

**MINUTES** of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 13<sup>th</sup> day of June 2019.

**PRESENT:** Jerome D. Schad, Chairman  
 Mark S. Carney, Vice Chairman  
 E. Thomas J. Jones, Jr., Treasurer  
 Terrence D. McCracken, Secretary to the Authority  
 Karen A. Prendergast, Chief Financial Officer  
 Margaret A. Murphy, Attorney  
 Russell J. Stoll, Executive Engineer  
 Daniel J. NeMoyer, Director of Human Resources  
 Lavonya C. Lester, Director of Administration  
 Sabrina A. Figler, Director of Water Quality  
 Joseph T. Burns, Deputy Administrative Director  
 Steven V. D'Amico, Business Office Manager  
 Jeffrey C. Schlierf, Sr. Micro Technical Support Specialist  
 Matthew W. Barrett, Security Officer  
 Richard J. Deren, Network Specialist

**ATTENDEES:**

**CALL TO ORDER AT 9:30 a.m.**

**PLEDGE TO THE FLAG**

## **I. ROLL CALL**

Commissioner Jones remarked that people are watching the board meetings on video, and one of the most interesting questions he's been asked is on roll call and why Commissioner Jones answers "present" and the other two Commissioners answer "here". Is there a difference between "present" and "here"? He believes "here" may be more inclusive than "present". Commissioner Jones did not see anything in the Authority's policy relative to roll call. Chairman Schad noted under the state Public Officers Law the only criteria is that you shall be recorded for purposes of the meeting. For purposes of a quorum, you have to be on video as well as if you are not physically here on site.

## **II. READING OF MINUTES**

### **DISCUSSION**

Prior to a motion being made, Secretary McCracken asked that the Board modify and amend Item 1 of the Secretary's report from the last meeting to state that the **Erie County** Dept. of Personnel approved the new positions.

Motion by Mr. Carney seconded by Mr. Jones and carried to amend and waive the reading of the Minutes of the Meeting held on Tuesday, May 28, 2019.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**III. APPROVAL OF MINUTES**

Motion by Mr. Carney seconded by Mr. Jones and carried to approve the Minutes of the Meeting held on Tuesday, May 28, 2019, as amended.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**IV. REPORTS**

**A) SECRETARY**

1. Executive Session

Discussion relating to personnel matters of a particular person(s) 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 Chair requested that this matter be deferred until the end of the meeting but separate the two executive sessions first, close it, come out and then go into second executive session regarding proposed or pending litigation.

**B) LEGAL**

1. Executive Session

Discussion with the Authority's General Counsel relating to current or future investigation or prosecution of a criminal office which would imperil effective law enforcement if disclosed pursuant to Public Officers Law § 105(1)(c), and relating to proposed or pending litigation pursuant to Public Officers Law § 105(1)(d)

## **C) FISCAL**

No Report

## **D) OPERATIONS**

### **1. 2019 Lead and Copper Testing**

Sabrina Figler reported on the 2019 lead and copper testing. She explained that under EPA Guidelines, the Authority must test a minimum of 25 homes with lead service lines and 25 homes with copper service lines. The goal was to obtain 50 in each of those categories. Sixty homes were confirmed for copper service lines, however, only 17 single family residences have lead service lines. Staff is working diligently to come up with more homes to test. Vice Chairman Carney suggested the Authority compensate people who allow us into their homes to verify the service. He also noted, to be clear, that there are no lead distribution lines detected in our system so if there is any lead piping it would be from the meter to the customer's home. Chairman Schad wanted clarification on the lead service line when we talk about a lead service line, we're talking about the service line from the curb box to the house? Ms. Figler confirmed this was correct.

Chairman Schad remarked that it is important both for the customers who are affected and the Authority, in terms of compliance, therefore, he asked Legal to see if there is any impediment to the Authority to incentivize people to work with us to get this testing done for people. Vice Chairman Carney added that the Authority has to comply as well.

