



## ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

TO: Jerome D. Schad, Chair  
Peggy A. LaGree, Vice Chair  
Michele M. Iannello, Treasurer

FROM: Terrence D. McCracken, Secretary to the Authority

DATE: March 13, 2024

SUBJECT: Open Meetings Law Policy

---

In the efforts to comply with Open Meetings Law, the Board approved, by resolution at the February 22, 2024 Board Meeting, the use of videoconferencing as described in Public Officers Law §103a. Following that action, I requested the Legal Department to update the Authority's Open Meetings Law Policy to reflect the changes.

Attached for your review is the Open Meetings Law Policy with track changes. I am recommending that the Governance Committee approve the amended Open Meetings Law Policy. Should the Governance Committee approve and recommend to the full Board, a resolution will be available for the March 21, 2024 meeting authorizing the same.

TDM:alh

ERIE COUNTY WATER AUTHORITY  
AUTHORIZATION FORM  
For Approval/Execution of Documents  
(check which apply)

**Contract:** \_\_\_\_\_ **Project No.:** \_\_\_\_\_  
**Project Description:** Amendment to the Open Meetings Law Policy

**Item Description:**

- |  |  |   |                                       |
|--|--|---|---------------------------------------|
| <input type="checkbox"/> Agreement   | <input type="checkbox"/> Professional Service Contract | <input type="checkbox"/> Amendment          | <input type="checkbox"/> Change Order |
| <input type="checkbox"/> BCD   | <input type="checkbox"/> NYSDOT Agreement              | <input type="checkbox"/> Contract Documents | <input type="checkbox"/> Addendum     |
| <input type="checkbox"/> Recommendation for Award of Contract                              | <input type="checkbox"/> Recommendation to Reject Bids |   |                                       |
| <input type="checkbox"/> Request for Proposals   |  |   |                                       |
| <input checked="" type="checkbox"/> Other <u>Amendment to the Open Meetings Law Policy</u> |  |   |                                       |

**Action Requested:**

- |  |  |
|--|--|
| <input type="checkbox"/> Board Authorization to Execute                                    | <input type="checkbox"/> Legal Approval                              |
| <input type="checkbox"/> Board Authorization to Award                                      | <input type="checkbox"/> Execution by the Chairman                   |
| <input type="checkbox"/> Board Authorization to Advertise for Bids                         | <input type="checkbox"/> Execution by the Secretary to the Authority |
| <input type="checkbox"/> Board Authorization to Solicit Request for Proposals              |  |
| <input checked="" type="checkbox"/> Other <u>Amendment to the Open Meetings Law Policy</u> |  |

**Approvals Needed:**

**APPROVED AS TO CONTENT:**

- |   |                    |                         |
|---|--------------------|-------------------------|
| <input type="checkbox"/> Other (if Applicable)      | _____              | Date: _____             |
| <input type="checkbox"/> Chief Operating Officer    | _____              | Date: _____             |
| <input type="checkbox"/> Executive Engineer         | _____              | Date: _____             |
| <input type="checkbox"/> Director of Administration | _____              | Date: _____             |
| <input type="checkbox"/> Risk Manager               | _____              | Date: _____             |
| <input type="checkbox"/> Chief Financial Officer    | _____              | Date: _____             |
| <input checked="" type="checkbox"/> Legal           | <u>Mark Carney</u> | Date: <u>03/13/2024</u> |

**APPROVED FOR BOARD RESOLUTION:**

- |  |                    |                         |
|--|--------------------|-------------------------|
| <input checked="" type="checkbox"/> Secretary to the Authority | <u>[Signature]</u> | Date: <u>03/13/2024</u> |
|--|--------------------|-------------------------|

**Remarks:** \_\_\_\_\_  
\_\_\_\_\_

**Resolution Date:** \_\_\_\_\_ **Item No:** \_\_\_\_\_



# ERIE COUNTY WATER AUTHORITY

## Open Meetings Law

### Policy & Procedures for Accessing Public Meetings

#### Section 1: Public Declaration

The Erie County Water Authority (the “Authority”) pledges to the public and its customers to operate in an open and transparent manner, by inviting the public and the media to attend and listen to the deliberations, discussions, and decisions of its Board of Commissioners.

The Authority’s board and committee meetings are the public setting in which Commissioners exercise their duties. It is during these meetings that the public can best observe the Commissioners’ performance of their governance responsibilities, their exercise of management oversight, and their decision-making regarding the Authority’s finances and operations. The better informed, engaged and mission-oriented the Commissioners are, the more likely the Authority will operate consistent with its stated purpose, policies and legal obligations.

These procedures are adopted to allow the public, individually and collectively as represented by a free press, to have access to the public records and meetings of the Authority, in accordance with the provisions of Article 7 of the Public Officers Law.

#### Section 2: Definition.

(a) The “Authority” means the Erie County Water Authority, a body corporate and politic constituting a public benefit corporation of the State of New York, whose formation and powers are set forth in Public Authorities Law §§ 1050-1073.

