

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 March 2024.

PRESENT: Jerome D. Schad, Chair
Peggy A. LaGree, Vice Chair (via videoconference)
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
Sabrina A. Figler, Director of Water Quality
Katherine A. Gillette, Associate Attorney
Michael J. Quinn, Senior Distribution Engineer
David W. Aubertine, Director of Cybersecurity and Information Technology
Matthew W. Barrett, Security Officer

ATTENDEES: Nichole Ruf, Drescher and Malecki
Jared Pickard, Drescher and Malecki
James Domagalski, Esq., Barclay Damon

PLEDGE TO THE FLAG

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 9:35 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, February 22, 2024.

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, February 22, 2024.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

IV. REPORTS**A. SECRETARY**

1. Executive Session

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.

Motion made by Ms. LaGree, seconded by Ms. Iannello to go into Executive Session at 9:41 a.m. Chairman Schad invited Mr. McCracken, Mr. Carney, Ms. Tomaka, Mr. Eaton, Ms. Hibit, and Mr. Domagalski, Esq.

Motion was made by Ms. LaGree, seconded by Ms. Iannello to leave Executive Session at 10:14 a.m.

DISCUSSION

Chairman Schad noted that a productive discussion was held with Counsel who updated the Board on a legal matter and instructions were given to Counsel.

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

Motion made by Ms. LaGree, seconded by Ms. Iannello to recess the Board Meeting to conduct the Audit Committee Meeting at 10:15 a.m.

Motion was made by Ms. LaGree, seconded by Ms. Iannello to reopen the Board Meeting at 10:29 a.m.

2. Board Meeting Calendar

Secretary McCracken discussed the Board Meeting schedule including the date of the Authority's Annual Meeting. The Commissioners decided to reschedule the Annual Meeting to Thursday, May 2, 2024 and to schedule a Board Meeting for that day as well. Chairman Schad requested the April 18th Board meeting start at 9:00

a.m. The November 14, 2024 Board Meeting was rescheduled to November 21, 2024.

B. LEGAL

1. Executive Session

Discussion of three matters relating to the following: proposed or pending litigation with the Town of Elma pursuant to Public Officers Law §105(1)(d) and §108(3), proposed or pending litigation re: Eltoun and Elmalik v. ECWA pursuant to Public Officers Law §105(1)(d), and proposed or pending litigation re: PFOA and PFAS Settlement pursuant to Public Officers Law §105(1)(d).

The above executive session has been deferred to the end of the meeting.

C. FISCAL

1. Certificate of Achievement

Joyce Tomaka announced to the Board that the Finance Department received a Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association (GFOA).

2. January 2024 Investment Report

Joyce Tomaka distributed the January 2024 Investment Report along with a brief explanation of the report.

3. January 2024 Financial Report

Jessica Brown distributed the January 2024 Monthly Financial Report and briefly reviewed the data. A discussion regarding pricing ensued.

D. OPERATIONS

1. Project Labor Agreement

Michael Quinn discussed the prospect of using a Project Labor Agreement for the Ball Pumping Station Improvements project. Mr. Quinn presented comparisons between the Authority's current process and the use of a Project Labor Agreement. Mr. Quinn provided a summary of the process that led to a discussion.

2. Recommendation to Award

Leonard Kowalski reported that an RFP was recently issued for miscellaneous electrical engineering services. The RFP was sent to five consulting firms and was also posted on the website which generated an additional four responses. After a review of the proposals, it was determined that Hazen and Sawyer is the best firm for the project.

3. Project Advertised for Bidding – Formal Contract

Leonard Kowalski reported on one project advertised for bidding since the last Board Meeting: GP-011 Water System Improvements, Union Rd Corridor, Town of West Seneca, Project No. 202200057

4. Final Payment Applications

Leonard Kowalski informed the Board that there were six final payments applications that were processed by Accounts Payable since the last Board meeting:

- BC-003, 48-inch and 42-inch Transmission Main Condition Assessment and Transient Analysis, PN 202100221;
- NC-042, Water System Improvements, Town of Clarence, PN 202100042; Small Services Contact Area No. 1, February 1, 2021 through January 31, 2023, PN 202100001;
- Small Services Contact Area No. 2, February 1, 2021 through January 31, 2023, PN 202100002;
- Large Services Contact, February 1, 2021 through January 31, 2023, PN 202100003;
- Water Distribution System Replacements and Improvements, May 1, 2021 to April 30, 2023, PN 202100009.