Karen Prendergast noted that the Authority has been very accommodating for the customers by offering evenings and Saturdays. Ms. Figler and Ms. Murphy both suggested reaching out to the media to get the word out to the customers. Vice Chairman Carney suggested turning this over to the Authority's public relations firm and see if they can put together something to release to the public requesting assistance. Commissioner Jones noted for clarification that we are required to do this by the EPA but isn't the Authority's relationship with its ratepayers contractual? Isn't there some type of obligation on the customer's part to help us fulfill our regulatory obligations? Margaret Murphy answered that you would think that would be the case but it's not when it is inside the home. All the Commissioners agreed to use the Authority's public relations firm in helping the Authority reach out to the media to help increase customer participation in the testing. Chairman Schad would like to have this matter back on the agenda for the July meeting.

## 2. Control of Hazardous Energy Program Contract

Russell Stoll reported that RPFs for the Control of Hazardous Energy Program were sent to seven firms in which only two firms responded: Arcadis and Wendel. After staff reviewed the proposals it was determined that Arcadis is the best firm for this project. Vice Chairman Carney asked the value of the contract. Mr. Stoll replied that it is approximately \$250,000. Chairman Schad then inquired as to the time frame of the project. Mr. Stoll answered that it will take approximately 6 months so by the end of the year it should be completed. Mr. Stoll asked permission to negotiate a contract with Arcadis. This was approved by the Board.

## 3. Goals & Consideration-Comprehensive Infrastructure Strategic Planning

Russell Stoll distributed a memo from Karen Prendergast and himself relative to the comprehensive infrastructure strategic planning. Mr. Stoll and Ms. Prendergast agree with the list of goals previously discussed, however, offered an alternative priority order as follows: 1) Redundancy in ECWA Plants and Distribution System, 2) Cyber Security and Automation of Production and Distribution System, 3) Increase Annual Investment in Replacement of Transmission and Distribution Mains and 4) Expansion of Bulk Sale in to new service areas. Mr. Stoll mentioned that as the Authority ramps up the infrastructure replacement program, the Authority should develop and provide staffing levels to meet the goals and initiatives. He feels support staff in Engineering, Production and Maintenance is needed. Vice Chairman Carney clarified that additional staff is needed in order to meet these goals as it is unrealistic to believe that the current staff can continue performing their current duties and take on the responsibilities that this project would entail. The Vice Chairman remarked that Goals 1 and 3 might be reversed due to the fact that if we can't get the water out of the plant to the transmission lines we're losing most of our water in those transmission and distribution lines and the impact to customers is in those mains. Ms. Prendergast noted that the goals are working on parallel tracks and the next step will be to establish a system to prioritize different projects within those goals. Mr. Carney agreed, however, in order to prioritize them, he believes there ought to be some type of a cost analysis so when a proposal is given, we know how we intend on paying for it, how we intend on borrowing, seeking grants or other monies.

Commissioner Jones noted that he agrees that the planning is critical. He feels we must fix what we have before we look to expand. Ms. Prendergast explained to Commissioner Jones that there is a five-year capital budget projection which is approximately 30 to 40 million dollars over the next five years. Chairman Schad remarked that he is fine with the recommended prioritization reshuffle, but suggested a slight language change in item 3 - replacement of transmission and distribution lines, stating that it focused on money as opposed to the need. He explained that the one percent number he proposed was part of a national suggestion that if one percent of pipes are done yearly for 100 years, they will then be replaced only once. He suggested increasing the annual investment in transmission lines with a goal to reach one percent annually by 2024 which gives a five-year window to meet that target. Commissioner Jones stated that before he commits to a percentage, he would have to see what the impact is on rates. Vice Chairman Carney

believes that outside funding is essential. Chairman Schad feels the Authority will not be able to convince anyone on a state or federal level that the Authority is an appropriate candidate to consider helping if we haven't targeted where we want to go and plan for where we're going to go. He agrees with Commissioner Jones that it is going to be a big number but does not agree with the idea of taking the dollars first because we're going to be chasing dollars and we get there by doing the planning part first. Vice Carney remarked that he agrees with the planning part and the prioritization. Although he disagrees with the fact that we can't parallel this with money. He stated that he is in favor of being proactive rather than reactive. Commissioner Jones added that if a percentage is going to be used and we start with whatever our fiscal planning is now for Capital Improvements and Replacements, the difference would be looking for outside money. Chairman Schad determined to leave number three alone at the moment and see if we're on the same page on the criteria for prioritizing and then get into the large project issues for August.

