

**MINUTES** of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 5<sup>th</sup> day of September 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  
 Jacqueline Mattina, Associate Attorney  
 Russell J. Stoll, Executive Director (Chief Operating Officer)  
 Daniel J. NeMoyer, Director of Human Resources  
 Lavonya C. Lester, Director of Administration  
 Sabrina A. Figler, Director of Water Quality  
 Matthew Barrett, Security Officer  
 Richard Deren, Network Specialist  
 Steven V. D'Amico, Business Office Manager

**ATTENDEES:** Brian Gould

**CALL TO ORDER AT 9:39 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, August 22, 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, August 22, 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. Item No. 11 will be skipped and voted on after executive session.

#### **B) LEGAL**

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

Discussion relating to the appointment of a person to the position of associate attorney 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.

#### **C) FISCAL**

No Report

**D) OPERATIONS****1. Comprehensive Strategic Plan**

Russell Stoll distributed the draft Comprehensive Strategic Plan for the Commissioners' review. He noted that seven strategic initiatives have been identified which he believes connects all the goals of what is trying to be achieved long term. Commissioner Jones asked if the strategic initiatives are listed in order of priority. Mr. Stoll answered that they are not and can note that in the document. He added that this is a guideline moving forward to focus on what we feel are best addressed with capital planning, and this goes beyond that in how we look at how we strategically move forward in time.

Commissioner Carney noted that it looks great. Karen Prendergast remarked that she hopes this can be adopted and reviewed and readopted annually around the same time as the budget. Chairman Schad suggested that a resolution for adoption is on at the next meeting and the target date for review is included in the resolution. Mr. Stoll added that once this is adopted he will assign individuals to help keep things on track.

**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 TOWN OF ALDEN SUPERVISOR SAVAGE - RECEIVED AND FILED AND REFERRED TO ENGINEERING FOR FOLLOW UP****DISCUSSION**

Chairman Schad asked Russell Stoll if this matter is resolved. Mr. Stoll informed him that he has no issues with what they would like to accomplish. The town engineer wanted to make sure the board was aware of what the town was intending to do. Chairman Schad noted that he is glad the Authority was able to work with the Town of Alden on this matter.

**C-2 RESIGNATION LETTER - RECEIVED AND FILED AND REFERRED TO HUMAN RESOURCES FOR FOLLOW UP****DISCUSSION**

Chairman Schad expressed his thanks to Michael Haendiges for all his work with the engineering and SCADA.

**C-3 FOIL FROM TROY & BANKS RE UTILITY & TELECOMMUNICATIONS AUDIT/CONSULTING SERVICES - RECEIVED AND FILED AND REFERRED TO LEGAL FOR FOLLOW UP****C-4 NOC JOHN BLESSING - RECEIVED AND FILED AND REFERRED TO LEGAL 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.

Vice Chairman Carney expressed his thanks to Karen Prendergast for the wonderful work she did as Acting Executive Director. Chairman Schad concurred.

**VII. UNFINISHED BUSINESS****T-18 AUTHORIZATION TO EXTEND THE AGREEMENT WITH CALAMP (ITEM NO. 15 6/27/19)**

Motion to remove from table by Mr. Carney seconded by Mr. Jones

**DISCUSSION**

Commissioner Jones asked for an update on the matter. Karen Prendergast noted that no extension is necessary as there is a proposed agreement with Philadelphia Insurance on today's meeting. Commissioner Jones asked that backup documentation be included with any unfinished business in the future.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

No motion or second was made to approve the Authorization to Extend the Agreement with CalAmp (Item No. 15 6/27/19)

**DISCUSSION**

None

**VOTE**

Ayes: None

Noes: None

Resolution is defeated

**T-20** Authorization to Release Water Line Easement Located on Margaret Avenue, Amherst, New York, Project No. 201800257 (Item No. 6 8/22/19)

**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 - AWARD OF CONTRACT TO H&K SERVICES, INC., FOR THE FURNISHING AND DELIVERING OF ONE BULK CAUSTIC SODA STORAGE TANK FOR STURGEON POINT WATER TREATMENT PLANT, PROJECT NO. 201900133 - \$129,000.00**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 3 - AWARD OF CONTRACT TO LAKELANDS CONCRETE PRODUCTS, INC. FOR THE FURNISHING AND DELIVERING OF ONE PRE-CAST CONCRETE BUILDING FOR PINE HILL PUMP STATION, TOWN OF CHEEKTOWAGA, PROJECT NO. 201900128 - \$28,790.00**

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

**DISCUSSION**

Vice Chairman Carney asked Mr. Stoll if the low bidder understood the scope of the project. Mr. Stoll replied that the high bidder had no explanation as to why their bid was so high and the low bidder stood by their bid and knew what was involved in the project.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 4 - APPROVAL OF AMENDMENT NO. 2 OF MATRIX IMAGING SOLUTIONS, INC. FOR BILL PRINTING, PRESENTATION, AND PAYMENT ALTERNATIVES, IDENTIFIED AS CONTRACT NO. MIS-2, PROJECT NO. 201500141**

