

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 21st day of January 2021.

PRESENT: **Jerome D. Schad, Chairman**
Mark S. Carney, Vice Chairman
Peggy A. LaGree, Treasurer
Terrence D. McCracken, Secretary to the Authority
Margaret A. Murphy, General Counsel (via teleconference)
Karen A. Prendergast, Chief Financial Officer (via teleconference)
Russell J. Stoll, Chief Operating Officer (via teleconference)
Leonard F. Kowalski, Executive Engineer (via teleconference)
Daniel J. NeMoyer, Director of Human Resources (via teleconference)
Joyce A. Tomaka, Comptroller (via teleconference)
Lavonya C. Lester, Director of Administration (via teleconference)
Sabrina A. Figler, Director of Water Quality (via teleconference)
Matthew W. Barrett, Security Officer (via teleconference)
Jeffrey C. Schlierf, Acting Manager of Information Technology (via teleconference)

ATTENDEES:

PLEDGE TO THE FLAG

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 9:38 a.m. A quorum was present with three Commissioners.

II. READING OF MINUTES

Motion by Mr. Carney seconded by Ms. LaGree and carried to read the Minutes of the Meeting held on Thursday, January 7, 2021.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

III. APPROVAL OF MINUTES

Motion by Mr. Carney seconded by Ms. LaGree and carried to approve the Minutes of the Meeting held on Thursday, January 7, 2021.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

IV. REPORTS

A) SECRETARY

No Report

Secretary McCracken noted he has nothing to report, however, he informed the Board that item 16 on today's agenda will need to be amended. Karen Prendergast will speak to that when we approach the item.

B) LEGAL

1. 2020 FOIL Audit

General Counsel Murphy remarked that the Legal department is responsible for conducting an audit on FOILS that were submitted for the previous calendar year. She said that this came close to being a perfect year except for one FOIL. The initial response letter was sent one day after the due date. The final response with requested documents was, however, timely sent. The Office of the Secretary did not receive a single FOIL request from any member of the media. Instead, the Secretary responded to any media inquiry without demanding the filing of a FOIL request. Since no one was denied access to any public record, no appeals were filed with the Board of Commissioners. Vice Chairman Carney commended Ms. Murphy on a job well done. Ms. Murphy added that credit belongs to the Office of the Secretary. Chairman Schad noted that this is a good example where the will to do it right can make it all happen.

2. Executive Session

Discussion relating to pending litigation with the Authority's General Counsel pursuant to Public Officers Law §105(1)(d) and §108(3)

Executive Session was deferred to the end of the meeting.

C) FISCAL

1. GFOA's Certificate of Achievement Award

Karen Prendergast informed the Board that the Government Financial Officers Association (GFOA) has awarded the Authority their certificate of Achievement for Excellence in Financial Reporting for the Authority's 2019 Comprehensive Annual Financial Report (CAFR). This is the 15th year that the Authority has submitted and been awarded the certificate. She added that the preparation of the CAFR is a joint effort by the entire Finance department with the assistance of the Authority's independent auditors. Ms. Prendergast intends to prepare and submit a CAFR for 2020 to the GFOA for consideration in May of 2021.

2. 2020 Unaudited Financial Statements

Karen Prendergast reported that §1070 of the Authority's enabling statute requires the Authority to submit to the Erie County Legislature and the Erie County Comptroller, within the first month of each fiscal year, a detailed report of operations and fiscal transactions of the authority during the preceding fiscal year, the financial condition of the Authority, and a statement of all receipts and expenditures during the year. She added that she intends to comply with the requirement, although she does not have the unaudited financial statements prepared for this meeting. She will distribute a copy of the unaudited financial statements to the Board when they are given to the county and New York State.

D) OPERATIONS

1. RFP - Transmission Main Design Projects 2021-2022 (Contracts A, B, and C)

Executive Engineer Kowalski informed the Board that the Authority recently issued a Request for Proposal (RFP) to eight consulting engineering firms for transmission main design projects 2021-2022 in which six firms responded. The RFP was also posted to the Authority's website in which five firms submitted proposals. Mr. Kowalski explained that these projects are separated into three different contracts (Contracts A, B, and C). If there are no objections, the Engineering Department would like to move forward with negotiations with Nussbaumer & Clarke (Contract A), Greenman Pedersen (Contract B) and Erdman Anthony (Contract C) to develop contracts for the referenced projects. Vice Chairman noted that it is nice to see more firms bidding.

