

The City Council met in regular session in the Council Chambers on Wednesday, March 19, 2008 at 7:40 p.m.

Members present: Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7.

On motion of Mr. Thompson, Seconded by Mr. Schember, the reading of the Minutes of the meeting of March 5, 2008 were dispensed with and same adopted with Copies furnished to members of City Council by yeas Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0., with the exception of invoices to the NATO Centers on which Mrs. Jenkins-Husband abstained from voting.

By Mrs. Jenkins-Husband, Council File Ordinance #15,575
an ordinance amending Traffic Code Ordinance #26-1958, by installing **stop signs** at the following ten intersections which are currently uncontrolled:
Clayton Avenue at Harding Drive stopping Clayton Avenue
Clayton Avenue at Rilling Avenue stopping Clayton Avenue
Brighton Avenue at Harding Drive stopping Brighton Avenue
Brighton Avenue at Rilling Avenue stopping Rilling Avenue
Raspberry Street at Rilling Avenue stopping Raspberry Street
West 39th Street at Rilling Avenue stopping West 39th Street
West 41st Street at Rilling Avenue stopping West 41st Street
Harding Drive at Belmont Avenue stopping Harding Drive
NE corner of West 31st at Erie Street stopping West 31st Street
SE corner of Erie Street at West 30th Street stopping Erie Street

March 19, 2008. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, having read Council File Ordinance #15,575, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

HONORABLE MAYOR, PRESIDENT AND MEMBERS OF CITY COUNCIL: February 26, 2008

The City of Erie Planning Commission at its regular meeting on February 19, 2008, reviewed a Waterfront Conditional Use submittal by Al Monschein for the construction of a two-story addition to his dwelling located at 933 West Front Street.

The exterior of the new structure will be constructed of the same material and same color as the present structure. Drawings and pictures were introduced by Mr. Monschein to show that the addition will not change the character of the area.

After inspection and due consideration, it was moved by Mr. Antalek and seconded by Mr. DeBello that the project is hereby recommended for approval without revision.

Respectfully submitted,
s/ Armand Chimenti, Secretary
City Planning Commission

By Mr. Schember, Seconded by Mr. Thompson, Resolved, etc.,

That the communication from the City Planning Commission recommending that the request for Waterfront Conditional Use submitted by Al Monschein for property located at 933 West Front Street for the construction of a two-story addition to his dwelling be approved, and

Be It Further Resolved, that the City Clerk is authorized and directed to advertise legal notice of a Public Hearing to be held before City Council on Wednesday, **April 16th, 2008 at 8:00 p.m.** in the City Council Chambers, concerning the said change.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

Attn: Michele
Knox Firm Fax: 453-4530
RE: 18-050-0700-13000 (01) 046-176; 50176-94
Eastside Florida Avenue, Erie, Pa.

March 11, 2008

Dear Michele:

As per our conversation today, this letter is in regards to the above referenced Municipal Lien. My office filed a municipal lien for paving on 4/3/72 and revived the lien on 4/18/1994.

As of 3/15/08 the payoff for this lien is \$3,834.35 including principal and interest. Additional charges may incur as interest accumulates daily.

If a compromise were sought through City Council, the City Solicitor would not be opposed.

Please make checks payable to: City Treasurer, 626 State Street, Room 105, Erie, Pa. 16501 and note on the outside of envelope ATTN: LAW

Thank you for your cooperation. If you have any questions, please contact me at 870-1210.

By Mr. Cappabianca, Seconded by Mrs. Jenkins-Husband, Resolved, etc.,

That the City Treasurer is authorized and directed to waive interest and penalties accrued on property known as City Index 18-050-0700-13000 (01) located on the eastside of Florida Avenue and known as 3107 Florida Avenue, in the amount of \$2,875.80.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved etc.,

That the City Solicitor is respectfully requested to review and evaluate Section 511 **Commercial Vehicle Ordinance**, particularly Section 511.03 "Local Truck Routes" with emphasis on the definition for local deliveries and submit his recommendations for amending same to City Council.

March 19, 2008. City Council on motion of Mr. Cappabianca, Seconded by Mrs. Horan-Kunco, amended the foregoing resolution to state that the said request is to be referred to the City Traffic Engineer as well as the City Solicitor for review and referral back to City Council. The amendment was adopted by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones.

