

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 9th day of April 2020.

PRESENT: **Jerome D. Schad, Chairman**
Mark S. Carney, Vice Chairman
Terrence D. McCracken, Secretary to the Authority
Karen A. Prendergast, Chief Financial Officer (via teleconference)
Margaret A. Murphy, General Counsel (via teleconference)
Russell J. Stoll, Chief Operating Officer
Leonard F. Kowalski, Executive Engineer (via teleconference)
Daniel J. NeMoyer, Director of Human Resources (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 Schlierf, Acting Manager of Information Technology (via teleconference)
Richard J. Deren, Network Specialist

ATTENDEES:

PLEDGE TO THE FLAG

I. CALL TO ORDER/ROLL CALL

The meeting was called to order at 9:30 a.m. A quorum was present with two Commissioners.

II. READING OF MINUTES

Motion by Mr. Carney seconded by Mr. Schad and carried to waive the reading of the Minutes of the Meeting held on Tuesday, March 24, 2020.

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

III. APPROVAL OF MINUTES

Motion by Mr. Carney seconded by Mr. Schad and carried to approve the Minutes of the Meeting held on Tuesday, March 24, 2020.

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

IV. REPORTS

A) SECRETARY

No Report

B) LEGAL

1. 2019 FOIL Audit

Margaret Murphy informed the Board that the Legal Department has conducted the 2019 FOIL audit. There was only one file that was non-compliant with the FOIL requirements. She added that the FOILS are being responded to quicker, and there were no appeals or denials of information requested by any member of the public or media. Chairman Schad remarked that this is a stark dramatic change from two years ago.

2. 2019 Financial Disclosure Statements

Margaret Murphy reminded the Board that at the last board meeting, the Financial Disclosure Statement, Whistleblower Policy and Code of Ethics and Conflict of Interest Policy were approved. The Authority's policy currently requires the in-house Financial Disclosure Statement be filed by May 15th. Ms. Murphy recommending extending the deadline to August 15th by Board resolution. However, at this time, those who are responsible for reporting to the Erie County Board of Ethics are still subject to the May 15th deadline. Chairman Schad agrees it's a good extension as tax information is still needed from the individuals filing.

C) FISCAL

1. Declaration of Emergency Amendment

Karen Prendergast reminded the Board that at the March 24th meeting, a Declaration of Emergency was passed by the Commissioners. Ms. Prendergast expressed that in

provision 7.2 the meaning of emergency procurement appears too limiting to achieve the intention and purpose these emergency measures and recommends changing minor language.

D) OPERATIONS

No Report

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 JANET BURROWS RE LAWS AND WATER USED BY THE AUTHORITY - RECEIVED AND FILED AND REFERRED TO SECRETARY FOR FOLLOW UP

C-2 FOIL FROM BLUE BOOK BUILDING & CONSTRUCTION NETWORK RE AREA NO. 2 RESTORATION - RECEIVED AND FILED AND REFERRED TO SECRETARY FOR FOLLOW UP

C-3 FOIL FROM BLUE BOOK BUILDING & CONSTRUCTION NETWORK RE EXCAVATED MATERIA, REMOVAL AND DISPOSAL - RECEIVED AND FILED AND REFERRED TO SECRETARY FOR FOLLOW UP

C-4 FOIL FROM JOSH MCCARTHY RE SHUT OFFS - RECEIVED AND FILED AND REFERRED 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 Mr. Schad and carried

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 2 - AWARD OF CONTRACT TO NEW FRONTIER EXCAVATING & PAVING, INC. FOR CONTRACT NO. NC-039, WATER SYSTEM IMPROVEMENTS IN THE TOWNS OF AMHERST AND CHEEKTOWAGA, NEW YORK, PROJECT NO. 201900073 - \$2,644,843.00

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

Chairman Schad asked why the mathematical error on the one bid does not create a problem. Mr. Stoll explained that while there was a mathematical error, it did not change New Frontier Excavating & Paving, Inc. from being the low bidder. He further explained that the industry is very competitive at the moment and that is why bids are so close.