#### **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**

**C-1 LETTER FROM CUSTOMER TONNIE LOGAN CLAIM NO. 2019-034 – RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**

**C-2 NOTICE OF CLAIM RICHARD AND KIMBERLY KAYLOR – RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**

**C-3 FOIL FROM KANDY COMPANY RE STURGEON POINT SLUDGE REMOVAL BID TABULATION – RECEIVED AND FILED AND REFERRED TO LEGAL AND SECRETARY FOR FOLLOW UP**

- C-4 FOIL FROM KYLE MAIER RE WATER SHUT OFF LIST – RECEIVED AND FILED AND REFERRED TO LEGAL AND SECRETARY FOR FOLLOW UP**
- C-5 JOSEPH RZESIEWICZ RESIGNATION – RECEIVED AND FILED AND REFERRED TO SECRETARY FOR FOLLOW UP**
- C-6 NYS SENATE INVESTIGATIONS & GOVERNMENT OPERATIONS COMMITTEE LETTER – RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**

### **Discussion**

Chairman Schad asked what the timeframe is to have the ABO requirements on the new website. Margaret Murphy responded that she is meeting with Jeffrey Schlierf to review the revisions that need to be made and then will speak with Ingenious about their revisions. Karen Prendergast added that the compliance issues to respond to the Senate investigative letter will be done. Ms. Murphy noted that the goal has always been that before the response is sent on the 28<sup>th</sup>, everything's been updated on the website. Although she alerted the NYS Senate Investigations & Government Operations Committee (the Committee"), in their first request, that the Authority was in the process of updating their website. Commissioner Jones asked the question if this effort by the Committee is relative to all authorities, or is it specifically to ECWA? Secretary McCracken answered that they are unsure. Commissioner Jones then asked the question isn't this redundant of what the ABO has been looking for? Margaret Murphy answered, yes, it is. Karen Prendergast mentioned that the Committee seems to be asking the same things as the ABO. The only distinction is the Committee seems to ask a lot of things that are required of IDAs as opposed to a water public authority. Vice Chairman Carney asked if the response will be vetted through the Commissioners. Margaret Murphy responded that after she and Ms. Prendergast finalize the response, it will then be sent to the Commissioners for their review. Vice Chairman Carney then raised the question if Ingenious has been paid in full. He was told yes, they have. Karen Prendergast noted there are some dollars that were specifically earmarked for future improvements so if needed, it can be spent on the website. Chairman Schad remarked that we have an investigative body asking for information, and we cannot say it's all on the website right now. It is our desire is to get it done and lean on Ingenious to get their help sooner than later. Vice Chairman added that he does not feel comfortable approving anything unless we know it's up and running. Chairman Schad said let's move forward on the matter and get it finished.

## **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. Jones and carried

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 2 - FINAL ACCEPTANCE OF PROJECT WITH E&R GENERAL CONSTRUCTION, INC. FOR CONTRACT NO. WSA-12, WATER SYSTEM IMPROVEMENTS IN THE TOWNS OF CHEEKTOWAGA AND AMHERST, NEW YORK, PROJECT NO. 201700088, CONTRACT NO. 18-09-02 - \$89,298.84**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 3 - FINAL ACCEPTANCE OF PROJECT WITH UTILITY SERVICE CO., INC. FOR CONTRACT NO. W-22C-2, STORAGE TANK REFURBISHING - ELEVATED, PROJECT NO. 201300266, CONTRACT NO. 16-13-05**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 4 - FINAL ACCEPTANCE OF PROJECT WITH E&R GENERAL CONSTRUCTION, INC. FOR EXCAVATED MATERIAL REMOVAL AND DISPOSAL, APRIL 1, 2016 THROUGH MARCH 31, 2018, PROJECT NO. 201600011, CONTRACT NO. 16-06-03 - \$30,585.88**