5. Emergency Purchase

Leonard Kowalski reported of a recent emergency purchase for three Patterson Pump replacements. Mr. Kowalski noted the pumps provide increased water pressure throughout the Van de Water Water Treatment Plant for fire protection, water treatment and sanitary functions. Commissioner Iannello noted that Emergency Purchases are a new item to the Board Meeting agenda. Mr. Kowalski confirmed that the procedure of reporting to the Board any emergency purchases is part of the revised Procurement Policy recently approved by the Board.

E. HUMAN RESOURCES

1. Updated COVID Information

Jennifer Hibit gave an overview of the updated CDC COVID policy and their guidance on respiratory virus recommendations.

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 – FONTANA V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-2 NOTICE OF CLAIM – HAUER V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-3 NOTICE OF CLAIM – NORMAN V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-4 NOTICE OF CLAIM – SCIOLINO V ECWA – RECEIVE AND FILE AND REFER TO LEGAL FOR FOLLOW UP**
- C-5 FOIL FROM STEPHANIE SMITH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-6 FOIL FROM SNAP TAX AND LIEN SEARCH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-7 FOIL FROM SNAP TAX AND LIEN SEARCH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-8 FOIL FROM SNAP TAX AND LIEN SEARCH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-9 FOIL FROM SNAP TAX AND LIEN SEARCH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-10 FOIL FROM SNAP TAX AND LIEN SEARCH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-11 FOIL FROM SNAP TAX AND LIEN SEARCH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-12 FOIL FROM SNAP TAX AND LIEN SEARCH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-13 FOIL FROM DAVID GILL - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**

- C-14 FOIL FROM JACEY LYN MANNING - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-15 FOIL FROM UNITED STATES AUTOMOBILE ASSOCIATION - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-16 FOIL FROM ADAM BROPHY - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-17 FOIL FROM CHRIS JONES - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-18 FOIL FROM SUSAN LANGENDORFER - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-19 FOIL FROM MARIBELA SOLA - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-20 LETTER FROM GOVERNMENT FINANCE OFFICERS ASSOCIATION - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-21 LETTER FROM MIN-SOOK KIM, NYSDOH - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**
- C-22 GUIDANCE FOR WATER QUALITY PARAMETER MONITORING REQUIREMENTS - RECEIVE AND FILE AND REFER TO SECRETARY FOR FOLLOW UP**

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 ACCEPT THE FINDINGS OF THE PROJECT LABOR AGREEMENT FEASIBILITY ANALYSIS REGARDING BALL PUMP STATION PHASE 1 REHABILITATION, PROJECT NO. 202000177, IDENTIFIED AS CONTRACT NO. MP-086, AND THE DEVELOPMENT OF THE TERMS OF THE PROJECT LABOR AGREEMENT**

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

DISCUSSION

Chairman Schad noted that the last resolve should read as follows:

RESOLVED: That the Board of Commissioners authorizes the Engineering and Legal Departments, with the assistance of Arcadis and LiRo, to develop the terms of the PLA, negotiate the same with the local Building Trade Council and trade unions.

Motion by Ms. LaGree and seconded by Ms. Iannello to amend Item No. 1 to read as listed above.

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

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 amended Item No. 1.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

ITEM 2 - AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH INFRAPLAN, LLC TO PROVIDE PROFESSIONAL ENGINEERING SERVICES RELATING TO THE DISTRIBUTION SYSTEM LEVEL OF SERVICE DEVELOPMENT PROJECT, IDENTIFIED AS CONTRACT NO. IP-001, PROJECT NO. 202400022

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 - AWARD OF CONTRACT TO AMSTAR OF WNY, INC. FOR STORAGE TANK REFURBISHING - GARTMAN, CHESTNUT RIDGE, STURGEON

**POINT CLEARWELLS, IDENTIFIED AS CONTRACT NO. W-035-A,
PROJECT NO. 202300060 - \$1,229,350.00**

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

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 4 - AWARD OF CONTRACT TO MARK CERRONE, INC. RELATING TO
AREA NO. 1 RESTORATION, APRIL 1, 2024 THROUGH MARCH 31, 2026,
PROJECT NO. 202400011 - \$5,018,290.00**

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

DISCUSSION

On the question, Chairman Schad inquired about a price increase. Mr. Kowalski verified that Item 4 had a 7% price increase and Item 5 had a 20% price increase.