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 3 - AWARD OF CONTRACT TO CMH COMPANY, INC. FOR CONTRACT NO. CPL-005, WATER SYSTEM IMPROVEMENTS IN THE VILLAGE OF SLOAN, NEW YORK, PROJECT NO. 201900072 - \$2,570,580.00

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

Vice Chairman Carney expressed his concern as to the bids coming in significantly higher than the engineer's estimate in items 3, 4 and 5. Mr. Kowalski noted that item 3 is a waterline improvement project, and items 4 and 5 are restorations contracts. Mr. Kowalski explained that the quantities are calculated over the last three contracts so there will be about 5.5 years of data when the contracts are prepared. We use all the unit prices from the previous contracts and put escalation clauses on them and go through the quantities and try and see which ones make sense versus dollar wise. Historic numbers are used to do the engineer's estimate for the restoration contracts. He added that after the bids came in, he spoke with the contractors, and he was told they went through and had all their data versus what they bid versus what their actual costs were. According to the contractor, they had significant losses on multiple items throughout these contracts. Therefore, they adjusted their numbers based on what they were actually spending to do the work which is reflective in the bids that received.

A discussion was held if it was possible to verify the contractor's numbers and how can the engineers prepare an accurate budget. Chairman Schad remarked that in terms of auditing, we ought to be looking at this over the next two years and find a way to measure those elements that have driven the price up and whether they're real. Ms. Murphy did not feel that a clause allowing the Authority to review the contractor's books would be possible.

Vice Chairman Carney feels we should have a way to be able to verify material. Mr. Kowalski clarified that the Construction Inspectors do not have a way to do that. They can only verify number of people on the job and hours on the job. He added that these are unit cost contracts. Contractors are bidding on a cubic yard of concrete, on square footage of asphalt, and on square footage of lawn. So, when our inspector goes out, he measures up the amount of concrete required, amount of asphalt and lawn.

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 4 - AWARD OF CONTRACT TO LEDGE CREEK DEVELOPMENT, INC. FOR AREA NO. 1 RESTORATION, APRIL 1, 2020 THROUGH MARCH 31, 2022, PROJECT NO. 202000016 - \$4,676,525.00

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

Vice Chairman Carney would like the engineers to tighten their numbers so that the engineers estimate and bids are closer.

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 5 - AWARD OF CONTRACT TO RUSSO DEVELOPMENT, INC. FOR AREA NO. 2 RESTORATION, APRIL 1, 2020 THROUGH MARCH 31, 2022, PROJECT NO. 202000017 - \$4,288,867.50

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 6 - AUTHORIZATION TO GRANT LEAK ALLOWANCE REQUEST - \$4,243.13

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 7 - EXTENSION OF THE FILING DEADLINE FOR IN-HOUSE FINANCIAL DISCLOSURE STATEMENTS FOR CALENDAR YEAR 2019

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 8 - APPROVAL TO AMEND THE PROCUREMENT PROVISIONS OF THE DECLARATION OF EMERGENCY

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

Motion by Mr. Carney and seconded by Mr. Schad to suspend the agenda

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

Motion by Mr. Carney, seconded by Mr. Schad to designate Karen Prendergast as our Chief Executive Officer for the purpose of filling out and signing a FEMA application during the present crisis and that the resolution at the next board meeting be approved *nunc pro tunc*.

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

ITEM 9 - TRIBUTE TO RUSSELL MCCLEOD, LINE MAINTENANCE OPERATOR

Motion by Mr. Carney and seconded by Mr. Schad and carried

DISCUSSION

Chairman Schad commented that recently the Authority lost a very valuable and longtime employee. He then read a tribute resolution in honor of the late Russell McCleod. It was noted in the resolution that when then Board adjourned, it adjourned out of respect to the memory of Russell McCleod.

Ayes: Two; Commrs. Schad and Carney

Noes: None

IX. ADJOURNMENT

Motion by Mr. Carney seconded by Mr. Schad carried that the meeting adjourn in memory of Russell McCleod

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Carney

Noes: None

A handwritten signature in black ink, appearing to read "T. D. McCracken". The signature is fluid and cursive, with a large initial "T" and "M".

Terrence D. McCracken
Secretary to the Authority

PF