2. RFP - Distribution Main Design Projects 2021-2022 (Contracts A, B, C, D, E and F)

Executive Engineer Kowalski informed the Board that the Authority recently issued a Request for Proposal (RFP) to 11 consulting engineering firms for distribution main design projects 2021-2022 in which all firms responded. The RFP was also posted to the

Authority's website in which two firms submitted proposals. Mr. Kowalski explained that these projects are separated into six different contracts (Contracts A, B, C, D, E and F). If there are no objections, the Engineering Department would like to move forward with negotiations with LaBella Associates (Contract A), CHA Consulting (Contract B), Barton & Laguidice (Contract C), William Schutt & Associates (Contract D), DiDonato Associates (Contract E) and Wendel (Contract F) to develop contracts for the referenced projects. Chairman Schad asked Mr. Kowalski if these are all projects where we will do the construction in 2022. Mr. Kowalski replied that is correct.

3. Washwater Tank Replacement Sturgeon Point Water Treatment Plant

Executive Engineer Kowalski reported to the Board that the Sturgeon Point Water Treatment Plant utilizes a 500,000-gallon elevated steel washwater tank as the source of water to backwash the filter switch is in need of repair of repair and rehabilitation. Staff has been trying to develop a plan on how to handle that over the last couple of years. This has been included as a task in the MP 85 contract. The consultant looked at nine different alternatives, and basically determined that the best solution is to build a brand-new concrete tank and then take the existing one out of service. The current tank cannot be taken out of service long enough to paint it. Mr. Kowalski explained to Vice Chairman Carney that the new tank will be built in the vicinity of the old tank. Mr. Carney asked if while building and designing the new tank if the problems with the old tank are being taken into consideration so the same problems do not reoccur 25 or 30 years from now. Mr. Kowalski noted that the problem with the old tank is that it is steel, and with steel the rehab cycle is going to be the 25 to 30 years. With concrete there is a much longer life and reconditioning is not needed. Commissioner LaGree asked if he was taking into consideration investing additional funds to rehab to act as a redundant as a washwater source. He responded that after further discussions they weren't going to go that route. Chairman Schad added that the Authority has gotten by with one tank for many years, however he questioned if there was any alternative that would give us redundancy. Mr. Kowalski replied that what we plan on having is some additional risers put on the interconnection that we could then connect to in case there was an emergency. We would have to rent pumps to make that happen. So, there's going to be the balance between having that interconnection point and the ability to rent pumps to backwash Filters versus rehabbing the existing tank for \$1.5 million to \$2 million. We can definitely look at what that risk is versus costs in the future to rent pumps versus rehab costs. Chairman Schad would like to have the engineering assessment done. Mr. Kowalski said he will make sure the RFP will incorporate looking into that.

E) HUMAN RESOURCES

No Report

F) AUDIT COMMITTEE

No Report

G) GOVERNANCE COMMITTEE

No Report

H) FINANCE COMMITTEE

No Report

I) ETHICS COMMITTEE

No Report

V. COMMUNICATIONS AND BILLS

(Communications may be limited to items that are provided electronically. Every effort will be made to provide all communications at future meetings.)

C-1 FOIL FROM ANDREW KELLY OF THYSSENKRUPP ELEVATOR CORP. RE ELEVATOR JACK REPLACEMENT- RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP

VI. PERSONS ADDRESSING THE AUTHORITY

The Commissioners will hear the concerns of persons desiring to address the Commissioners on any Water Authority subject

No member of the public requested the opportunity to speak.

VII. UNFINISHED BUSINESS

VIII. NEW BUSINESS

ITEM 1 - MASTER PURCHASE ORDERS, RELEASES FROM MASTER PURCHASE ORDERS, PURCHASE ORDERS, AND AMENDMENTS OF SAME

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

On the question, Vice Chairman noted, as per his ethical obligation, there is a payment to 716 Site Contracting in the amount of approximately \$451,000, that he has acknowledged in the past that his firm does work for 716 Site Contracting. He added that he has no personal connection to the company, nor has he done any work on behalf of the company. He believes the he can render an independent opinion as to the vote.

