

**MINUTES** of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 20<sup>th</sup> day of September 2023.

**PRESENT:** Jerome D. Schad, Chair  
Peggy A. LaGree, Vice Chair  
Michele M. Iannello, Treasurer  
Terrence D. McCracken, Secretary to the Authority  
Joyce A. Tomaka, Chief Financial Officer  
Mark S. Carney, General Counsel  
Charles E. Eaton, Chief Operating Officer  
Leonard F. Kowalski, Executive Engineer  
Jennifer Hibit, Director of Human Resources  
Jessica R. Brown, Comptroller  
Lavonya C. Lester, Director of Administration  
Katherine A. Gillette, Associate Attorney  
David W. Aubertine, Director of Cybersecurity and Information Technology  
Matthew W. Barrett, Security Officer

**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 Ms. LaGree seconded by Ms. Iannello and carried to waive the reading of the Minutes of the Meeting held on Thursday, August 17, 2023.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**III. APPROVAL OF MINUTES**

Motion by Ms. LaGree seconded by Ms. Iannello and carried to approve the Minutes of the Meeting held on Thursday, August 17, 2023.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
 Noes: None

#### **IV. REPORTS**

##### **A. SECRETARY**

1. Executive Session McCracken  
 Discussion relating to proposed or pending litigation pursuant to Public Officers Law §105(1)(d)
  
2. Executive Session McCracken  
 Discussion relating to personnel matters of a particular person pursuant to Public Officers Law §105(1)(f) matters relating to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person

The above executive sessions have been deferred to the end of the meeting.

##### **B. LEGAL**

1. Executive Session Carney  
 Discussion with the Authority's General Counsel relating to the proposed acquisition, sale, or lease of real property pursuant to Public Officers Law §105(1)(h)
  
2. Executive Session Carney  
 Discussion relating to proposed or pending litigation pursuant to Public Officers Law §105(1)(d)

Secretary McCracken informed the Board that Legal's second Executive Session has been revised.

The above executive sessions have been deferred to the end of the meeting.

##### **C. FISCAL**

1. July 2023 Investment Report

Joyce Tomaka distributed the July 2023 Investment Report along with a brief explanation of the report.

2. July 2023 Financial Report

Jessica Brown distributed the July 2023 Monthly Financial report and briefly reviewed the data.

## **D. OPERATIONS**

### **1. RFPs Published**

Len Kowalski reported on an RFP published since the last Board Meeting: Routing Study for Delivered Water Transmission Main from Sturgeon Point WTP to Windom Pump Station, Project No. 202300159

Chairman Schad questioned what prompted this study. Mr. Kowalski responded with the condition and age of the existing lines.

### **2. Projects Advertised for Bidding**

Leonard Kowalski reported on one project advertised for bidding since the last Board Meeting: Furnish and Deliver Caustic Soda (50% Solution of Sodium Hydroxide) Membrane Grade to the ECWA for Use in the Treatment of Water, Project No. 202300175

Commissioner Iannello inquired if prices have decreased. Mr. Kowalski replied that prices have been stabilizing with slight increases but not what they have seen in the past few years.

### **3. Recommendation to Award**

Leonard Kowalski reported that an RFP was recently issued for engineering services for the inspection and evaluation of water storage tanks throughout ECWA's distribution system and water treatment plants. The RFP was sent to five consulting engineering firms and was also posted on the website. After a review of the proposals, it was determined that Wendel Companies is the best firm for the project.