March 19, 2008. City Council adopt, as amended, by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

To: Members of City Council

March 13, 2008

From: Steve Benson, CIO

Subject: DCED Grant Application for Information Technology Projects

On the agenda for the Council meeting of March 19th, I have placed a resolution for your approval regarding the application for DCED grant funds for information technology projects.

In July 2006, the City of Erie received the Early Intervention Program Strategic Plan (EIP Report). This report presented numerous findings and recommendations. From an information technology perspective, the report points out that major I upgrades and improvements are required throughout the city.

In accordance with the EIP Report, the city of Erie has developed a plan that addresses four major information technology related projects to be completed using these grant funds. They are as follows:

- * Payroll Processing Improvements Project
- * Connectivity Project
- * Document Management Project
- * Upgrade of Treasurer's Office and Code Enforcement Software Project

I trust you share the administrations appreciation of the value of these initiatives and the need for funding to see these projects through. I ask that you approve this resolution so that the application can be submitted immediately.

I hope that I have provided enough information on the subject to get your approval to proceed. If not, please let me know.

That's it. Your questions and comments are always welcome.

By Mr. Thompson, Seconded by Mrs. Jenkins-Husband, Resolved, etc.,

That the Mayor and other appropriate City officials are authorized and directed to submit an application to the Pennsylvania Department of Community and Economic Development for a **Single Application of Assistance Grant** in the amount of \$99,918.00 to be used in various information technology projects. This funding will enable the City of Erie in meeting recommendations set forth in the Early Intervention Strategic Plan comprising of

- * Payroll Processing Improvements Project
- * Connectivity Project
- * Document Management Project
- * Upgrade of Treasurer's Office and Code Enforcement Software Project

Further, the Mayor and other appropriate officials are hereby authorized to enter into a contract with the Pennsylvania Department of Community and Economic Development upon approval of the Single Application of Assistance request.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

By

That the Mayor and appropriate City officials are authorized and directed to submit an Application for a **National Scenic Byway Program Grant** under the corridor Management Plan category for up to \$150,000.00 to be used for improvements to the eight corner gateways to the Perry Square corridor.

March 19, 2008. The foregoing resolution was listed on the agenda for this evening's meeting but was withdrawn at the request of the Administration.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
MARY WOLSKI, Appellant : Civil Division
vs. :
CITY OF ERIE Appellate : No. 11232-08

By Mr. Thompson, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the Notice of Appeal from Adjudication of Erie Civil Service Commission submitted by Attorney Paul J. Susko on behalf of **Mary M. Wolski**, being No. 11232-08 Civil Division, regarding her discharge as an employee from the Bureau of Fire is hereby received by City Council and referred to the Office of the City Solicitor.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Capacitance, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the resolution for Plan Revision for New Land Development submitted pursuant to Section 5 of the Act of January 24, 1966, P. L. 1535, No. 5387, known as the Pennsylvania Sewage Facilities Act, as amended, authorizing Sewer Tap-ins at: **Under The Clock**, Boston Store Place, 716 State Street, Erie, Pa., at the request of John Leonard, land developer, is hereby received and approved.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the resolution for Plan Revision for New Land Development submitted pursuant to Section 5 of the Act of January 24, 1966, P. L. 1535, No. 5387, known as the Pennsylvania Sewage Facilities Act, as amended, authorizing Sewer Tap-ins at: **Glenwood Park Avenue Subdivision**, Glenwood Park Avenue and West 41st Street, Erie, Pa., at the request of Pastore Brothers, land developer is hereby received and approved.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

**THE ERIE PARKING AUTHORITY
Management's Discussion and Analysis**

As management of the Erie Parking Authority, we offer readers of the Authority's financial statements this overview and analysis of the Authority's financial performance during the fiscal year ending December 31, 2007.

Financial Highlights:

* The Authority's gross operating income for 2007 was \$5.11 million. Projected revenue for 2007 was estimated at \$5.09 million. Actual Income for 2006 was \$5.06 million.

* The Authority's expenditures in 2007 were 5.22 million. This includes operating expenses of \$2.79 million, which included payments to the City of Erie of \$500,000 and debt service payments of 2.43 million. Expenditures for 2006 were \$5.19 million, which included th3e debt service payment of \$2.56 million and operating expenses of \$2.6 million, including payments to the City of Erie of \$500,000.

