

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 27th day of December 2018.

PRESENT: **Jerome D. Schad, Chairman**
E. Thomas Jones, Treasurer
Terrence D. McCracken, Secretary to the Authority
Margaret A. Murphy, Attorney
Joseph T. Burns, Deputy Administrative Director
Karen A. Prendergast, Comptroller
Daniel J. NeMoyer, Director of Human Resources
Steven V. D’Amico, Business Office Manager
Matthew Barrett, Security Officer

ABSENT: **Mark S. Carney, Vice Chairman (excused)**

ATTENDEES:

CALL TO ORDER AT 9:31 A.M.

PLEDGE TO THE FLAG

I. - ROLL CALL

II. - READING OF MINUTES

Motion by Mr. Jones seconded by Mr. Schad and carried to waive the reading of the Minutes of the Meeting held on Thursday, December 20, 2018.

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

III. - APPROVAL OF MINUTES

Motion by Mr. Jones seconded by Mr. Schad and carried to approve the Minutes of the Meeting held on Thursday, December 20, 2018.

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

Mr. Schad indicated he has a conflict with the March 21, 2019 meeting. Mr. Jones indicated that he will be traveling at that time and March 28, 2019 will not work for him. Mr. Jones further indicated he was planning to remote access for the April meeting. Karen Prendergast reminded the Commissioners that there will need to be a meeting at the end of March for the PARIS filing and also that is when the Auditor's report comes in. Mr. Schad will coordinate with the Secretary and Ms. Prendergast to schedule a meeting at the end of March.

IV. – REPORTS

SECRETARY

I. SECRETARY

II. LEGAL

1. Sexual Harassment

Murphy

Margaret Murphy distributed a memo from Jackie Mattina. She indicated that some of the RFPs that are going to be sent out indicate that the Legal Department wanted to confirm that the Apprentice Program and Sexual Harassment policy is noted in the RFPs and bids. Jackie Mattina has completed working with Justyna Falkowski who has done a wonderful job of working with the Legal Department to identify those areas of the RFP and invitations for bids that would reflect those policy changes.

2. Part-Time Attorney

Murphy

Margaret Murphy advised that the Legal Department interviewed the two candidates that applied for the part time position that was posted for a three-week period. Ms. Murphy also

indicated that on the date of the interviews there was a third resume submitted after interviews were completed. Ms. Murphy advised the two candidates, Tina Hawthorne and John Gilmour were outstanding candidates. Interviews were conducted by Ms. Murphy, Ms. Zajdel and Ms. Mattina and after input from everyone, the Authority's Attorney recommended that the Authority should hire Mr. Gilmour, although Ms. Murphy would love to have both individuals in the Legal Department.

Ms. Murphy proceeded to say that Mr. Gilmour has a background in labor that could be very useful to the Authority. Ms. Murphy also noted that although the Authority will not be negotiating any collective bargaining agreements in the next year, there will be grievances and matters that Mr. NeMoyer will from time to time, come to Legal with regard to progressive discipline and other areas that deal with personnel. Mr. Gilmour has the background, he knows Civil Service Law. Ms. Murphy also advised that our HR procedures need to be reviewed and Mr. Gilmour will be instrumental in working with the Board to make any changes necessary. There is a resolution on today's agenda for the hiring of Mr. Gilmour.

Mr. Jones inquired as to where ECWA advertises for these positions. Ms. Murphy advised that it is posted on the ECWA website. Mr. McCracken confirmed this. Mr. Jones indicated the Bar Association has weekly postings as well as the New York State Bar Association. Ms. Murphy noted that when the position of Attorney was posted with all three bar associations, Minority Bar, Women's Bar and Erie County it resulted in only three resumes. It appears that word of mouth is the best way to attract good attorneys. Mr. Schad advised we should think about the Bar Association in the future.

3. Associate Attorney

Murphy

Ms. Murphy reiterated that during budget hearings, there was a restructuring of the Legal Department. She advised that currently there is the position of Attorney, and then Associate Attorney, Part Time and two full time positions of Deputy Associate Attorney. Ms. Murphy feels that the Legal Department needs two full-time Associate Attorney positions, which was funded in the 2019 budget. She further advised that one of the positions of Deputy Associate Attorney has been eliminated, which is Jackie Mattina's current position. As indicated during budget hearings, Ms. Mattina would be promoted to Associate Attorney. There is a resolution on today's agenda to reflect Ms. Mattina's promotion. Ms. Murphy continued to advise the Board that the position of second position of Associate Attorney had been posted for three weeks and two of our current staff members, David Mineo and Darlene Sikorski-Petritz have applied. Ms. Murphy hopes to interview after the first of the year and welcomed the Commissioners to sit in on the interviews.