## **E. HUMAN RESOURCES**

## **F. AUDIT COMMITTEE**

## **G. GOVERNANCE COMMITTEE**

## **H. FINANCE COMMITTEE**

## **I. ETHICS COMMITTEE**

## **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 NOTICE OF CLAIM – SWANSON V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**

- C-2 NOTICE OF CLAIM – LAKE VIEW STORAGE OF WNY LLC V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-3 NOTICE OF CLAIM – DEANGELO V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-4 NOTICE OF CLAIM – ERB V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-5 NOTICE OF CLAIM – FREITAS V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-6 NOTICE OF CLAIM – JACZEWSKI V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-7 NOTICE OF CLAIM – MARTIN V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-8 NOTICE OF CLAIM – MCGINLEY V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-9 NOTICE OF CLAIM – PIRRITANO V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-10 NOTICE OF CLAIM – WHITMARSH V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-11 NOTICE OF CLAIM – ALLEN V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-12 FOIL FROM NEW YORK FOUNDATION FOR FAIR CONTRACTING REGARDING JMD-001 - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-13 FOIL FROM GEOFFREY SZMANSKI REGARDING EXECUTIVE DIRECTOR CANDIDATES - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-14 FOIL FROM MICHELLE SMARDZ REGARDING DELINQUENCY LIST - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-15 FOIL FROM LINDA MONTAGNE REGARDING WATER BILLS - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-16 FOIL FROM JULIE BARNES REGARDING 5399 ALDERBROOK LANE - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**

**C-17 LETTER FROM MICHAEL CARLIN - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**

**C-18 LETTER FROM TIMOTHY MCGOWAN - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**

Chairman Schad wished them well and commented that the Authority has a great staff.

**VI. PERSONS ADDRESSING THE AUTHORITY**

Pursuant to the Erie County Water Authority's Open Meetings Law Policy Section 10 Public Expression, as posted on its website, the Commissioners will hear the concerns of persons desiring to address the Commissioners on any Water Authority subject. No one appeared to speak.

**VII. UNFINISHED BUSINESS**

**VIII. NEW BUSINESS**

**ITEM 1 - AUTHORIZATION TO EXECUTE FUNDING AGREEMENT WITH NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION IN CONNECTION WITH GRANT AWARD - \$20,000,000**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

On the question, Commissioner LaGree inquired whether the accounting for the grant award monies would be kept separate. Joyce Tomaka acknowledged that the monies would be kept separate and then reviewed the process. Commissioner Iannello expressed her appreciation for New York State Governor Kathy Hochul.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
Noes: None

**ITEM 2 - AUTHORIZATION TO EXECUTE A SERVICE CONTRACT WITH TIME WARNER CABLE NORTHEAST, LLC D/B/A SPECTRUM RELATIVE TO INTERNET SERVICES, STATE CONTRACT NO. PS68706**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
 Noes: None

**ITEM 3 - AUTHORIZATION TO ACCEPT THE CONSTRUCTION AND INSTALLATION OF APPROXIMATELY 1,085 LINEAR FEET OF EIGHT (8") INCH PVC (C-900), 50 LINEAR FEET OF EIGHT (8") INCH DIP, TWO (2) HYDRANTS, FIVE (5) LINE VALVES AND APPURTENANCES IN NORTHWOODS SUBDIVISION, PHASE 5, TOWN OF CLARENCE, NEW YORK, EC NO. 7292, PROJECT NO. 202200264**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
 Noes: None

**ITEM 4 - RESOLUTION GRANTING THE STATE OF NEW YORK AUTHORITY TO PERFORM THE ADJUSTMENT FOR THE OWNER AND AGREEING TO MAINTAIN FACILITIES ADJUSTED VIA STATE-LET CONTRACT IN CONNECTION WITH PIN NO. 5131.41, D265088 PROJECT NO. 202300011**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
 Noes: None

**ITEM 5 - AUTHORIZATION TO ENTER INTO A PERMANENT EASEMENT AGREEMENT WITH TOWN OF BOSTON RELATING TO RICE HILL TANK**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

On the question, Chairman Schad asked if there were more tanks requiring easements. Mr. Kowalski replied that they occur occasionally when projects take place.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
Noes: None

**ITEM 6 - AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH UTILIS INC. D/B/A ASTERRA TO PERFORM ENGINEERING SERVICES RELATING TO SATELLITE LEAK DETECTION PROGRAM, IDENTIFIED AS CONTRACT NO. AST-001, PROJECT NO. 202300151**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