* The Authority's gross income increased in 2007 by 1%. This increase is mainly attributable to the opening of D-Garage after renovation work. The garage remained fully closed from May thru November of 2006. The facility was reopened for partial use in December with the project's final completion in March of 2007.

Overview of the Financial Statements:

This annual report includes management's discussion and analysis report and the independent auditor's report.

Significant Events:

As discussed in prior financial reports, the City of Erie enacted a 15% parking tax in 2004, which the Board of Directors decided not to implement. As an alternative, a one year municipal services agreement was negotiated with the city requiring the Authority to pay the city \$375,000. Additionally, due to the financial difficulties of the city, the Authority paid the city \$298,426 in lieu of real estate taxes for the year 2004. Again in 2005, another municipal services agreement was negotiated in lieu of implementing the parking tax. It was agreed that the Authority make a payment of \$500,000 to the city. In 2006, a new agreement was negotiated requiring the Authority to make annual payment off \$500,000 for a three year period. The 2007 payment of \$500,000 marks the second of three payments. As a condition of the agreement, the city is obligated to sign any future bond issues as a guarantor for the three-year period. Management will continue to monitor both income and expenses for the year 2008.

The Authority continues to update the quality of the meter program with the annual replacement of older mechanical meters with electronic digital meters. Although a minimal number of meters were purchased in 2005, it is anticipated that an additional 400 electronic meters will be purchased in 2008. Upon completion of that anticipated purchased, approximately 90% of the Authority's meters will have been updated.

Facility improvements continue to remain at the forefront of the Authority's future initiatives. As previously mentioned, the D garage, located between West 8th and West 9th Streets, Peach to Sassafras Streets, underwent major renovation work beginning in May of 2006 at a cost of \$3.3 million. The project was fully completed in March of 2007. Additional renovation projects begun in 2007 included E garage and M-1 garage stairwell renovations and K-1 garage structural renovations. It is anticipated that all of the renovations will be completed by the end of February of 2008. The total cost of these projects is estimated to be approximately \$1.75 million.

As per the Trust Indenture, annual inspections are conducted by the Authority's consultant for all the facilities. The annual inspection report is available for review in the Authority's main office.

During the year, the Authority retained the services of Desman and Associates to update the parking feasibility study at Hamot Hospital based upon various changes involving the hospitals capital expansion plan. The study was completed in October. Discussions are continuing with the hospital regarding the possible construction of a new 400 space garage. As was the case with the initial study, a revenue guarantee to the Authority is indicated due to a number of factors including construction cost and garage use. Additionally, the Authority has negotiated an operating agreement with St. Vincent Hospital to provide cashier services to the recently constructed 800 space parking garage on the hospital campus. The garage built by the hospital, was part of a significant expansion project, which also included a 5,000 square foot medical office building. Discussions continue with the hospital regarding either a long-term management agreement and/or purchase of the garage.

The City of Erie has been provided with an excellent parking program and everyone associated with the Erie Parking Authority can be proud of the role that he or she has played in making this program a success.

Request for Information:

This report is designed to provide a general overview of the Authority's finances for all those with interest. Questions concerning any of the information provided in this report, or request for additional information should be addressed to the Executive Director Raymond C. Massing, The Erie Parking Authority, 25 East 10th Street, 2nd floor, Erie, Pa 16501.

By Mrs. Horan-Kunco, Seconded by Mrs. Jenkins-Husband, Resolved, etc.,

That the communication from **The Erie Parking Authority** enclosing the Financial Statements and Reports for the year ending December 31, 2007 as compiled by Root, Spitznas and Smiley, C.P.S., is hereby received by the City Council and ordered placed on file in the Office of Accounts, Finance and Budget.

March 19, 2008. City council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 19 2008. Signed by the President. Attested by the City Clerk.

James Klemm, City Clerk
City Hall, Erie, Pa.

March 14, 2008

RE: Appointment to City of Erie Officers & Employees Retirement Board

Dear Mr. Klemm:

Please allow this letter to serve us my notice of my appointment of Mary Margaret Donikowski to the above referenced pension board, replacing the late George Kwiatkowski.

If you have any questions concerning this matter, please feel free to contact me.