4. Town of Aurora

Murphy

Ms. Murphy advised that the Town is working towards direct service and the Town needs to move forward with a mandatory referendum. Therefore, an extension is needed on the current Memorandum of Understanding (expiring on January 14, 2019) to give sufficient time for the referendum and additional items. Ms. Murphy advised once the referendum is approved by the voters, the Town will have thirty days to enter into a direct service agreement and under the terms and the Aurora Town Attorney and Ms. Murphy will sit down with Ms. Prendergast and Mr. D'Amico to go through the steps necessary to convert all the Town's customers, etc. In the interim, she advised they will be working to see what that time frame will look like and try to expeditiously move this along, but it is anticipated that the direct service agreement will basically set forth the date by which the Authority will have to accept conveyance of the Town's water system. Ms. Prendergast advised that the majority of work is on the Town's part to supply the Authority with the information.

Mr. Schad commended Ms. Murphy as this was an important issue to get resolved. Ms. Murphy advised that the Town Supervisor has been aware of the issues and his view was that he wanted to make sure that this transaction was done properly and commended him and the Town Attorney for their efforts in making this happen.

III. FISCAL

1. Monthly Investment Report

Lichtenthal

Ms. Prendergast, in Mr. Lichtenthal's absence, distributed and reviewed the November 2018 Investment Report. She noted that the Authority did very well, \$113,972 in interest income which is far better than anticipated largely because of the improvement in interest rates and also the bond proceeds that were unanticipated when preparing the 2018 budget that are being invested in mostly large treasuries. The Authority is currently at \$833,000 and the Authority only budgeted for \$390,000 for the entire year. She advised that the Authority will be investing at a much lower rate going forward.

2. Monthly Financial Report – November 2018

Steven D'Amico distributed and reviewed the November 2018 Monthly Financial report relative to operating revenue, investment income, operating expense and net income.

Mr. Schad inquired as to where the Authority was headed. Mr. D'Amico advised that there will be a bit of the excess expense switched over to cover some budget transfers, but that is all. He also noted that Commissioner Carney requested a report in terms comparing actual expenditures with budgeted expenditures so the Board could look to see if actual expenditures

VI. AUDIT COMMITTEE

No Report

VII. GOVERNANCE COMMITTEE

No Report

VIII. FINANCE COMMITTEE

No Report

IX. ETHICS COMMITTEE

No Report

V. - COMMUNICATIONS AND BILLS

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

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

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

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 3 - Letter from Erie County Legislature – Mr. Jones requested the Legal Department to review this matter to see if this should be treated as a FOIL. Mr. Schad brought to light the fact that the letter is not addressed to the Authority, only copied on the letter. Ms. Murphy noted that the Authority has been cooperating with the Legislature so this should be reviewed. Ms. Murphy suggested this be referred to Governance and also noted that she does not view this as a FOIL as it was addressed to the Chair of the Erie County Legislature, not directly to the Authority. Ms. Murphy also states that the Authority’s formal FOIL procedure indicates the request needs to be submitted to the Authority. Mr. Schad requests this matter be reviewed informally as he has an issue with any outside group requesting to turn over resumes of applicants. He stated that not all applicants want their name known to the world and providing this information could impair the Authority to get people to apply. Mr. Schad noted this matter as RECEIVED and FILED but referred to Legal to determine whether it is in fact a FOIL. Mr. Schad indicated that he still wants to continue to work with the Legislature, but the nature of this particular reference is very problematic in terms of good practice to be able recruit and he does not want to impair the Authority’s ability to recruit.

ITEM 4 - Letter from West Herr RECEIVED AND FILED

ITEM 5 - Town of Eden RECEIVED and FILED

ITEM 5.1 Notice of Claim RECEIVED and FILED

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 6 - Authorization to Advertise for Bids for Contract No: CPL-004, Water System Improvements in the Town of Clarence Project No. 201800079

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 7 - Approval of Change Order No. 2 of Ferguson Electric Construction Co., Inc. for Ball Pump Station Electrical, Project No. 201600238, Contract No. 18-19-07

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 8- Authorization to Enter into Consent with AT&T to Allow Cellular Equipment Modification on the Colvin Tank

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 9 - Authorization to Enter into Consent with Verizon to Allow Cellular Equipment Modification on The Pleasant View Tank

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 10 - Award of Contract to Russo Development, Inc. for Small Services Contract, Area #1, February 1, 2019 through January 31, 2021, Project No. 201900003 - \$2,098,050.00

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

Mr. Schad confirmed that Russo Development is the current contractor.

