

**MINUTES** of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 8<sup>th</sup> day of August 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  
 Joyce A. Tomaka, Comptroller  
 Jeffrey Schlierf, Acting Manager of Information Technology  
 Steven V. D'Amico, Business Office Manager

**ATTENDEES:** Brian Gould  
 Danielle Anderson  
 Jeanne Beiter

**CALL TO ORDER AT 9:42 a.m.**

**PLEDGE TO THE FLAG**

**I. ROLL CALL**

**II. READING OF MINUTES**

Motion by Mr. Carney seconded by Mr. Jones and carried to waive the reading of the Minutes of the Meeting held on Thursday, July 18, 2019.

**DISCUSSION**

None

**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 Thursday, July 18, 2019.

#### **DISCUSSION**

None

#### **VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

### **I. REPORTS**

#### **A) SECRETARY**

##### **1. Executive Session**

Discussion relating to the appointment of a person to the position of executive director 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 the executive session be deferred until the end of the meeting.

##### **2. EFC Letter**

Secretary McCracken explained to the Board that the Authority was previously awarded a grant in the amount of \$1,722,159.00. The EFC has informed the Authority that the NYS Water Infrastructure Improvement Act has been increased to \$3,000,000. There is a resolution on the agenda accepting and acknowledging the increase. Chairman Schad thanked the staff who worked on this along with the Authority's lobbying firm. Russell Stoll informed the Board that there is more than one ongoing project on the transmission line near Wehrle Tank. This particular project goes from Ball Station to Millersport Highway. It's a section that we've had leaks in before, and it feeds the next section which was started last year and works its way down to the Wehrle Tank. This is the problematic area.

#### **B) LEGAL**

No Report

## C) FISCAL

No Report

## D) OPERATIONS

### 1. Contract NC-37 Extension

Russell Stoll informed the Board that Contract NC-37 expires 12/31/19. The contract does have a provision for an additional one-year extension with existing terms and conditions. Mr. Stoll has been pleased with the work of the contractor and would like permission to extend the contract for a one-year period at the same rates. The Board approved this, and Mr. Stoll will have a resolution on for the next meeting.

### 2. Strategic Infrastructure Improvement Plan

Russell Stoll reported that two memos were previously prepared to discuss the Capital Improvement Project Decision Process and Goals Consideration – Comprehensive Infrastructure Strategic Plan. These memos are the basis for development of the Strategic Infrastructure Improvement Plan. This plan assesses the needs and establishes priorities of the proposed capital infrastructure projects. Mr. Stoll's intent is to "wrap" the memos and the information that has been developed to provide a process and a procedure to follow and develop a broad decision process and goals to guide us in a strategic plan. Individual projects have been identified, and will be cleaned up as times go on. The plan will also help obtain funding for these projects. The general intent is to help guide the Authority with a policy and procedures. Mr. Stoll believes this detailed information can be used in the budget process. Chairman Schad remarked on two points: He believes it will give a very robust group of projects that need to be done and gives some real insight that a careful assessment has been conducted. Mr. Stoll noted that as this continues to develop, we are probably looking at about 20 years of projects. Chairman Schad added that the Board would be interested to see where this is at at that time. The second item is now that we have some goals and criteria, he is looking for five or so projects that would be consistent with that but part of what needs to be done and accomplished is getting the essence of what we now have reduced to writing so we identify it as our strategic plan by resolution and adopt a cycle that will be reviewed. Chairman Schad feels this review should be done once a year to see if anything needs to be "tweaked". As far as the assessment of everything that are the components of it, this will have to be done by each department to help get in place to meet goals every year. Mr. Schad's goal is within a meeting or two be able to have a resolution adopting our strategic infrastructure plan. He also added that the technology side of this is a big part of infrastructure that needs to be within the plan so that part of it is integrated with everything else being done. Mr. Stoll replied that is also the goal, and we are continuing to build. Mr. Stoll added that himself, Terry, Karen, Lenny and Mike Wymer are meeting to discuss this further and make sure we're gathering all the details that we know are appropriate.