Sincerely,

S/ Joseph E. Sinnott, Mayor

By Mr. Thompson, Seconded by Mrs. Jenkins-Husband, Resolved, etc.,

That the communication from Mayor Joseph Sinnott notifying City Council that upon the recommendation of the Erie City Retirees Association in accordance with Act 49, he has appointed **Mary Margaret Donikowski**, 1015 East 33rd Street, to the Officers & Employees Retirement Board, as the retiree representative, replacing George Kwiatkowski (deceased), is received by the City Council and said appointment is hereby confirmed.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the City Clerk.

To: Ms. Rubye Jenkins-Husband, City Council Liaison March 19, 2008
From: Jon Tushak, P. E., City Engineer
Subject: City Council Contract Award Resolution
Project: Proposed Perry Square Renovation - Phase 1 - Electrical Construction

A resolution to award the contract on the above referenced project to Doan Pyramid LLC, Keystone Electric Division, 3125 Brandes Street, Erie, Pa., in the amount of \$348,610.00 will be presented to City Council at their Wednesday, March 19, 2008 meeting. Keystone was the lowest of three bids submitted. Newco Electric submitted a bid of \$437,160.00. Church & Murdock Electric submitted a bid of \$480,634.00.

The project is to install pre-purchased park site lighting and electrical power distribution equipment provided by the City of Erie. The scope of proposed electrical construction is in accordance with the Perry Square Master Plan prepared by Burt Hill with input from others.

Time is of the essence on this project because the CDBG funding must be spent by the end of June 2008. The lighting and electrical equipment was pre-purchased by the city under previous purchase order contracts ahead of the proposed construction contract because these items have about eight weeks of lead time from order to delivery and because contractors typically mark-up items by 10-15% when purchasing for construction contracts. By pre-purchasing, the city was able to get a head start on the long lead time and will save the mark-up on these items.

This project is to be charged to CDBG Budget Code #501-1245-2007-4072 (\$307,283.13) and Fund 018 Bond Issue Budget Code #018-0713-0000-4075 (\$41,326.87). Please contact me at extension 1377 if you have any questions.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the Mayor and City Controller are authorized and directed to execute contracts between the City of Erie and the following individuals and/or companies for goods and/or services as noted and the City Council does hereby ratify and confirm he said transactions which are to be charged to the respective Budget Code Numbers, viz:

1. **Doan Pyramid, LLC**, Keystone Electric Division, 3125 Brandes Street, Erie, Pa., for the proposed Perry Square Renovation, Phase I-Electrical construction for the sum of \$348,610.00, they being the lowest of three bids submitted.
2. **Ferrando Ford**, P. O. Box 152, Route 20, Girard, Pa., for a Compact Pickup Truck for the Bureau of Sewers for the sum of \$15,256.00, lowest of two bidders.
3. **Ferrando Ford**, P. O. Box 152, Route 20, Girard, Pa., for a 1 ton Dump and Plow Truck for the Bureau of Sewers for the sum of \$38,266.00, lowest of two bidders.
4. **Netzsch, Inc.**, 229 Pickering Way, Exton, Pa. for four Progressive Cavity Pumps for the Bureau of Sewers for the sum of \$22,589.00, lowest of two bidders.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mr. Cappabianca, Seconded by Mr. Schember, Resolved, etc.,

That the City Purchasing Agent is authorized and directed to issue purchase orders to the following individuals and/or companies and goods and/or services as noted and the City Council does hereby ratify and confirm the said transactions which are to be charged to the respective Budget Code Numbers, viz:

1. **Master Fire & Security System**, 1019 West 26th Street, Erie, Pa., for a 16 Channel DVR w/Storage and DVR-RW and equipment and installation for the Building Security System, for the Bureau of Police for the sum of \$9,945.00
2. **East Jordan Iron Works**, Dept. 59601, P. O. Box 67000, Detroit, MI, for Land Markers for the Bureau of Streets for the sum of \$3,964.70.
3. **Dezurik Water Controls**, NW 5520, P. O. Box 1450, Minneapolis, MN, for two Dezurik Air Activated Plug Valves for the East Primary Tanks for the Bureau of Sewers for the sum of \$4,645.52.
4. **David Milano Construction**, 1827 West 36th Street, Erie, Pa., for Storm Drain & Sanitary Sewer Repairs at 122 Lincoln Avenue, 348 West 19th Street, Payne Avenue between 9th and 10th Streets, and Birch Court & Atkins Street, for \$3,934.89 (Material Costs only) for the Wastewater Treatment Plant/Bureau of Sewers.
5. **David Milano Construction**, 1827 West 36th Street, Erie, Pa., for Storm Drain & Sanitary Sewer Repairs at 520 Lincoln Avenue, 910 West 4th Street, 201 Liberty Street and 13th & Sassafras Streets, for the sum of \$5,894.88 (Material Costs only) for the Wastewater Treatment Plant/Bureau of Sewers.