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 - APPROVAL OF AMENDMENT NO. 1 OF NUSSBAUMER & CLARKE, INC. CONTRACT NO. NC-039, WATER SYSTEM IMPROVEMENTS PROJECT – TOWNS OF AMHERST AND CHEEKTOWAGA, PROJECT NO. 201900073 - \$12,000.00**

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

**DISCUSSION**

Commissioner Jones asked who solicits the quotes (Special Services). Mr. Stoll replied that the Authority requests the consultant solicit at least three quotes, so therefore it is a competitive process. Commissioner Jones then questioned if it makes sense to put an estimate in the contract. Mr. Stoll remarked normally the numbers that the engineers come up with seem to be reasonable, and he prefers to get a cost so that we have a comprehensive contract. In this case it looks like it was underestimated to start with, but it not always known what the extent of the work is going to be.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 6 - APPROVAL OF AMENDMENT NO. 1 OF NUSSBAUMER & CLARKE, INC.  
FOR MISCELLANEOUS ELECTRICAL DESIGN SERVICES 2018-2019,  
IDENTIFIED AS CONTRACT NO. NC-037, PROJECT NO. 201800056**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 7 - RATIFICATION OF THE INSTALLATION OF HYDRANTS AND VALVES  
AND RETIREMENT OF EXISTING HYDRANTS AND VALVES - VARIOUS  
LOCATIONS**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 8 - AUTHORIZATION TO GRANT A ONE-TIME COURTESY REVERSAL OF  
DELINQUENT CHARGES FOR BUFFALO TUNGSTEN, INC. - \$556.24**

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

**DISCUSSION**

Commissioner Jones pointed out that the resolution and the attached memo have conflicting numbers. Therefore, the resolution should be amended to reflect \$1,067.60 as the correct amount of the waiver.

Motion by Mr. Carney that Item 8 authorization to grant a one-time courtesy reversal of delinquent charges for Buffalo Tungsten, Inc. be amended to reflect the correct amount of the waiver as **\$1,067.60**, seconded by Mr. Jones

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

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

On the motion as amended,

Motion by Mr. Carney seconded by Mr. Jones to approve the amended Item No. 8

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 9 - AUTHORIZATION FOR SABRINA FIGLER, DIRECTOR OF WATER QUALITY AND JAMES FIGLER, ANALYTICAL CHEMIST TO ATTEND THE WATER QUALITY TECHNOLOGY CONFERENCE IN DALLAS, TEXAS**

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

**DISCUSSION**

Karen Prendergast reported that she has reviewed and approved this request. She explained that this is a big conference with 12-16 concurrent sessions per day, and she felt it was important that the Director of Water Quality and Analytical Chemist attend.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None



## **ITEM 10 – JOYCE TOMAKA - APPOINTMENT AS COMPTROLLER**

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

### **DISCUSSION**

Chairman Schad noted that he believes this is a marvelous appointment and supports it fully. Vice Chairman Carney commented that he thought going forward these types of resolutions were going to include the salary instead of just the grade and step. He feels that when information relative to appointments is released to the public the value of that appointment should be included in the resolution. Mr. Carney asked that this be done going forward and that Item No. 10 be amended to include the value of grade 33E step as \$131,279.20.

Motion by Mr. Carney that Item No. 10 include the value of Salary Grade 33E, step 1 as \$131,279.20, seconded by Mr. Jones

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

### **VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

On the motion as amended,

Motion by Mr. Carney seconded by Mr. Jones to approve the amended Item No. 10

### **DISCUSSION**

None

### **VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

## **ITEM 11 – RUSSELL STOLL - APPOINTMENT AS EXECUTIVE DIRECTOR (CHIEF OPERATING OFFICER)**

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 - TIMOTHY ELLING – LEAVE OF ABSENCE**

Motion by Mr. Carney to approve the resolution. Mr. Jones objected to the motion being considered and stated his objection has priority over the motion.

**DISCUSSION**

Mr. Jones noted that the objection takes precedence over the motion. He stated his objection is procedural and has nothing to do with the individual. He remarked the only items submitted in support of the resolution was the request from the individual seeking an extension of leave. He felt it needed at least a recommendation or management analysis as to how the leave would affect the Authority before considering the resolution. He does not believe he can make a rational and independent decision without more information, suggesting other Board members may have more information from which to draw. Mr. Jones further noted the Board had asked for an analysis a year ago, but still had not received it.

Hearing no objection from Mr. Carney, Chairman Schad seconded the motion by stating he did not think the objection controls. Chairman Schad then remarked that he thought all the Commissioners recently received a memo on leave policy issues. Secretary McCracken confirmed that he sent a memo to each of the Commissioners. Commissioner Jones did not recall receiving the memo. Secretary McCracken stated it was emailed the previous week.