### 3. RFP – Storage Tank Inspections

Russell Stoll informed the Board that RFPs were sent to 11 consulting firms for inspection and evaluation of the water tanks. Every five years the health department requires a robust inspection and then a design if there's deficiencies. Based on those regulations, a three-year program to inspect 15 tanks has been set up. Five firms responded to the proposal. After staff reviewed all four proposals, it was determined that Wendel was the best fit for the project. Mr. Stoll asked permission to negotiate a contract with them. This was approved by the Board.

### 4. Water Quality Quarterly Review

Sabrina Figler informed the Board that the lab director from the Erie County Public Health Lab informed her that the samples given to the lab for testing had expired again, and that they needed to be resampled. She asked Ms. Delaney the status of the potential reporting and monitoring violation. Ms. Delaney told her that the Authority was being issued a reporting and monitoring violation from the state, and that there is to be no penalty nor financial penalty from this violation. The Authority is required to report this in the 2019 annual water quality report. At this time, the Authority has not received anything in writing of such violation. It was decided that Margaret Murphy would send a letter to the New York State Department of Health stating that the Authority should not be held liable and should not be issued a violation due to the Authority's efforts in providing samples and requesting results. Ms. Murphy informed Commissioner Jones that a complaint has been filed with ELAP. Ms. Murphy further explained that there's no risk to the public unless there is extended exposure of a certain level over years, and we have never come close to those levels. She feels it would be misleading to the public to issue a sampling and monitoring violation against the Authority because it would relay to the public that the Authority did not fulfill its obligation which is untrue, and it would alarm the public in making them believe the water is unsafe. Commissioner Jones asked if proof of delivery exists, which it does. Karen Prendergast noted that the samples that were able to be tested showed no reportable levels of any of these disinfectant byproducts so in no way is any of this reflective of the water quality. She also added that during the Authority's budget cycle a cost analysis will be conducted relative to bringing the testing back in-house. Vice Chairman Carney wanted to be clear: the samples were collected timely, they were sent out and for some reason those samples either expired or were unusable through no fault of the Authority's. A second set of samples was then collected, sent to the same lab and again those samples were deemed to be unusable even though when they left the Authority, they were perfectly fine. We then opted to go to Erie County and sent them samples. They apparently did not store them properly, and by the time they notified us it was obviously too late for the second quarter. Mr. Carney asked if we are going to use Erie County again. Ms. Figler replied that Jennifer Delaney from the health lab assured her they were going to be able to process the samples, and a date of August 19th was set to sample and deliver to their lab. Chairman Schad asked what the backup plan was. Karen Prendergast recommended we designate the Erie County Health Department as our primary lab and agree that we will use those results, but send them to a

second lab in the event that we have a failure. Chairman Schad would like to see this issue resolved by the next deadline.

**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

**J) INDEPENDENT ETHICS PANEL**

1. Minutes of July 11, 2019 Meeting

Margaret Murphy distributed draft minutes/report from the first meeting of the independent ethics panel held on July 11, 2019. She informed the Board that at the meeting the committee unanimously appointed Paul Wolfe as the chair, although he was not available to appear at the Board meeting. All financial disclosure statements were reviewed by the panel. After the review was completed, the panel determined that there are approximately ten employees they would like to speak to, although not for any serious reason. Commissioner Jones asked if the employees are told whether they must file. Ms. Murphy replied that they are, and that's why reading the policy is important, so the employees are aware if their title is required to file. Recommendations by the panel were also given to the Commissioners in the minutes/report. Ms. Murphy explained that even though the panel is an advisory board and not subject to the open meeting law, the panel would like to conduct business as if they were and have their meetings recorded and posted on the website. Vice Chairman Carney remarked that since they are an advisory board, he does not believe they should be meeting directly with the employees. He feels the panel is to advise the board of how things should be run and if they have questions about individual filings, those questions should go back to either the CFO,

Attorney or Human Resources Director. Ms. Murphy reminded him that it is in the policy. Commissioner Jones brought up the fact that this is an area where certain due process rights are involved, and the Board is the ethics committee. Chairman Schad would like clarification on the role of an advisory committee and whether we should have a public notice of a meeting along with a report on due process rights.