6. **Fischer Scientific**, 4500 Turnberry Drive, Hanover, Park, IL, for a Sterilizer for the Plant Lab, for the Bureau of Sewers for the sum of \$7,760.25.
7. **Reintjes, Inc.**, 449 South Meridan Road, Youngstown, Ohio, for a Preventative Maintenance and Repairs to #1 Incinerator, for the Bureau of Sewers for the sum of \$7,967.54.

March 19, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
March 19, 2008. Signed by the President. Attested by the Acting City Clerk.

Pursuant with Official Ordinance #66-1989, City Controller Casimir Kwitowski submitted documents including the Act 205 Actuarial Valuation Reports and Form AG-PF 64 and AG-PF 490 that had been forwarded to the Public Employees Retirement Commission and to the Department of the Auditor General; City Council receive and order placed on file in the Office of the City Clerk.

Members of City Council

March 19, 2008

In accordance with Council File No. 13,913, Official Ordinance No. 66-1989, amending Part One (Administrative Code) revising Article 113 (Mayor) by adding a new Section 113.11 requiring the Mayor or designee of the Mayor to comply with all requirements of Pennsylvania Act 205 of 1984 and to communicate with Council regarding these requirements annually.

The City Controller's Office has functioned as the coordinator of the Pension Plans reporting and filing requirements.

This letter is to notify you of the processing and filing of this year's pension reports for the Act 205 Actuarial Valuation.

The Act 205 Actuarial Valuation Reports for the Non-Uniformed Employee Retirement Fund; Firemen's Pension Fund and the Police Pension Fund were forwarded by certified mail on March 19, 2008 to the Commonwealth of Pennsylvania, Public Employees Retirement Commission.

The Form AG-PF 64 2006 Certification for Reimbursement, as required by 901(a)(2) of the Special Ad Hoc Municipal Police and Firefighter Postretirement Adjustment Act (Act 1988-147, as amended by Act 2002-64) for January 1, 2005-December 31, 2005. This report was processed and sent by certified mail on March 19, 2008 to the: Department of the Auditor General, Municipal Pensions & Fire Relief Programs Unit, 1205 State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

The Form AG-PF 490 Certification for Reimbursement (Act 88-1147) and the Form AG-PF 385 Filing and Certification for Non-Uniformed Employee Retirement Fund, Firemen's Pension Fund and the Police Pension Fund were forwarded by certified mail on March 19, 2008 to the: Department of the Auditor General, Municipal Pensions & Fire Relief Programs Unit, 1205 State Office Building, 300 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

All reports were submitted by the filing deadlines. Copies of all reports are on file in the Controller's Office and the Clerk's Office.

I request that his report be made a matter of council record at the March 19, 2008 council meeting.

My office would be happy to provide any member of Council with further information. Please feel free to call me if I can be of assistance.

Respectfully submitted,
S/ Casimir Kwitowski
City Controller

March 19, 2008. City Council on motion of Mr. Thompson, Seconded by Mr. Schember, adjourned at 10:30 p.m. by yeas Council Members Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 6. Nays. 0. (Mr. Aleksandrowicz left the Council meeting at 10:15 p.m.)

Attest:

President of City Council

(Acting) City Clerk

Pursuant to proper legal advertisement, the City Council met in Special Session on Monday, March 24, 2008. The City Council met in caucus at 6:30 p.m. to discuss the **Memorandum of Understanding** (MOU) between the City of Erie, the County of Erie and the Erie Municipal Airport Authority and to consider the adoption of same.

After discussion, the City Council, on motion of Mr. Thompson, Seconded by Mr. Schember, convened at 7:00 p.m. by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7.