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

**DISCUSSION**

Commissioner Jones noted that he did not see the Director of Administration's approval on the blue sheet and wondered if it was due to a timing issue. Karen Prendergast answered, that yes it was.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 5 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S INVESTMENT GUIDELINES**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 6 - AUTHORIZATION TO ENTER INTO A DIRECT SERVICE AGREEMENT WITH THE TOWN OF AURORA**

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

**DISCUSSION**

Chairman Schad thanked the staff and is glad to see we're toward the end to get this project moving. Commissioner Jones asked if the Town of Aurora passed a referendum. Ms. Murphy confirmed that they did.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None



**ITEM 7 - AUTHORIZATION TO PAY LEDGE CREEK DEVELOPMENT NOTICE OF CLAIM RELATING TO DRIVEWAY REPAIR WORK AT THE ERIE COUNTY WATER AUTHORITY'S SERVICE CENTER**

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

**DISCUSSION**

Vice Chairman Carney established that the work was complete. Commissioner Jones asked if this was a billing issue since they had to file a notice of claim. Ms. Murphy explained that former Deputy Director Lichtenthal presented this to the Board last February wanting to do a waiver. However, the Board instructed him that it should be done as a notice of claim. Ms. Murphy has reviewed everything and confirmed that the work was done on the Authority's behalf. Staff has reviewed the amount and agrees that amount is a fair amount for the Authority to pay.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 8 - AWARD OF CONTRACT TO METRO CONTRACTING & ENVIRONMENTAL, INC. FOR ASBESTOS CEMENT PIPE (ACP) REMOVAL AND DISPOSAL FROM JUNE 1, 2019 THROUGH MAY 31, 2021, PROJECT NO. 201900045 - \$38,682.00**

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

**DISCUSSION**

Chairman Schad asked Mr. Stoll will this now solve the problem of us going out to a leak to see there's asbestos so a company familiar with asbestos has to be called. Mr. Stoll confirmed that having this contract should solve the problem. Vice Chairman Carney remarked on the disparity in bids. Mr. Stoll conveyed that he questioned Metro Contracting to make sure they understood what the job entailed in which they did. He believes the other companies may have made a little bit more out of it. Thank you.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 9 - AWARD OF CONTRACT TO KEMIRA WATER SOLUTIONS, INC. FOR FURNISHING AND DELIVERING OF POLYALUMINUM CHLORIDE COAGULANT TO THE ERIE COUNTY WATER AUTHORITY FOR THE TREATMENT OF WATER FOR THE PERIOD OF TWO YEARS, JULY 1, 2019 THROUGH JUNE 30, 2021, PROJECT NO. 201900031 - \$970,375.96**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 10 - AUTHORIZATION TO REJECT BIDS AND READVERTISE FOR THE FURNISHING AND DELIVERING OF TEN (10) BOOSTER PUMPS AND MOTORS FOR ERIE COUNTY PUMP STATIONS, PROJECT NO. 201900023**

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

**DISCUSSION**

Commissioner Jones asked if this was our sole bidder. Mr. Stoll noted that there were a couple other bidders that we anticipated would also bid, however they chose not to bid. Commissioner Jones also asked if the specs are too tight. Mr. Stoll answered that they are what you would expect to have for this type of project. Vice Chairman Carney questioned if Mr. Stoll anticipates a different result if this goes back out to bid. Mr. Stoll does expect a different result.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 11 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR WATERMAIN MATERIALS PURCHASE CONTRACT, JANUARY 1, 2020 TO DECEMBER 31, 2021, PROJECT NO. 202000001**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 12 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR ON CALL REPAIR SERVICES WATERMAINS AND RELATED FACILITIES SEPTEMBER 1, 2019 THROUGH AUGUST 31, 2021, PROJECT NO. 201900083**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 13 - AUTHORIZATION TO EXTEND THE CONTRACT WITH FREDERICK MACHINE REPAIR, INC. FOR MACHINING AND FABRICATION SERVICES FOR THE REPAIR OF VARIOUS ERIE COUNTY WATER AUTHORITY EQUIPMENT FOR A ONE YEAR PERIOD FROM AUGUST 1, 2019 TO JULY 31, 2020, PROJECT NO. 201700071, CONTRACT NO. 17-09-06**