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 11 - Authorization to Enter into an Agreement with Transwave Communications Systems, Inc. to Provide Microwave Radio Maintenance Services, Contract No. TCS-003, Project No. 201900014

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 12 - Authorization To Enter Into Memorandum of Understanding with the Town of Aurora

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 13 - Authorization to Accept the Proposal of Masiello, Martucci, Calabrese and Associates to Provide Government and Lobbying Services

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

Mr. Jones advised that he is going to vote for this, but he has a philosophical thought as to why government agencies need lobbyist to lobby other government agencies to begin with, but Ms. Murphy enlightened Mr. Jones as to the way the law is which is that we would be lobbyist ourselves. He understands the Authority needs a firm and he has reviewed all proposals received. Mr. Jones further advised that he has had good results in the past using a lobbyist and speaks very highly of this firm. Mr. Schad added he expects our lobbying firm to give results. He intends to ask this firm to look for more substantial results for the Authority. Mr. Schad stated that if the Authority does a written infrastructure plan within the first quarter of next year, the lobbyist could assist the Authority going forward. Mr. Schad believes the Authority can do a lot for the community, including the towns that would like to merge with the Authority but cannot handle the costs of the infrastructure transition costs, and that there is an opportunity for the Authority to do bigger things and help the general community. This will take a lobbying effort. He also noted that grant writing is not lobbying but the Authority may need that capacity in the future.

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 14 - Authorization to Solicit Request for Proposals for Waterline Replacement Projects Lakeshore Road (Route 5) NYSDOT Betterment, Project No. 201900008

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 15 - Authorization to Grant Leak Allowance Request – \$509.56

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 16 - Authorization to Grant Leak Allowance Request – \$906.12

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 17 - Authorization to Amend the Erie County Water Authority's Annual O & M Budget for Fiscal Year 2018

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 18 - Authorization to Amend the Erie County Water Authority's Annual O & M Budget for Fiscal Year 2018

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 19 - Appointment as Associate Attorney (Part-Time)

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 20 – Jacqueline Mattina – Promotion to Associate Attorney

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

ITEM 21 - Authorization to Execute New York State Water Infrastructure Improvement Act Grant for the Project Identified as Contract No. W-030, 36-Inch Transmission Main Replacement Project

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

Motion by Mr. Jones seconded by Mr. Schad

DISCUSSION

None

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None

IV. – ADJOURNMENT

Motion by Mr. Jones seconded by Mr. Schad that the meeting adjourns at 10:12 a.m.

DISCUSSION

Mr. Schad indicated that Executive Staff needs to have the ECWA Organizational Chart adjusted to reflect the budget changes and get it current to post per PARIS. He requested Secretary McCracken to have this prepared by the next meeting and that this should be updated for PARIS and the ABO.

Mr. Schad also mentioned one item on the ABO report that has not been addressed is defining the “benchmarks and measurements” requirement. The ABO indicated the Authority is deficient. This was viewed as a “routine” put in “x” miles of pipe and that is the benchmark for the year. The Authority then reports if it does thirty miles of pipe or replace these items as completed, the Authority then states it met its benchmark. The concept of the benchmark is that things are measured objectively and it looks dull. An example is each year the Authority will do “x” for capital projects or financial reporting and then if the Authority hits the benchmark it is reported as completed. This is a concept of measurement and then report of extent of success for that year. Mr. Schad advised that the ABO reported us on that because this started to develop while the ABO was here. Since the Authority has not had this in place, Mr. Schad does not want this matter to come up again when we file reports that the Authority did not comply. The benchmarks need to be defined so the Authority can publish that it is currently in compliance. Mr. Schad requested to get something back to board with changes to benchmarks by mid-February. Ms. Prendergast will review the ABO website for guidelines.

VOTE

Ayes: Two; Commrs. Schad and Jones

Noes: None



Terrence D. McCracken
Secretary to the Authority

SLZ