

**MINUTES** of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 20th day of December 2018.

**PRESENT:** Jerome D. Schad, Chairman  
 Mark S. Carney, Vice Chairman  
 E. Thomas Jones, Treasurer  
 Terrence D. McCracken, Secretary to the Authority  
 Margaret A. Murphy, Attorney  
 Robert J. Lichtenthal, Jr. Deputy Director  
 Russell J. Stoll, Executive Engineer  
 John J. Mogavero, Chemist/Chief WTPO  
 Joseph T. Burns, Deputy Administrative Director  
 Karen A. Prendergast, Comptroller  
 Daniel J. NeMoyer, Director of Human Resources  
 Jacqueline Mattina, Deputy Associate Attorney  
 Sabrina Figler, Director of Water Quality  
 Steven V. D'Amico, Business Office Manager  
 Anthony Alessi, Claims Rep/Risk Manager  
 Matthew Barrett, Security Officer

**ATTENDEES:** Brendon Hoare, e3 Communications  
 Craig Yokopenic, EMA  
 James P. Domagalski, Esq.  
 Joseph Murry, Ingenious, Inc.  
 Eric Frick, Ingenious, Inc.  
 Paul Powell, Lawley Services  
 Patrick Quinn, Lawley Services

**CALL TO ORDER AT 9:47 a.m.**

**PLEDGE TO THE FLAG**

**I. - ROLL CALL**

**II. - READING OF MINUTES**

Motion by Mr. Carney, seconded by Mr. Jones, to waive the reading the Minutes of the Meeting held on Thursday, November 29, 2018.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

Motion carried.

**III. - APPROVAL OF MINUTES**

Secretary McCracken brought to the Board's attention a discrepancy in the proposed Minutes of the Meeting held on Thursday, November 29, 2018, on page 526, misquoting Commissioner Jones as to his initial statement relating to Item 18. According to the audio from the meeting, Commissioner Jones questioned whether the resolution was posted on the Authority's website, and never claimed the resolution was missing in the Board's binder.

Motion to approve the minutes, as amended, by Mr. Carney, seconded by Mr. Jones.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

Motion carried.

**IV. REPORTS**

**SECRETARY**

1. Executive Session

Secretary McCracken requested the Board conduct an executive session to discuss a proposed collective bargaining agreement pursuant to Public Officers Law §105(1)(e) (collective negotiations pursuant to Article 14 of Civil Service Law). He stated that attorney, James P. Domagalski, was prepared to discuss this matter on December 13, 2018, before that meeting had to be postponed, but had to leave today by 11:00 a.m. for another appointment.

Motion made at 9:51 a.m. by Mr. Schad to conduct an executive session pursuant to Public Officers Law §105(1)(e) with Secretary McCracken, Margaret Murphy, Robert Lichtenthal, Karen Prendergast, Daniel NeMoyer and Mr. Domagalski being present at that session; motion seconded by Mr. Carney.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

Motion made at 10:02 a.m. by Mr. Schad to close executive session; motion carried without opposition.

**LEGAL**

No Report

**FISCAL**

1. GFOA

Mr. Lichtenthal distributed and reviewed a letter from Government Finance Officers Association advising that the Authority received a Certificate of Achievement for Excellence in Financial Reporting. The Board commended Mr. Lichtenthal and his staff for their dedication.

2. RFP Microwave Radio Maintenance Services

Mr. Lichtenthal distributed and reviewed a memo with the only response received from Transwave Communications Systems, Inc. and recommended to the Board to move forward to enter into a Professional Service Contract with Transwave.

Commissioner Jones made a point of order as to whether Item 14 may be moved out of order so Mr. Domagalski could be excused from the meeting.