MEMORANDUM OF UNDERSTANDING

between

THE CITY of ERIE

and

THE COUNTY OF ERIE

and

THE ERIE MUNICIPAL AIRPORT AUTHORITY

WHEREAS, a one-thousand nine-hundred twenty (1,920) foot runway extension and the resurfacing of the existing runway at the Erie International Airport ("Project") is essential for passenger safety (920 feet) as well as the future growth and economic development (1,000 feet) of the City of Erie and the entire Erie region; and

WHEREAS, the federal government, by delegated statutory authority to the Federal Aviation Administration ("FAA"), has agreed to contribute to the funding for the Project on the condition that the airport and state and local government contribute to the Project based on a formula presented by the FAA; and

WHEREAS, elected and/or appointed representatives of the City of Erie ("City"), County of Erie ("County") and the Erie Municipal Airport Authority ("Authority") (collectively referred to as "the parties") convened November 9, 2007 for the purpose of agreeing on a collaborative plan in order to: provide for a local funding match for the Project, address expansion of the Authority's governing board and arrive at compromises among the municipalities and Authority in furtherance of the Project; and

WHEREAS, the County has indicated a willingness to (1) provide a portion of the local match for the Project, (2) assist the Authority in providing the Authority's portion of the local match for the Project, and (3) assist the Authority in retiring the existing indebtedness of the Authority; and

WHEREAS, due to the significant investment the County is committing to the Project it desires that the Authority become a "regional authority" with an expanded board of directors to which the County shall be granted appointment power; and

WHEREAS, in order for the Authority to become a "regional authority" with appointments made by the County to the Authority board of directors, (1) the County must join as a member municipality of the Authority pursuant to Section 5604 of the Municipality Authorities Act ("Act"), thereby turning the existing Authority into a "joint authority" within the meaning of the Act and (2) the Articles of Incorporation of the Authority must be appropriately amended pursuant to Section 5605 of the Act to reflect the status of both the City and the County as members of a joint authority; and

NOW, the County, the City, and the Authority, intending to be legally bound, hereby agree to the following:

1. The County shall:
 - a. commit up to \$25.7 million in local match funds for the Project, subject to the following terms, conditions, limitations and contingencies:
 - i. The \$25.7 million commitment (the "Commitment") is fulfilled upon the deposit of proceeds from a bond issue in the gross amount of \$25.7 million less normal and

customary issuance fees and costs, or other non-bond revenue sources, into the Construction Fund as defined below, provided the net amount of the Commitment shall be made available to the Authority in accordance with the terms set forth herein no later than June 30, 2008.

- ii. The Commitment may be fulfilled by a combination of tax-exempt bond proceeds and other revenue sources of the County, as determined by the County in its discretion. To the extent that the Commitment is funded by bond proceeds, payment of debt service on the bond proceeds shall be the responsibility of the County,. It is understood by the parties that the County presently contemplates that the Commitment shall be derived from restricted gaming revenues, provided however, this shall not be deemed to limit the County's obligations as set forth in paragraph 1.a.i., above.
 - iii. Funds from the Commitment shall be deposited in a Project construction fund (the "Construction Fund"). Funds from the Construction Fund, including interest earnings thereon, shall be used solely for the payment of costs directly related to the Project. For the sake of clarity, such costs include, but are not limited to: (1) land acquisition costs, including without limitation the acquisition of land in fee, easements and/or other forms of real property rights; and (2) relocation costs, including cost associated with the reconfiguration of the Millcreek Golf and Learning Center ("MGLC") and the reconfiguration of Powell Avenue. Such costs include a payment in the amount of \$2,210,000.00 to the City in consideration for the agreement of the City to transfer the Erie Golf Club to Millcreek Township, in exchange for the waiver of the Township's right to demand that the Authority pay for the reconfiguration of MGLC and/or the transfer of real property rights in and/or around MGLC to the Authority, provided that: (1) such transaction occurs no later than September 15, 2008; (2) such transaction results in a net cost savings to the Project; and (3) the terms and conditions of such transaction are satisfactory to the Authority and the County. If said contingencies are met, payment shall be made to the City upon the City's transfer of the Erie Golf Club to Millcreek Township. The Authority and the County agree that they shall not unreasonably withhold their consents to such payments.
 - iv. To the extent available, non-bond proceeds from the Commitment may be used to retire existing indebtedness of the Authority, provided that: (1) any debt service reserve fund, revenue fund, clearing fund or any similar fund which may exist with respect to the indebtedness in question shall be used to retire such indebtedness prior to or contemporaneous with the use of funds from the Commitment for such purpose; and (2) such use of funds from the Commitment is consented to by the County, which consent will not unreasonably be withheld.
 - v. The Commitment shall be subject to such terms, conditions, limitations and contingencies as is set forth in an intergovernmental cooperation agreement (the "ICA") between the County and Authority, as described in greater detail below. The County agrees to provide the Authority with a draft of the ICA by the close of business on April 4, 2008.
- b. the County shall issue bonds in the approximate principal amount of \$8.4 million dollars, subject to the following terms, conditions, limitations and contingencies:
 - i. The bonds shall have a term of fifteen years.
 - ii. Proceeds from the Bonds shall be used solely to: (1) pay costs of issuance; and (2) further fund the Construction Fund.
 - iii. Pursuant to the terms of the ICA, the Authority shall agree to cover the cost of the debt service on the bonds and provide security therefor to the County.
 - iv. The funds provided under this Section 1(b) shall be subject to such terms, conditions, limitations and contingencies as are set forth in the ICA between the County and the Authority, as described in greater detail below.
 - c. utilize any interest generated from the investment of idle project funds from the bond proceeds to provide additional funding to the Project; and
 - d. agree that any reduction in the project cost and/or any additional sources of revenue which reduce the overall local commitment to the project, shall be shared as follows:
 - i. 75% of the reduction in net cost returned to the County from its original commitment
 - ii. 25% of the reduction in net cost returned to Authority from its original commitment