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

**DISCUSSION**

Vice Chairman Carney asked how long we have had this contract. Mr. Stoll answered that we've used this vendor on and off for a few years, and this is the second last one-year extension.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 14 - AUTHORIZATION FOR KAREN PRENDERGAST, CHIEF FINANCIAL OFFICER, JOYCE TOMAKA, COMPTROLLER AND LAVONYA LESTER, DIRECTOR OF ADMINISTRATION TO ATTEND THE ERP IMPLEMENTATION AND TECHNOLOGY GOVERNANCE IN COLUMBUS, OHIO**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 15 - SALARY INCREMENTS - JULY 1, 2019**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 16 - AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH THE ERIE COUNTY AGRICULTURAL SOCIETY RELATING TO WATER TESTING, PROJECT NO. 201900131**

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

**DISCUSSION**

Vice Chairman Carney remarked that the Authority is simply going to do the testing and then release the results to the Erie County Health Department. Sabrina Figler explained that she releases the results directly to the Agricultural Society. Mr. Carney also added that the Health Department relies on those testings to determine whether the public will be safe at the event. Ms. Figler concurred. The Vice Chairman believes the Authority is putting themselves out on a liability standpoint by submitting these test results. Ms. Murphy explained that she does not believe this to be true. She feels the Authority has made it very clear what the obligation of the Society is. Vice Chairman Carney asked what insurance the Society has. Ms. Murphy responded that a risk analysis was never done because the Authority is doing the service and not the other way around. The Vice Chairman would like language added to the agreement naming the Authority as an additional insured on its General Liability. Commissioner Jones suggested approving the resolution contingent upon the Authority being named as an additional insured on its General Liability in the agreement.

Motion by Mr. Jones to amend Item No. 16 to add language to the Professional Services Agreement naming the Erie County Water Authority as an additional insured to its General Liability, seconded by Mr. Schad

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

**VOTE**

Ayes: Two; Commrs. Schad and Jones

Noes: One; Commissioner Carney

On the motion as amended,

Motion by Mr. Jones seconded by Mr. Schad

**DISCUSSION**

None

**VOTE**

Ayes: Two; Commrs. Schad and Jones

Noes: One; Commissioner Carney

Motion made by Mr. Carney, seconded by Mr. Jones to go into Executive Session for the discussion with the Authority's General Counsel relating to current or future investigation or prosecution of a criminal office which would imperil effective law enforcement if disclosed pursuant to Public Officers Law § 105(1)(c) and relating to proposed or pending litigation pursuant to Public Officers Law § 105(1)(d) at 11:00 a.m. and Mr. Schad invited Mr. McCracken, Ms. Prendergast and Ms. Murphy.

**DISCUSSION**

Ms. Murphy pointed out that there are two separate items to be discussed.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

Motion made by Mr. Carney, seconded by Mr. Jones to leave Executive Session at 11:46 a.m.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

Motion made by Mr. Carney, seconded by Mr. Jones to go into Executive Session for the discussion relating to personnel matters of a particular person(s) 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) at 11:47 a.m. and Mr. Schad invited Mr. McCracken and Ms. Prendergast.

Motion made by Mr. Carney, seconded by Mr. Jones to leave Executive Session at 11:58 a.m.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**IX. ADJOURNMENT**

Motion by Mr. Carney seconded by Mr. Jones carried that the meeting adjourn

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

A handwritten signature in blue ink, appearing to read "T. D. McCracken", with a stylized flourish at the end.

Terrence D. McCracken  
Secretary to the Authority

PF