## **V. COMMUNICATIONS AND BILLS**

- C-1 FOIL REQUEST REGARDING THE AUTHORITY'S LIABILITY INSURANCE - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-2 FOIL REQUEST REGARDING LIST OF DISCONNECTED SINGLE-FAMILY RESIDENCES - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-3 LETTER FROM ERIE COUNTY LEGISLATURE - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-4 SUMMONS & COMPLAINT – MARY REFERMAT - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-5 NOC - GAIL MONCALIAN - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-6 NOC – DAVID DONOHUE - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-7 NOC – BUFFALO & ORCHARD PARK TOPSOIL, INC. - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-8 NOC – TREVOR LOCK - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**
- C-9 RESIGNATION LETTER FROM JAMES SHIMO - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP**

### **Discussion**

Chairman Schad thanked Mr. Shimo for his service. He then inquired if replacements have been found in the mechanics area. Secretary McCracken replied that he is in the process of hiring some mechanics. Vice Chairman Carney asked before a diesel mechanic is hired, should there be a sub-contractor available in case they are needed. Mr. Stoll replied that there are some that are some that are under contract that we might be able to use, and he will look into the matter.

## **VI. PERSONS ADDRESSING THE AUTHORITY**

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

Danielle Anderson and Jeanne Beiter from Buffalo Niagara Water Keeper introduced themselves. They explained that they have been curious about the workings of the Authority so they decided to come to the open meeting and hear what goes on at the Authority.

## **VII. UNFINISHED BUSINESS**

### **T-18 Authorization to Extend the Agreement with CalAmp (Item No. 15 6/27/19)**

#### **Discussion**

Lavonya Lester informed the Board that she would like to keep this on the table. She explained that she is currently looking at another vendor that can possibly provide some services including possible cameras inside the vehicles. A meeting is scheduled for August the 8th to meet and obtain more information with Philadelphia insurance and they will be providing additional information for the GPS Services. It was agreed to stay on the table.

## **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 RUSSO DEVELOPMENT FOR SMALL SERVICES CONTRACT, AREA #1, FEBRUARY 1, 2017 THROUGH JANUARY 31, 2019, PROJECT NO. 201700001, CONTRACT NO. 17-02-01 - \$75,534.74**

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 - AUTHORIZATION TO SOLICIT REQUEST FOR PROPOSALS TO PROVIDE AUDIT AND ACCOUNTING ADVISORY SERVICES FOR EACH OF ITS FISCAL YEARS ENDING DECEMBER 31, 2019, 2020 AND 2021, PROJECT NO. 201900184**

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

**DISCUSSION**

Vice Chairman Carney asked if this contract will include an extension. Ms. Prendergast informed him that there are two potential extensions.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 4 - AUTHORIZATION TO ACCEPT THE PROPOSAL OF ARCADIS TO PROVIDE CONSULTING ENGINEERING SERVICES FOR UPDATING THE AUTHORITY'S CONTROL OF HAZARDOUS ENERGY PROGRAM, IDENTIFIED AS CONTRACT NO. MP-082, PROJECT NO. 201900143**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 5 - AUTHORIZATION TO ACCEPT THE PROPOSAL OF AMERICAN UTILITY CONSULTANTS TO PROVIDE UTILITY AND TELECOMMUNICATION AUDIT/CONSULTING SERVICES, PROJECT NO. 201900059**

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



**DISCUSSION**

Chairman Schad asked when a work product will be produced. Karen Prendergast answered that there isn't a time frame in the agreement as they look back six years. A lot of the time it takes is depending on how fast we get them the requested documents. She anticipates having a report before the end of this year. Commissioner Jones asked if the decision was made basically on their percentage of contingency. Ms. Prendergast replied that is correct.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 6 - AWARD OF CONTRACT TO FLUID KINETICS, INC. FOR THE FURNISHING AND DELIVERING OF TWO (2) BOOSTER PUMPS AND MOTORS (BASE BID) FOR ERIE COUNTY WATER AUTHORITY'S EAST AURORA PUMP STATION, PROJECT NO. 201900023 - \$54,667.00**