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 2 - FINAL ACCEPTANCE OF PROJECT WITH 716 SITE CONTRACTING, INC. FOR CONTRACT NO. CH-009, WATER SYSTEM IMPROVEMENTS IN THE TOWNS OF CHEEKTOWAGA, HAMBURG AND WEST SENECA, VILLAGE OF BLASDELL AND CITY OF LACKAWANNA, NEW YORK, PROJECT NO. 201700091, CONTRACT NO. 18-18-04 - \$25,005.36

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

On the question, Vice Chairman noted, as per his ethical obligation, there is a payment to 716 Site Contracting in the amount of approximately \$451,000, that he has acknowledged in the past that his firm does work for 716 Site Contracting. He added that he has no personal connection to the company, nor has he done any work on behalf of the company. He believes the he can render an independent opinion as to the vote.

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 3 - AUTHORIZATION TO ACCEPT THE CONSTRUCTION AND INSTALLATION OF 800 LINEAR FEET OF EIGHT (8”) INCH PVC C-900 DR-18 WATERMAIN, ONE (1) HYDRANT, FOUR (4) LINE VALVES AND APPURTENANCES IN LEGACY WOODS SUBDIVISION PHASE I, TOWN OF CLARENCE, NEW YORK, EC NO. 7077, PROJECT NO. 201800153

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 4 - AWARD OF CONTRACT TO RUSSO DEVELOPMENT, INC. FOR SMALL SERVICES CONTRACT AREA NO. 1, FEBRUARY 1, 2021 THROUGH JANUARY 31, 2023, PROJECT NO. 202100001 - \$2,152,200.00

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 5 - AWARD OF CONTRACT TO RUSSO DEVELOPMENT, INC. FOR SMALL SERVICES CONTRACT AREA NO. 2, FEBRUARY 1, 2021 THROUGH JANUARY 31, 2023, PROJECT NO. 202100002 - \$1,613,450.00

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

On the question, Vice Carney asked Mr. Kowalski if he is certain Russo Development, Inc. can cover both ends of the contract. Mr. Kowalski answered that the Authority has had discussions with Russo relative to the issue, and they are confident they can handle it. They are aware of their obligations to the Authority contractually for the number of crews they need to supply not only under these contracts, but also the other contracts they hold with the Authority.

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 6 - AWARD OF CONTRACT TO KANDEY COMPANY, INC. FOR LARGE SERVICES CONTRACT, FEBRUARY 1, 2021 THROUGH JANUARY 31, 2023, PROJECT NO. 202100003 - \$2,680,600.00

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

On the question, Chairman Schad asked Mr. Kowalski what he sees is the prospect in the future as to more bidders. He explained that this contract varies between 1-3 bidders, and there is not a lot of interest in this contract.

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 7 - AWARD OF MATERIAL AND SUPPLIES CONTRACT TO LOCK CITY SUPPLY, INC. FOR THE FURNISHING AND DELIVERING OF CHECK VALVES FOR ERIE COUNTY WATER AUTHORITY PUMP STATIONS, PROJECT NO. 202000153 - \$77,090.00

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 8 - AWARD OF MATERIAL AND SUPPLIES CONTRACT TO T. MINA SUPPLY EAST, INC. FOR THE FURNISHING AND DELIVERING OF BUTTERFLY VALVES FOR ERIE COUNTY WATER AUTHORITY PUMP STATIONS, PROJECT NO. 202000153 - \$19,690.00

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 9 - AWARD OF CONTRACT TO FREDERICK MACHINE & MANUFACTURING, INC. FOR MACHINING AND FABRICATION SERVICES FOR THE REPAIR OF VARIOUS ERIE COUNTY WATER AUTHORITY EQUIPMENT FROM JANUARY 1, 2021 TO DECEMBER 31, 2022, PROJECT NO. 202000143 FOR THE NOT TO EXCEED TOTAL AMOUNT OF \$98,598.50

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 10 - AWARD OF AN EMERGENCY CONTRACT TO EDWIN J MCKENICA & SONS, INC. FOR MACHINING AND FABRICATION SERVICES FOR THE REPAIR OF VARIOUS ERIE COUNTY WATER AUTHORITY EQUIPMENT FROM JANUARY 1, 2021 TO DECEMBER 31, 2022, PROJECT NO. 202000143 FOR THE NOT TO EXCEED TOTAL AMOUNT OF \$25,000.00