Daniel NeMoyer added that he and John Gilmour reviewed the City of Buffalo Police Department's policy and the Sheriff's Department's policy whereby any leaves of absence are granted at the sole discretion of the chief of police or the sheriff. He noted that the Authority has been practicing the same way. Mr. NeMoyer explained in his memo when there is a vacancy created by someone leaving to go somewhere else under a leave of absence anyone that then fills in on a temporary basis is advised that their appointment to that position could be on a temporary basis. His memo included a recommendation that if the Authority is worried that these extensions or these leaves of absence might somehow impact the work force that the leave not be considered unless there is an endorsement from the Secretary.

Vice Chairman Carney memorialized that the individual has already been granted a one year leave of absence, and we are extending the leave of absence an additional year so the value of his leave of absence has already been brought to this Board and approved 3-0.

Commissioner Jones stated the objection is not debatable and a vote should be taken. He stated the public should have more information as to the merits being debated. He then asked the item be tabled until the next meeting so that the memo may be made part of the Board packet.

Mr. Carney stated he saw no need for delay because Mr. NeMoyer has given an explanation as to the policy and past practices. Mr. Jones then stated the point is that he had not read the memo and has a whole host of questions regarding what additional benefits an employee accrues when on leave. He stated he has no problem giving a leave for someone moving up within the Authority or who may be subject to a probation period or examination. Mr. Jones, however, thinks it is a different matter when a person leaves for other employment outside the Authority.

Mr. Carney then called for a vote on the motion. Chairman Schad stated he agreed with Mr. Jones as to the need to review the policy, but that was not the matter before the Board at this meeting. Mr. Jones called for a vote on the objection. Chairman Schad stated the motion is properly before them since it was seconded.

**VOTE**

Ayes: Two; Commrs. Schad and Carney

Noes: One; Commissioner Jones

Following the vote, Chairman Schad asked Mr. NeMoyer to recommend changes to the policy. Mr. Carney agreed with both Chairman Schad and Mr. Jones the policy should be reviewed and discussed and that Mr. NeMoyer should consult with the Legal Department within the next 30 days and come back with a general policy guideline on these requests for leaves of absence.

**ITEM 13 - AMENDMENT OF POLICY NO. 93.0 RELATING TO MEDIA RELATIONS PROCEDURES AND 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 14 - AMENDMENT OF THE ERIE COUNTY WATER AUTHORITY FREEDOM OF INFORMATION LAW POLICY & PROCEDURES FOR ACCESSING PUBLIC RECORDS**

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 - AUTHORIZATION TO ADOPT POLICY NO. 94.0 FLEET MANAGEMENT**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 16 - AUTHORIZATION TO EXECUTE AN AGREEMENT WITH PHILADELPHIA INDEMNITY INSURANCE COMPANIES RELATIVE TO PARTICIPATION IN PHLYTRAC'S GPS PROGRAM**

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

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 17 - APPROVAL OF A PURCHASE ORDER IN THE AMOUNT OF TEN THOUSAND DOLLARS FOR PRE-EMPLOYMENT SCREENING, INVESTIGATION, AND BACKGROUND CHECKS**

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

**DISCUSSION**

Commissioner Jones questioned if the current vendor is going to be allowed to submit a quote. Secretary McCracken informed the Board that the reason this came before the Board is because the current vendor could not abide by the contractual price as they want to charge \$30 more per background check they process. Therefore, Ms. Murphy has determined they had breached their contract, and we are now in a position where several of the background checks need to be processed. He further explained that this will now go out as a RFQ. Commissioner Jones asked if the current vendor will be allowed to submit a RFQ. Mr. McCracken replied that he did not send it to them as they breached their contract and that this is only temporary until the end of the year and at that time a full RFP will be solicited. Vice Chairman Carney noted he does not believe there is a problem with allowing them to submit a full RFP when it goes out but not now as they breached their contract. Chairman Schad remarked that he is comfortable that the legal department will protect the Authority on this matter.

**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 10:28 a.m. Mr. Schad invited Mr. McCracken, Mr. NeMoyer and Ms. Prendergast.

Motion made by Mr. Carney, seconded by Mr. Jones to exit Executive Session at 10:39 a.m.

#### **DISCUSSION**

Chairman Schad noted that they have completed the Executive Director search.

#### **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 associate attorney 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 10:40 a.m. Mr. Schad invited Mr. McCracken, Mr. NeMoyer, Ms. Mattina and Ms. Prendergast.

Motion made by Mr. Carney, seconded by Mr. Jones to exit Executive Session at 10:47 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 dark ink, appearing to read 'T. D. McCracken', with a stylized, flowing script.

Terrence D. McCracken  
Secretary to the Authority

PF