Motion made by Mr. Jones to suspend the Agenda and to call out of order Item 14, seconded by Mr. Carney.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 14 - RATIFICATION OF THE TENTATIVE AGREEMENT WITH THE BROTHERHOOD OF WESTERN NEW YORK WATER WORKERS, AFL-CIO, AND AUTHORIZATION TO AMEND THE AUTHORITY'S CAREER AND SALARY PLAN RELATIVE TO THE BLUE COLLAR BARGAINING UNIT**

Motion by Mr. Carney seconded by Mr. Jones

**DISCUSSION**

Mr. Schad commended the negotiation teams on both sides for a well-done process in reaching an agreement.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

Motion by Mr. Schad to return to the normal order of business, seconded by Mr. Jones.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**OPERATIONS**

1. EMA Presentation (SCADA)

Craig Yokopenic from EMA distributed and reviewed project highlights and successes to date. Mr. Carney inquired as to when will this project be completed. Mr. Carney advised that he receives reports every two weeks indicating that the project is almost complete, but he is looking for a concrete date for this to be completed. Mr. Yokopenic advised that the project should be completed by January 15, 2019.

2. RFP Consulting Engineering Services for Waterline Replacement  
Project Lake Shore Road (Route 5) Project No: 201800008

Mr. Stoll distributed an RFP for consulting engineering services for waterline replacement project on Lake Shore Road (Route 5). He advised that NYS DOT advised the Authority that they will be working on Lake Shore Road and that it would be an opportunity for the Authority to replace approximately 2100 linier feet of water line. He stated the Authority would prepare the design and pass it over to the DOT for construction administration. This will result in savings to the Authority.

Mr. Stoll also added as a side note that there was a leak reported in Lackawanna early that morning which resulted in a large break on McKinley at Dorrance. ECWA staff located the leak within an hour and were able to close off valves to isolate the leak and return water back to normal.

#### **HUMAN RESOURCES**

No Report

#### **AUDIT COMMITTEE**

No Report

#### **GOVERNANCE COMMITTEE**

No Report

#### **FINANCE COMMITTEE**

No Report

#### **ETHICS BOARD**

No Report

### **V. - COMMUNICATIONS AND BILLS**

#### **ITEM 1 - Creation and/or Amendment of Master Purchase Orders:**

Motion by Mr. Carney seconded by Mr. Schad.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 2 - Master Purchase Order Releases, Purchase Orders and Purchase Order Amendments:**

Motion by Mr. Carney seconded by Mr. Schad.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 3 -** FOIL Request from Rick Zydel New Frontier Excavating was received and filed.

**ITEM 4 -** J. Runfola Resignation Letter was received and filed.

**ITEM 5 -** P. Riester Resignation Letter was received and filed.

**VI. PERSONS ADDRESSING THE AUTHORITY**

No individual made any request to address the Board.

**VII. - UNFINISHED BUSINESS**

**T-12** Termination of Professional Services Contract with Harter Secrest & Emery LLP  
(Item No. 4 8/2/18)

Motion to approve by Mr. Carney; no one seconded the motion; motion failed.

**T-17** \_\_\_\_\_ – Appointment as Executive Director (Item No. 22 11/1/18)

Motion to approve by Mr. Carney; no one seconded the motion; motion failed.

**ITEM 6 -** AUTHORIZATION TO ADVERTISE FOR BIDS FOR CONTRACT NO: WSA-013, WATER SYSTEM IMPROVEMENTS LARGE VALVE REPLACEMENTS, CITY OF LACKAWANNA, TOWNS OF AMHERST, CHEEKTOWAGA, HAMBURG AND WEST SENECA, PROJECT NO. 201800081

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

Mr. Schad moved to amend the motion approving the advertisement for bids, subject to the addition of language approved by the Legal Department relating to the new Apprenticeship Policy and the Sexual Harassment Policy. Motion, as amended, seconded by Mr. Carney.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 7 -** AUTHORIZATION TO ADVERTISE FOR BIDS FOR CHEMISTRY AND MICROBIOLOGY PROFICIENCY SAMPLES AND CHEMISTRY STANDARDS FOR THREE YEARS FROM FEBRUARY 1, 2019 TO JANUARY 31, 2022, PROJECT NO. 201900009

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 8 -** APPROVAL OF CHANGE ORDER NO. 2 OF GEITER DONE OF WNY, INC. FOR EXCAVATED MATERIAL REMOVAL AND DISPOSAL, APRIL 1, 2018 THROUGH MARCH 31, 2020, PROJECT NO. 201800010, CONTRACT NO. 18-17-04 - \$1,501.25