On the question, Commissioner LaGree asked which areas will be included in this service. Mr. Kowalski stated that all areas will be scanned and then discussed the process that will take place. Chairman Schad questioned the accuracy of the results. Mr. Kowalski replied that the scan results will give points of interest and that we will be able to find leaks four to five times faster with this service. Chairman Schad requested a report be given to the Board after the scan has been completed. Commissioner LaGree asked Mr. Kowalski to review the pricing of the services.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
Noes: None

**ITEM 7 - AUTHORIZATION TO EXECUTE A LEGAL SERVICES AGREEMENT WITH DOUGLAS & LONDON P.C. TO PROVIDE EXPERT LEGAL SERVICES REGARDING POTENTIAL CLAIMS CONTAMINATION OF DRINKING WATER**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

On the question, Commissioner LaGree asked if the fee is based on recovery. Mark Carney replied that the fee was based on recovery.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
Noes: None

**ITEM 8 - AUTHORIZATION TO EXECUTE TERMINATION AGREEMENT WITH BELL ATLANTIC MOBILE SYSTEMS LLC D/B/A VERIZON WIRELESS FOR THE LEASING OF SPACE ON THE ERIE COUNTY WATER AUTHORITY'S PLEASANTVIEW TANK IN LANCASTER, NEW YORK AND EXECUTE BILL OF SALE FOR ABANDONED SHELTER INSTALLED ON LEASED PREMISES**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 9 - APPROVAL OF CHANGE ORDER NO. 1 OF JOHN W. DANFORTH COMPANY FOR JEROME D. VAN DE WATER WTP FILTER NO. 3 VALVES REPLACEMENT, PROJECT NO. 202200238**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 10 - APPROVAL OF AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ARCADIS OF NEW YORK, INC. TO PROVIDE CONSULTING ENGINEERING SERVICES FOR BALL PUMP STATION PHASE 1 REHABILITATION, IDENTIFIED AS CONTRACT NO. MP-086, PROJECT NO. 202000177**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 11 - APPROVAL OF AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH WM SCHUTT ASSOCIATES, PC TO PROVIDE CONSULTING ENGINEERING SERVICES FOR WATER SYSTEM IMPROVEMENTS IN THE TOWN OF AMHERST AND VILLAGE OF LANCASTER, IDENTIFIED AS CONTRACT NO. WSA-017, PROJECT NO. 202100027**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**



None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 12 - APPROVAL OF AMENDMENT NO. 1 OF CONCRETE APPLIED TECHNOLOGIES, CORP. D/B/A CATCO FOR CONTRACT NO. MP-084, WATER SYSTEM IMPROVEMENTS TRANSMISSION MAIN INSTALLATION, TOWN OF TONAWANDA, NEW YORK, PROJECT NO. 202000084**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 13 - APPROVAL OF AMENDMENT NO. 1 OF UNITED COPIER & BUSINESS SYSTEMS, INC. FOR SERVICES RELATING TO FURNISHING AND DELIVERING EQUIPMENT, SUPPLIES, AND PARTS FOR PRINTERS, COPIERS, SCANNERS AND PLOTTERS, PROJECT NO. 202300126**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad and LaGree

Noes: None, Commissioner Iannello abstained

**ITEM 14 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR 2023 – STURGEON POINT WATER TREATMENT PLANT SITE FRONT END LOADER V-PLOW ATTACHMENT - \$27,000.00**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

On the question, Commissioner LaGree inquired whether this will allow us to do our own snow removal. Mr. Kowalski stated that it will help remove the snow more efficiently.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
 Noes: None

**ITEM 15 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER  
 AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR  
 2023 – STURGEON POINT WATER TREATMENT PLANT SITE  
 UTILITY TRACTOR - \$70,000.00**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
 Noes: None

**ITEM 16 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER  
 AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR  
 2023 – STURGEON POINT WATER TREATMENT PLANT SITE  
 UTILITY VEHICLE - \$33,000.00**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

On the question, Commissioner LaGree asked for clarification regarding the vehicle. Mr. Kowalski responded that this was a replacement for an older vehicle.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello  
 Noes: None

**ITEM 17 - AUTHORIZATION TO ADOPT THE NEWLY REVISED EMPLOYEE  
 POLICIES AND PROCEDURES MANUAL**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

Motion by Chairman Schad, seconded by Commissioner Iannello, to amend to clarify the newly revised Employee Policies and Procedures Manual does not include the seven standalone policies. The seven standalone policies will be reviewed at a later date.