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 5 - AWARD OF CONTRACT TO RUSSO DEVELOPMENT, INC. RELATING
TO AREA NO. 2 RESTORATION, APRIL 1, 2024 THROUGH MARCH 31,
2026, PROJECT NO. 202400012 - \$4,840,250.00**

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

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

**ITEM 6 - APPROVAL OF AMENDMENT NO. 2 TO THE PROFESSIONAL
SERVICES CONTRACT WITH LABELLA ASSOCIATES TO PROVIDE
GIS TECHNICAL SUPPORT CONSULTING SERVICES, IDENTIFIED AS
CONTRACT NO. LA-003, PROJECT NO. 202000202**

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

DISCUSSION

On the question, Commissioner LaGree asked for clarification regarding the increase in the

contract limit. Mr. Aubertine discussed the contract and the work to be completed during the next two years.

VOTE

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

ITEM 7 - APPROVAL OF AMENDMENT NO. 2 TO THE CONTRACT WITH CARUS LLC FOR THE FURNISHING AND DELIVERING OF POTASSIUM PERMANGANATE TO THE ERIE COUNTY WATER AUTHORITY FOR THE USE IN THE TREATMENT OF WATER FOR ONE YEAR, IDENTIFIED AS CONTRACT NO. 22-13-04, PROJECT NO. 202200016

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

DISCUSSION

None

VOTE

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

ITEM 8 - APPROVAL OF AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT WITH NEW YORK STATE INDUSTRIES FOR THE DISABLED AND THE ERIE COUNTY CHAPTER NYSARC, INC. D/B/A THE ARC ERIE COUNTY NEW YORK FOR LANDSCAPING, GROUND IMPROVEMENTS AND MAINTENANCE OF PROPERTIES OF THE ERIE COUNTY WATER AUTHORITY ERIE COUNTY, NEW YORK, PROJECT NO. 202100004

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 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR 2024 – WATER SYSTEM IMPROVEMENTS, CITY OF TONAWANDA, IDENTIFIED AS CONTRACT NO. LA-005, PROJECT NO. 202100025

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 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR 2024 – WATER SYSTEM IMPROVEMENTS, CITY OF TONAWANDA, IDENTIFIED AS CONTRACT NO. LA-006, PROJECT NO. 202200060

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 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR 2024 – WATER SYSTEM IMPROVEMENTS, TOWN OF HAMBURG, IDENTIFIED AS CONTRACT NO. WE-005 PH-1, PROJECT NO. 202200055

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

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

ITEM 12 - CREATION OF ONE POSITION OF CLERK TYPIST (55A)

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 - AUTHORIZATION TO FILE THE PUBLIC AUTHORITY REPORTING INFORMATION SYSTEM (PARIS) 2023 REPORTS TO THE NEW YORK STATE AUTHORITIES BUDGET OFFICE

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

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None

ITEM 14 - ADOPTION OF AMENDMENT TO THE OPEN MEETINGS LAW POLICY

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

DISCUSSION

Chairman Schad noted that the policy needs to be amended by making the following changes:

- Page 3, Paragraph (d) If videoconferencing is used to conduct a Meeting, the public notice shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend. ~~{the meeting at any of the locations.}~~
- Appendix, Page 1, 2. For purposes of these procedures, the term "extraordinary circumstances" includes disability, illness, caregiving responsibilities, funerals, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting. A significant factor includes, but is not limited to, a member being out-of-state at the time of a meeting.

Motion by Ms. LaGree and seconded by Ms. Iannello to amend Item No. 14.

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

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 amended Item No. 14.

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 Session for the discussion of three matters relating to the following: proposed or pending litigation with the Town of Elma pursuant to Public Officers Law §105(1)(d) and §108(3), proposed or pending litigation re: Eltoun and Elmalik v. ECWA pursuant to Public Officers Law §105(1)(d), and proposed or pending litigation re: PFOA and PFAS Settlement pursuant to Public Officers Law §105(1)(d) at 11:15 a.m. Mr. Schad invited Terrence McCracken, Joyce Tomaka, Mark Carney, Chuck Eaton and Sabrina Figler.

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 11:35 a.m.

DISCUSSION

Chairman Schad reported that a productive discussion was held with Counsel. Chairman noted instructions have been given to Counsel for follow-up.

VIII. ADJOURNMENT

Motion by Ms. LaGree seconded by Ms. Iannello carried that the meeting adjourned at 11:36 a.m.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, LaGree and Iannello

Noes: None



Terrence D. McCracken
Secretary to the Authority

ALH