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 9 - AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH O'BRIEN & GERE ENGINEERS, INC. PROJECT NO. 201800136, CONTRACT OBG-013**

Motion to approve by Mr. Carney, seconded by Mr. Jones.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 10 - AUTHORIZATION TO REFUND SERVICE CONNECTION FEE TO ASHLEY ACEVEDO - \$2,000.00**

Motion to approve by Mr. Schad, seconded by Mr. Carney.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 11 - AUTHORIZATION TO GRANT LEAK ALLOWANCE REQUEST - \$1,073.47**

Motion to approve by Mr. Carney, seconded by Mr. Jones.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None



**ITEM 12 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER AUTHORITY'S ANNUAL CAPITAL BUDGET FOR FISCAL YEAR 2018**

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

Mr. Carney indicated that there was no information to back up this budget transfer. He requested that in the future all budget transfers should be accompanied by a memo describing the basis for the transfer. Mr. Lichtenthal added that the project (NC-35) is proceeding ahead of schedule and therefore, there is a need for the transfer of funds.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 13 - AUTHORIZATION TO SETTLE INSURANCE CLAIM RELATNG TO THE 42-INCH WATERMAIN BREAK AT STURGEON POINT TREATMENT PLANT**

Motion to approve by Mr. Carney, seconded by Mr. Jones.

**DISCUSSION**

Mr. Schad commended Mr. Alessi and other Authority staff on their efforts in this matter in being attentive to the insurance needs of the Authority. Mr. Carney inquired as to where the settlement funds will be deposited to. Mr. Lichtenthal advised the funds go into the general fund and thereafter will make its way back to the capital budget.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 14 - RATIFICATION OF THE TENTATIVE AGREEMENT WITH THE BROTHERHOOD OF WESTERN NEW YORK WATER WORKERS, AFL-CIO, AND AUTHORIZATION TO AMEND THE AUTHORITY'S CAREER AND SALARY PLAN RELATIVE TO THE BLUE COLLAR BARGAINING UNIT**

**DISCUSSION**

Mr. McCracken indicated this matter was voted on earlier. Mr. Carney commented on this matter indicating that this should have been signed off by the Legal Department. Ms. Murphy indicated that this was handled by outside legal counsel. Mr. Carney requested that

ECWA Legal still sign off on it.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

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

Motion to approve by Mr. Carney, seconded by Mr. Jones.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 16 - FIRST LONGEVITY INCREMENTS - JANUARY 1, 2019**

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

Mr. Carney would like Legal to review and sign off on all personnel blue sheets in the future.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 17 - ADDITIONAL LONGEVITY INCREMENTS - JANUARY 1, 2019**

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 18 - AUTHORIZATION TO AMEND POLICY NO. 41.0 – VACATIONS OF THE ERIE COUNTY WATER AUTHORITY’S EMPLOYEE POLICIES AND PROCEDURES MANUAL**

Motion to approve the amended policy, as recommended by the Governance Committee, by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

Governance Committee recommended the adoption of the amended policy with the removal of the word “highly” from amended paragraph 6.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 19 - AUTHORIZATION TO AMEND THE AUTHORITY'S CAREER AND SALARY PLAN FOR BI-WEEKLY EMPLOYEES NOT ELIGIBLE FOR MEMBERSHIP IN A COLLECTIVE BARGAINING UNIT**

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

Mr. Carney would like, in the future, separate authorization sheets for every resolution with review and approve by the Legal Department.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 20 - AUTHORIZATION TO AMEND THE AUTHORITY'S CAREER AND SALARY PLAN FOR BI-WEEKLY EMPLOYEES NOT ELIGIBLE FOR MEMBERSHIP IN A COLLECTIVE BARGAINING UNIT**

Motion to approve by Mr. Carney, seconded by Mr. Schad.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 21 - JOHN MYE – APPOINTMENT AS EXECUTIVE DIRECTOR**

Motion to appoint by Mr. Schad, seconded by Mr. Carney.

**DISCUSSION**

Mr. Schad moved to amend the resolution by adding the name of John Mye as the Executive Director at Salary Grade 37E, Step 5, with an effective appointment date of February 4, 2019. Mr. Jones moved further to amend the resolution to indicate Mr. Mye’s employment is “at will.”