Chairman Schad calls for a vote on the clarifying amendment.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

On the motion as amended,

Motion by Ms. LaGree and seconded by Ms. Iannello to approve the clarifying amendment.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 18 - AUTHORIZATION FOR MARC BELLACOSE DISTRIBUTION ENGINEER TO ATTEND THE AWWA WATER INFRASTRUCTURE CONFERENCE IN PHILADELPHIA, PA**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 19 - AUTHORIZATION TO DESIGNATE AND APPOINT ATTORNEY JOHN DELMONTE AS HEARING OFFICER FOR CIVIL SERVICE SECTION 75 HEARING**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 20 - AUTHORIZATION FOR RONALD NORMAN AND BRADLEY SCHREIBER, PUMP MECHANICS, TO ATTEND THE CLA-VAL CVU-101/201 TRAININGS IN BEAMSVILLE, ONTARIO**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

Motion made by Ms. LaGree, seconded by Ms. Iannello to go into Executive Sessions at 10:10 a.m. to discuss two matters relating to the following: proposed or pending litigation pursuant to Public Officers Law §105(1)(d), and personnel matters of a particular person pursuant to Public Officers Law § 105(1)(f) (matters relating to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person). Mr. Schad invited Terrence McCracken, Mark Carney, Joyce Tomaka, Chuck Eaton, Leonard Kowalski and Jennifer Hibit.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

Motion made by Ms. LaGree, seconded by Ms. Iannello to exit the Executive Sessions at 11:12 a.m.

**DISCUSSION**

Chairman Schad noted that productive discussions were held, it was decided that a resolution is needed relative to the matter regarding pending litigation. The other matter does not require a resolution.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 21 - AUTHORIZATION TO RETAIN HODGSON RUSS LLP TO  
PROVIDE LEGAL SERVICES TO REPRESENT AND FILE AN  
ACTION ON BEHALF OF THE ERIE COUNTY WATER  
AUTHORITY**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

Motion made by Ms. LaGree, seconded by Ms. Iannello to go into Executive Sessions at 11:14 a.m. to discuss two matters with the Authority's General Counsel relating to the following:

proposed acquisition, sale, or lease of real property pursuant to Public Officers Law §105(1)(h), and proposed or pending litigation pursuant to Public Officers Law §105(1)(d). Mr. Schad invited Terrence McCracken, Mark Carney, Joyce Tomaka, Lavonya Lester and Katherine Gillette.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

Motion made by Ms. LaGree, seconded by Ms. Iannello to exit Executive Session at 11:41 a.m.

**DISCUSSION**

Chairman Schad noted that productive discussions were held, and it was decided that one matter needed a resolution to amend an amendment that was approved at the last board meeting to include a cap of \$8,621.91 per month payment for the contract through the period ending August 31, 2024.

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 22 - APPROVAL OF AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT WITH NEW YORK STATE INDUSTRIES FOR THE DISABLED, INC. AND THE ERIE COUNTY CHAPTER NYSARC, INC. D/B/A THE ARC ERIE COUNTY NEW YORK RELATING TO GENERAL CLEANING SERVICES FOR THE ERIE COUNTY WATER AUTHORITY SERVICE CENTER, 3030 UNION ROAD, CHEEKTOWAGA, NEW YORK, PROJECT NO. 202000211**

Motion by Ms. LaGree and seconded by Ms. Iannello and carried.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**VIII. ADJOURNMENT**

Motion by Ms. LaGree seconded by Ms. Iannello carried that the meeting adjourned at 11:42 a.m.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

A handwritten signature in black ink, appearing to read 'T.D. McCracken', with a long horizontal flourish extending to the right.

Terrence D. McCracken  
Secretary to the Authority

ALH