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 11 - AUTHORIZATION TO ENTER INTO A MATERIAL AND SUPPLIES CONTRACT WITH NEPTUNE TECHNOLOGY GROUP, INC. FOR THE FURNISHING AND DELIVERING OF WATER METERS AND APPURTENANCES FROM JANUARY 1, 2021 TO DECEMBER 31, 2023, PROJECT NO. 202000220

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 12 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR CONTRACT NO. GP-009, WATER SYSTEM IMPROVEMENTS UPGRADES ON GEORGE URBAN BOULEVARD, TOWN OF CHEEKTOWAGA, NEW YORK, PROJECT NO. 202000079

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 13 - APPROVAL OF CHANGE ORDER NO. 2 OF LAKELANDS CONCRETE PRODUCTS, INC. FOR THE FURNISHING AND DELIVERING OF ONE PRE-CAST CONCRETE BUILDING FOR CAUSTIC SODA AT THE PINE HILL PUMP STATION, PROJECT NO. 202000013, CONTRACT NO. 20-16-04 - \$821.37

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 14 - RATIFICATION OF THE INSTALLATION OF HYDRANTS AND VALVES AND RETIREMENT OF EXISTING HYDRANTS AND VALVES - VARIOUS LOCATIONS

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 15 - AUTHORIZATION TO REFUND SERVICE CONNECTION FEE TO STEVEN TAIT - \$2,000.00

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

**ITEM 16 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER
AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR 2020**

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

Karen Prendergast noted that while all the backup information on the budget transfer is correct, the resolution was drafted by her department, and a review failed to identify that the table in the middle is incorrect. She explained that where it notes there's an increase in CRP and a decrease in the telephone system replacement is swapped. She has taken steps to make sure that this doesn't happen in the future and apologized for the confusion. Therefore, this resolution will have to be adopted as amended.

Motion by Mr. Carney and seconded by Ms. LaGree to amend item 16 to reflect that unit number 8525, capital number 101418 description CIS/ERP to be the line item that is decreased in the amount of \$102,600 and that unit number 8525, capital number 101416 description Telephone System Replacement to be the line item that is increased to \$102,600.

Chairman Schad calls for a vote on the motion to amend.

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

On the motion as amended,

Motion by Mr. Carney seconded by Ms. LaGree to approve the amended Item No. 16

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

**ITEM 17 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER
AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR 2021**

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 18 - ADOPTION OF AMENDMENTS TO THE OPEN MEETING LAW POLICY AND PROCEDURES AND TO THE CODE OF ETHICS & CONFLICTS OF INTEREST POLICY AND PROCEDURES

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

ITEM 19 - AUTHORIZATION TO REVISE AND ADOPT THE ERIE COUNTY WATER AUTHORITY'S FLEET MANAGEMENT POLICY

Motion by Mr. Carney and seconded by Ms. LaGree and carried

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

Motion made by Mr. Carney, seconded by Ms. LaGree to go into Executive Session for discussion relating to pending litigation with the Authority's General Counsel pursuant to Public Officers Law §105(1)(d) and §108(3) at 10:07 a.m. Mr. Schad invited Mr. McCracken, Ms. Murphy, Ms. Prendergast and Mr. Stoll.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

Motion made by Mr. Carney, seconded by Ms. LaGree to exit Executive Session at 10:17 a.m.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

Motion made by Mr. Carney, seconded by Ms. LaGree to authorize the Authority's General Counsel to enter into a joint defense agreement waiving any conflicts of interest and reinforcing the contractual provisions with the general contractor, ensuring the general contractor will defend and indemnify the authority from the negligent acts or omissions caused by the general contractor, its employees, agents, subcontractors, resulting in any personal injury claim against the Authority including, but not limited to its claim arising under the labor law.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None

IX. ADJOURNMENT

Motion by Mr. Carney seconded by Ms. LaGree carried that the meeting adjourn at 10:18 a.m.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and LaGree

Noes: None



Terrence D. McCracken
Secretary to the Authority

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