECDMH; and

WHEREAS, the ECDMH has identified an opportunity to fill this need with both current year and future years unallocated state aid from NYS Office of Mental Health (OMH); and

WHEREAS, no more than \$62,930 in funding will be required for the remainder of 2023 from available state funding; and

WHEREAS, a combination of OMH state aid and Federal Salary Sharing will cover 100% of the necessary funding starting in 2024.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature does hereby authorize the County Executive to enter into contract with OMH for the purposes of accepting \$62,930 in State Aid to be budgeted within the Department of Mental Health’s Division of Program Administration’s 2023 Budget (Fund 110, Funds Center 12410) as follows:

Department of Mental Health
Fund, 110, Funds Center 12410

<u>Revenue</u>	<u>Increase/(Decrease)</u>
406830 State Aid – Mental Health II	<u>\$62,930</u>
TOTAL	\$62,930
<u>Expense</u>	
500000 Full Time – Salaries	40,600
502000 Fringe Benefits	<u>\$22,330</u>
TOTAL	\$62,930

and be it further

RESOLVED, that authorization is hereby given to create one Mental Health Emergency/Disaster Response Coordinator, Job Group 14 Step 1, (B100 #13743) in the CSEA bargaining unit effective July 1, 2023; and be it further

RESOLVED, that authorization is hereby given to the Director of Budget and Management to adjust items of appropriations and revenues, provided there are no changes to authorized personnel levels; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the Office of the County Executive, the Office of the Comptroller, the Personnel Department, the Division of Budget and Management, and to the Department of Mental Health.
(5-0)

JOHN J. GILMOUR
CHAIR

LEGISLATOR RESOLUTIONS

Item 15 – MR. MEYERS presented the following resolution and moved for immediate consideration and approval. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

RESOLUTION NO. 97

RE: Transfer of Surplus Property to
the Town of West Seneca
(INTRO. 13-1)

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

WHEREAS, on Christmas Day, 2021, a fire at the Town of West Seneca Highway Department destroyed a number of vehicles and pieces of equipment; and

WHEREAS, to date, not all of that equipment has been replaced; and

WHEREAS, the Town of West Seneca has recently requested a transfer of property from the County's surplus warehouse and has identified an item that would be of tremendous use to them, replacing one of the pieces of equipment destroyed in the fire; and

WHEREAS, the item no longer serves a purpose for the County of Erie and representatives of the Department of Purchasing have indicated that the request is proper and therefore the vehicle identified below could be transferred to the Town of West Seneca.

NOW, THEREFORE, BE IT

RESOLVED, that ownership of the following item is hereby transferred from the County of Erie to the Town of West Seneca:

County Vehicle #	Description
5129	2014 Freightliner Vactor Truck, Model 114SD (VIN 1FVHG3CY3EHFX3282)

and be it further

RESOLVED, that this item is to be used for a purpose related to the operations of the Town of West Seneca and should not be transferred to any other entity without prior consent of the Erie County Legislature; and be it further

RESOLVED, that certified copies of this resolution be sent to the Department of Purchase, Superintendent of Highways Brian Adams for the Town of West Seneca, and any other party deemed necessary and proper.

COMMUNICATIONS DISCHARGED FROM COMMITTEE

There are none.

SUSPENSION OF THE RULES

Item 16 - MR. MEYERS moved for a Suspension of the Rules to include an item not on the agenda.

GRANTED.

COMM. 13D-3 from COUNTY ATTORNEY Re: Opinion as to Form Local Law Intro. No. 2-2 (2023)

CHIAR BASKIN directed that the letter by received, filed and printed.

GRANTED.

June 21, 2023

Via Email Only
Hon. April N.M. Baskin, Chairwoman
Erie County Legislature
Old Erie County Hall

92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Opinion as to Form Local Law Intro No 2-2 2023

Dear Chairwoman Baskin:

In accordance with the obligations of the Erie County Attorney set forth in subsection 3, Section 204 of Article 2 of the Erie County Charter, this legal opinion concerns Local Law Intro No. 2-2 2023 (2-2).

Preemption

Under New York state law, preemption occurs when a local law directly conflicts with a state statute, or where a state statute expressly states that local laws on a given subject matter are preempted. Preemption can also occur where the State Legislature has assumed full regulatory responsibility in a field related to the proposed local law.

Here, 2-2 does not present any direct conflicts with state statute and since the State Legislature has not taken specific action to assume sole regulatory authority on this topic, 2-2 does not present a preemption issue of concern.

Grammar

The stated purpose of 2-2 is to make art accessible to all Erie County residents and visitors and to foster a sense of community connection and civic pride, by developing financial support for public art through the County's construction of new infrastructure. We find the grammar and usage of 2-2 to be sufficient in order to achieve the stated purpose.

Ambiguities

While every hypothetical circumstance or eventuality cannot be addressed in the scope of this opinion, 2-2 does not present any facial ambiguities that would frustrate its implementation and enforcement.

Conclusion

We find that Local Law Intro. 2-2 2023 is sufficient as to form.