- e. agree to join as a member municipality of the Authority which shall be changed into a "joint authority" within the meaning of section 5604 of the Act, further agreeing to do the following:
 - i. participate in the submission of an application to the Secretary of the Commonwealth requesting the County's joinder as a member municipality and take all other steps necessary as prescribed by the Municipality Authorities Act to join the Authority as a member municipality; and
 - ii. amend the Articles of Incorporation of the Authority pursuant to Section 5605 of the Act to reflect the status of both the City and the County as members of a "joint authority;" and
 - iii. appoint four directors to the board of the joint Authority in a manner and method prescribed by the County Administrative Code, provided the County shall comply with Section 5610 of the Act, 53 Pa. C.S.A. §5610 in making such appointments and creating said appointment procedure.
- f. The obligations of the County and the Authority under this Memorandum of Understanding ("MOU") are contingent upon: (1) the performance by the Authority and the City of their respective obligations hereunder; (2) the re-structuring of the Authority as contemplated by this Agreement and the seating of the County's appointments to the Authority no later than April 15, 2008, time being of the essence, provided nothing in this MOU shall be deemed to require the City and the Authority to effectuate said Joinder and seat the County's appointments to the Authority prior to the approval and execution of the ICA by the County and the Authority; and (3) the execution and delivery of an ICA by the Authority and the County which is satisfactory to the Authority and the County in each party's sole discretion, no later than April 15, 2008, time being of the essence. With respect to the ICA, the Authority and the County hereby acknowledge and agree that: (1) this MOU only sets forth the obligations of the parties with respect to the Project in a general manner; and (2) implementation of this MOU will require a separate agreement, the ICA, which sets forth in much greater detail the terms, conditions, limitations and contingencies under which the County shall make funds available for the Project and such funds shall be expended. Such terms, conditions, limitations and contingencies include, but are not limited to: (1) compliance with provisions of the Internal Revenue Code of 1986, as amended, regarding the use of tax-exempt bonds proceeds (2) time frames for the completion of various tasks relating to the Project; (3) various contingencies with respect to the County's obligations, including (without limitation) obtaining adequate FAA funding to complete the Project; (4) the resolution of litigation affecting the ability of the County to use restricted gaming revenues for the Project, provided, however, this contingency shall not be deemed to limit the County's obligations as set forth in paragraph 1.a.i., above; (5) terms and conditions under which funds provided by the County may be disbursed ; (6) financial and operating covenants of the Authority; and (7) provisions for termination of the ICA.