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

**DISCUSSION**

Commissioner Jones asked for an explanation on why this was not awarded to the low bidder. Mr. Stoll explained that there were very specific specifications for these pumps. Some of these lower price pumps did not meet all those specifications. Commissioner Jones asked at what point do we consider them a sole source? Margaret Murphy remarked that they are not sole source, but because they did not follow the specifications as far as the size of the valve, we then determined in the resolution that they were the only responsive bidder.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 7 - AWARD OF CONTRACT TO CUMMINS-WAGNER-SIEWERT LLC FOR FURNISHING AND DELIVERING OF SIX (6) BOOSTER PUMPS AND MOTORS (BASE BID) FOR ERIE COUNTY WATER AUTHORITY'S MARILLA PUMP STATION, JEWETT-HOLMWOOD PUMP STATION AND CLARK STREET PUMP STATION AND TWO (2) BOOSTER PUMPS AND MOTORS (BID ALTERNATIVES) FOR ERIE COUNTY WATER AUTHORITY JEWETT-HOLMWOOD PUMP STATION AND CLARK STREET PUMP STATION, PROJECT NO. 201900023 - \$151,694.00**

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

**DISCUSSION**

Vice Chairman Carney remarked it appeared that in this contract all bids were responsive and awarded to the low bid.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 8 - AWARD OF CONTRACT TO PENN POWER GROUP, LLC FOR THE FURNISHING AND DELIVERING OF AUTOMATIC TRANSFER SWITCH FOR HARRIS HILL PUMP STATION, PROJECT NO. 201900040 - \$18,303.00**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 9 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR STURGEON POINT WATER TREATMENT PLANT 20-INCH CONE VALVES INSPECTION AND REHABILITATION, PROJECT NO. 201900178**

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

**DISCUSSION**

Vice Chairman Carney asked if this is the matter that was discussed at the last meeting, which Mr. Stoll replied yes it was.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 10 - APPROVAL OF AMENDMENT NO. 1 OF ARCADIS FOR CONSULTING ENGINEERING SERVICES FOR OPTIMAL CORROSION CONTROL TREATMENT STUDY, IDENTIFIED AS CONTRACT NO. MP-79, PROJECT NO. 201700136 - \$75,000.00**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 11 - AUTHORIZATION TO GRANT LEAK ALLOWANCE REQUESTS -  
\$1,669.84**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 12 - AUTHORIZATION FOR SCOTT AIPLE, ELECTRICAL ENGINEER TO  
ATTEND THE GOLDEN HORSESHOE INTERACTIVE SEMINAR IN  
NIAGARA ON THE LAKE, ONTARIO**

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 – ACKNOWLEDGEMENT AND ACCEPTANCE OF AN INCREASED NEW  
YORK STATE WATER INFRASTRUCTURE IMPROVEMENT ACT  
GRANT AWARD FOR THE PROJECT IDENTIFIED AS CONTRACT NO.  
W-030, 36-INCH TRANSMISSION MAIN REPLACEMENT PROJECT**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 14 - PROCEDURE RELATING TO THE TERMINATION OF EMPLOYMENT  
WITH THE ERIE COUNTY WATER AUTHORITY (T-19)**

Motion to table by Mr. Schad seconded by Mr. Carney

**DISCUSSION**

Commissioner Jones started the discussion by noting that he agrees that there is the need for a number of changes, and the authority to terminate employment is just as important than the authority to hire people. He believes this should be integrated now rather than taking an interim step. Mr. Jones proposed amending this and sending the matter to the governance committee before it is acted on. Chairman Schad remarked that this matter has already been discussed in executive session and it's a need to not leave in an ambiguous state and not leave it unclear as to where this authority rests, and every day we put it off we basically are putting off a decision-making process. He believes it would be helpful to have a discussion in governance on policy going forward but right now we need to be able to function. Vice Chairman Carney added that if the Board is in agreement that refinements need to be discussed, then he is in favor of sending this to the governance committee and having it reviewed. Chairman Schad asked Ms. Murphy if changes to the policy incorporating the firing policy can be done by the next meeting. Ms. Murphy believes she can have it done. She agreed to circulate it to the Commissioner for comment once the revision is completed.

**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 the appointment of a person to the position of executive director 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 10:54 a.m. Mr. Schad invited Mr. McCracken, Ms. Murphy, Mr. NeMoyer and Ms. Prendergast.

Motion made by Mr. Carney, seconded by Mr. Jones to leave Executive Session at 11:27 a.m.

**DISCUSSION**

Chairman Schad noted that a productive discussion was held in Executive Session.

**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 dark ink, appearing to read 'T. D. McCracken', with a stylized, flowing script.

Terrence D. McCracken  
Secretary to the Authority

PF