Very truly yours,
JEREMY C. TOTH
Erie County Attorney

By: Aaron Rubin
Assistant Erie County Attorney

FROM THE COUNTY EXECUTIVE

Item 17 – (COMM. 13E-1) Appointments to the Mental Hygiene Community Services Board

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 18 – (COMM. 13E-2) Appointments to the Fire Advisory Board

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM THE COMPTROLLER

Item 19 – (COMM. 13E-3) Questions & Concerns Regarding Sheriff Request to Lease 13 Centre Drive

Received and referred to the PUBLIC SAFETY COMMITTEE.

FROM CHAIR BASKIN

Item 20 – (COMM. 13E-4) 2023 Mid-Year Budget Hearings

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY CLERK

Item 21 – (COMM. 13E-5) Resolution to Authorize Entry Into Lease with Bella Vista Group for Cheektowaga Satellite Auto Bureau Office

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY EXECUTIVE

Item 22 – (COMM. 13E-6) Authorization to Enter Into Contract for Managed Print Services

Received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 23 – (COMM. 13E-7) GIVE Personnel & Budget Adjustment

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 24 – (COMM. 13E-8) EC Storefront Revitalization Program - Authorization to Amend Existing Agreements for Architectural & Program Administration Services

Item 25 – (COMM. 13E-9) EC Cultural Plan - Authorization to Accept Grant Funding & Enter Into an Agreement with a Consultant

The above two items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 26 – (COMM. 13E-10) Professional Services for Rain Barrel & Compost Bin Sales

Received and referred to the ENERGY & ENVIRONMENT COMMITTEE.

Item 27 – (COMM. 13E-11) EC Medical Examiner's Office - Anthropology Lab Phase 6 Renovations Contingency Fund Increase

Item 28 – (COMM. 13E-12) Erie County Health Lab Building 17 Renovations - Phase 3

Item 29 – (COMM. 13E-13) Erie County - On-Call Special Inspections & Tests Amendment

The above three items were received and referred to the ECONOMIC DEVELOPMENT COMMITTEE.

Item 30 – (COMM. 13E-14) Authorization to Enter Into Contracts for Youth Sports Services

Received and referred to the HEALTH & HUMAN SERVICES COMMITTEE.

Item 31 – (COMM. 13E-15) Authorization to Accept Grant Funding for the FY 22 Hazardous Materials Emergency Preparedness Grant

Received and referred to the PUBLIC SAFETY COMMITTEE.

Item 32 – (COMM. 13E-16) Levy of the 2023-2024 School Tax Budgets

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

Item 33 – (COMM. 13E-17) Appointment to Western Region OTB Board of Directors

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

Item 34 – MR. MEYERS presented the following resolution and moved for immediate consideration and approval. MR. JOHNSON seconded.

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

AYES: MR. GREENE, MR. BARGNESI, CHAIR BASKIN, MR. GILMOUR, MR. JOHNSON, MR. KOOSHOIAN, MR. MEYERS and MS. VINAL. NOES: MR. MALCZEWSKI, MR. MILLS and MR. TODARO. (AYES: 8; NOES: 3)

CARRIED.

RESOLUTION NO. 98

RE: SUNY Erie Community College 2023-

2024 Budget
(COMM. 13E-18)

RESOLVED, that the Erie County Legislature hereby approves the SUNY Erie 2023-2024 Budget as submitted by the Erie County Executive.

COMMUNICATIONS FROM THE DEPARTMENTS

**FROM THE DIRECTOR OF
BUDGET & MANAGEMENT**

Item 35– (COMM. 13D-1) Budget Monitoring Report for Period Ending April 2023

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

FROM THE COUNTY ATTORNEY

Item 36 – (COMM. 13D-2) Transmittal of New Claims Against Erie County

Received and referred to the GOVERNMENT AFFAIRS COMMITTEE.

COMMUNICATIONS FROM THE PEOPLE AND OTHER AGENCIES

FROM THE NYS DEPARTMENT OF TAXATION & FINANCE

Item 37 – (COMM. 13M-1) List of Certified 2023 Class Equalization Rates

Received and referred to the FINANCE & MANAGEMENT COMMITTEE.

ANNOUNCEMENTS

Item 38 – Chair Baskin announced that the Legislature will conduct committee meetings on Thursday, June 29, 2023, and the schedule will be distributed. Chair Baskin further announced that the next session of the Legislature will be held on Thursday, July 6, 2023.

MEMORIAL RESOLUTIONS

Item 39 – Legislator Meyers requested that when the Legislature adjourns, it do so in memory of Frank E. Swiatek.

Item 40 – Legislator Vinal requested that when the Legislature adjourns, it do so in memory of Richard W. Fickhesen Jr.

Item 41 – Legislator Todaro requested that when the Legislature adjourns, it do so in memory of Collin Tytko.

ADJOURNMENT

Item 42 – At this time, there being no further business to transact, CHAIR BASKIN announced that the Chair would entertain a Motion to Adjourn.

MR. MEYERS moved that the Legislature adjourn until Thursday, July 6, 2023 at 12:00 Noon. MR. JOHNSON seconded.

CARRIED UNANIMOUSLY.

CHAIR BASKIN declared the Legislature adjourned until Thursday, July 6, 2023 at 12:00 Noon.

ROBERT M. GRABER
CLERK OF THE LEGISLATURE