2. The Authority shall:

- a. consent to the County's joinder as a member municipality of the Authority, thereby turning the Authority into a "joint authority" within the meaning of Section 5604 of the Act, 53 Pa. C.S.A. §5604, further agreeing to do the following:
 - i. participate in the submission of an application to the Secretary of the Commonwealth requesting the County's joinder as a member municipality and take all other steps necessary as prescribed by the Municipality Authorities Act to have the County join the Authority as a member municipality; and
 - ii. consent to expanding the joint Authority's board of directors to nine members and consent to the appointment by the County of four new directors to the board of the joint Authority in a manner and method prescribed by the County Administrative Code, provided the County shall comply with Section 5610 of the Act, 53 Pa. C.S.A. §5610 in making such appointments and creating said appointment procedure; and
 - iii. amend the Articles of Incorporation of the Authority pursuant to Section 5606 of the Act to reflect the status of both the City and the County as members of a "joint authority."
- b. The obligation of the Authority under this MOU are contingent upon entering into the ICA with the County, as described in Section 1, above, setting forth, among other things, the Authority's agreement to the terms, conditions, limitations and contingencies set forth in Section 1, above, with respect to the expenditure of funds provided by the County; and
- c. obtain any and all necessary approvals by the Federal Aviation Administration and/or Pennsylvania Bureau of Aviation and any other governing agencies which may be required to

effectuate all actions set forth in this MOU. The Authority's duties and obligations under this MOU are contingent upon receiving all necessary approvals from such agencies; and

d. comply with the terms and conditions of this MOU and the ICA with respect to the expenditure of funds provided by the County; and

e. negotiate a local PLA Agreement with respect to the Project.

3. The City shall:

a. consent to the County's joinder as a member municipality of the Authority, thereby turning the Authority into a "joint authority" within the meaning of Section 5604 of the Act, 53 Pa. C.S.A. §5604, further agreeing to do the following:

i. participate in the submission of an application to the Secretary of the Commonwealth requesting the County's joinder as a member municipality and take all other steps necessary as prescribed by the Municipality Authorities Act to have the County join the Authority as a member municipality;

ii. amend the Articles of Incorporation of the Authority pursuant to Section 5605 of the Act to reflect the status of both the City and the County as members of a "joint authority"; and

iii. consent to expanding the joint Authority's board of directors to nine members and consent to the appointment by the County of four new directors to the board of the joint Authority in a manner and method prescribed by the County Administrative Code, provided the County shall comply with Section 5610 of the Act, 53 Pa. C.S.A. §5610 in making such appointments and creating said appointment procedure. The City shall retain appointment power over the original five seats on the Authority's board.

4. It is the intention of the Parties that this MOU shall not become effective until it is properly approved and executed by each of the Parties.

5. Should the nature or extent of this project change significantly due to increased costs or decreased revenues which would require obtaining additional funding, the parties shall meet and discuss possible remedies.

6. The solicitors of each of the Parties are authorized to take all necessary steps to implement the terms of this MOU.

On motion of _____ Seconded by _____ this Memorandum of Understanding was passed and approved on this _____ day of _____ 2008, by a vote of _____.

APPROVED BY:

Chair, Erie County Council

Mark A. DiVecchio, County Executive

ATTEST:

DATE:

County Clerk

On the motion of Mrs. Jenkins-Husband. Seconded by Mr. Cappabianca
this Memorandum of Understanding was passed and approved on this 24th day of
March 2008, by a vote of 7. 0.

APPROVED BY:

Chair, Erie City Council

Joseph Sinnott, Mayor

ATTEST:

DATE:

City Clerk

On the motion of _____, Seconded by _____,
this Memorandum of Understanding was passed and approved on this ____ day of
_____, 2008, by a vote of ____ . ____.

APPROVED BY:

Secretary, Erie Municipal Airport Authority

Louis J. Porreco, President, Erie Municipal Airport
Authority

DATE: _____

By Mrs. Jenkins-Husband, Seconded by Mr. Cappabianca, Resolved, etc.,

That the proper officials of the City of Erie are authorized and directed to enter into a Memorandum of Understanding (MOU) between the City of Erie, the County of Erie and the Erie Municipal Airport Authority for the purpose of furthering the Authority's runway agreement attached hereto and made a part thereof.

March 24, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kenco, Jenkins-Husband, Schemer, Thompson and Jones. 7. Nays. 0.

March 24, 2008. Signed by the President. Attested by the Acting City Clerk.

March 24, 2008. City Council on motion of Mr. Thompson, Seconded by Mr. Schemer, adjourned at 7:05 p.m. by yeas Council Members Alekandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schemer, Thompson and Jones. 7. Nays. 0.

Attest:

President of City Council

(Acting) City Clerk