Motion as amended by Mr. Schad and Mr. Jones, seconded by Mr. Carney.

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**ITEM 22 - MOTION TO RESCIND ANY AND ALL PRIOR RESOLUTIONS  
PURPORTING TO DELEGATE CERTAIN FINAL EMPLOYMENT  
DECISIONS TO VARIOUS MANAGEMENT STAFF**

Motion to approve by Mr. Jones and seconded by Mr. Schad.

**DISCUSSION**

Mr. Jones expressed the view that rescinding these resolutions would help the organization and not hinder its operations, and that the hiring practices have not be consistent with the resolutions. now sought to be rescinded. He further stated it is not consistent with their fiduciary duties to delegate 50% of the Board’s management and oversee and that rescinding this delegation of authority would further enhance transparency.

Mr. Carney does not disagree that, as the prior resolutions are written, the Board should not take some action on hiring. Mr. Carney does disagree wholeheartedly that the Board has abdicated a chunk of the management. The Board spent two days in budget hearings reviewing every salary of every department. Mr. Carney added hiring and firing is less than one-half of one percent of the ECWA budget on a yearly basis. To say that the Board have abdicated control of the labor force is incorrect. Since the Board solely controls the budget of every department, we control the budget of every salary therein. Mr. Carney stressed the Board controls over the budget of each department and the funding of every positions, which is not the abdication of its

management control over labor matters. Mr. Carney sees the question raised by the resolution, as whether the Board should ratify or approve the hiring and firing of Authority personnel. Mr. Carney asked that this matter be sent to Governance where it can be carefully examined and discussed.

Mr. Schad asked Joseph Burns, the Authority's former Secretary, whether he viewed these resolutions during his three years as Secretary as requiring the Board's approval on hiring. Mr. Burns stated that he did not believe the resolutions required to the Board to approve all new hires, but could not recall the exact wording of the resolution.

Mr. Jones read a portion of the current resolution, requiring all hiring to be subject to the general direction, approval and control of the Commissioners of the Authority. He further stated the Commissioners cannot give any approval outside of an open meeting.

Mr. Carney reiterates that this resolution and practice needs to be reviewed and discussed by the Governance Committee.

Motion to send resolution to Governance Committee by Mr. Carney, seconded by Mr. Schad.

## **DISCUSSION**

Mr. Schad agrees with Mr. Carney the matter should be discussed in Governance and that it is not a construction result to just rescind these prior resolutions. Mr. Schad would like the Governance Committee to recommend a good plan moving forward, which addresses all of the concerns, including transparency, and which recognizes the dedication and value Authority's staff plays in supplying potable water to the Authority's ratepayers. Mr. Schad then focused on the tenor that should be used to approach these discussions, and again stated that rescinding these resolutions without a plan is not the right course at this time.

Mr. Jones stated they should begin by looking to the flow-chart, posted on the Authority's website, allowing the Board to have some role prior to final hiring notification, without micro-managing the Authority.

Mr. Carney reiterates his position on this matter and agrees the language needs to be reviewed and agrees he is in favor of going to a more transparent system but also agrees with Chairman Schad that simply throwing this out without having some corrective language is not the direction.

## **VOTE**

Ayes: Two; Commrs. Schad and Carney

Noes: One; Commr. Jones

Following the vote on the motion, Mr. Schad stated that the matter will be on the agenda for the January 2019 Governance Committee. Mr. Carney stated he wanted to some input from Secretary McCracken, former Secretary Burns, and the Legal Department. Mr. Jones suggested getting input from the public on their perception. He advised that the good work and the good people at the Authority is what is hurting.

**ITEM 23 - Service Connection Work Order List**

Motion to approve by Mr. Schad, seconded by Mr. Carney.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None

**IV. – ADJOURNMENT**

Motion by Mr. Carney seconded by Mr. Jones that the meeting adjourns at 11:00 a.m.

**DISCUSSION**

None

**VOTE**

Ayes: Three; Commrs. Schad, Carney and Jones

Noes: None



Terrence D. McCracken  
Secretary to the Authority

SLZ