(b) The “Blue Sheet” means the Erie County Water Authority Authorization Form for Approval/Execution of Documents,” commonly referenced as the “Blue Sheet.”

(c) The “Board” means the Authority’s Board of Commissioners.

(d) “Board Room” means the room designated for board and committee meetings at the Ellicott Square Building, 295 Main Street, Room 350, located in the City of Buffalo.

(e) “Chair” means the Chair of the Board of Commissioners and its Committees.

(f) “Committees” include the Audit Committee, the Ethics Committee, Finance Committee, Governance Committee and such other committee(s) as created and appointed by the Board.

(g) “ECWA Website” means the website controlled and maintained by the Authority at <https://ecwa.org/>

(h) “Executive Session” means that portion of a meeting not open to the public and authorized by a majority vote of the Board or Committee pursuant to a motion identifying one of the enumerated purposes set forth in Public Officers Law § 105.

(i) “Meeting” means the official convening of the Board or its Committees for the purpose of conducting public business.

(j) “Secretary” means the Secretary of the Authority.

(k) “Special Meeting” means a meeting called pursuant to Article III, § 3 of the Authority’s By-Laws.

### **Section 3: Purpose and Scope.**

These procedures govern access to the public records and meetings of the Authority, in accordance with the provisions of Article 7 of the Public Officers Law. These procedures should be read together with Article 7 of the Public Officers Law, which provides additional information about access to records and meetings and when a meeting may be closed to the public and held in executive session. Any conflict governing the access to meetings and records will be construed in favor of the broader access to such meetings and records.

### **Section 4: Open Meeting**

(a) Every Meeting of the Board or its Committees shall be open to the public and media, except those portions of a Meeting lawfully convened in Executive Session, pursuant to Public Officers Law § 105.

(b) Meetings of the Board and its Committees will be held in the Board Room. The Board is also authorized to conduct Meetings at an appropriate facility, adequate to accommodate the members of the public and media and which permits barrier-free physical access to the physically handicapped.

(c) Consistent with the opinions of the Committee on Open Government, Commissioners may, from time-to-time, appear at such Meetings through ~~audio or video-conferencing~~ at a designated public meeting location. No Commissioner may

participate in any ~~audio or~~ video transmission unless the public and media are able to hear and see ~~or observe~~ the transmission. A Commissioner, whose appearance is made through ~~audio or~~ video-conferencing, may be noted in the minutes as being present for purposes of a quorum and voting, only if the public and media are able to hear, see and identify such Commissioner ~~whose appearance is made by an audio or video transmission.~~

(e)(d) Consistent with Public Officers Law § 103-a and the resolution adopted by the Authority on February 22, 2024, a Commissioner may appear at such Meetings through videoconferencing at a private location due to extraordinary circumstances. Such appearance by a Commissioner must be consistent with Public Officers Law § 103-a and the Procedures for Member Videoconferencing which are attached to this Policy as Appendix A. The Procedures for Member Videoconferencing may be amended, from time to time, and the most current version of such Procedures must be attached to this Policy.

## **Section 5: Meeting Notices**

(a) A public notice will be prepared for each Board and Committee Meeting. The notice shall contain the date, time and location of the Meeting, as well as the name of a contact person to whom questions may be directed about the Meeting.

(b) Notices shall be electronically sent to the following media outlet at least one week prior to the Meeting:

[news@wkbw.com](mailto:news@wkbw.com) (WKBW)  
[newsroom@wivb.com](mailto:newsroom@wivb.com) (WIVB)  
[wgrz-newsroom@wgrz.com](mailto:wgrz-newsroom@wgrz.com) (WGRZ)  
[citydesk@buffnews.com](mailto:citydesk@buffnews.com) (Buffalo News)  
[buffalo-news@charter.com](mailto:buffalo-news@charter.com) (Spectrum News)  
[newsroom@wben.com](mailto:newsroom@wben.com) (WBEN)  
[news@wbfo.org](mailto:news@wbfo.org) (WNED)

The Secretary has the discretion to add the email addresses of specific reporters who regularly attend or cover the business of the Authority.

(c) Notices shall also be conspicuously posted near the public entrances to Room 350 at the Ellicott Square Building and the Union Road Service Center, 3030 Union Road, Cheektowaga, New York.

(e)(d) If videoconferencing is used to conduct a Meeting, the public notice shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.

~~(d)~~(e) Except for Special Meetings, all notices should be electronically sent and conspicuously posted one-week prior to the meeting.

~~(e)~~(f) Individuals who wish to receive email notices of all Board and Committee Meetings and postings may sign up on the ECWA Website. Notices will be electronically sent to these individuals at least 72-hours prior to the Meeting.

~~(f)~~(g) The ECWA Website Homepage will also post the date and time of the next scheduled Board and/or Committee Meeting(s).

~~(g)~~(h) Notices of Special Meetings shall be electronically sent and conspicuously posted immediately.

~~(h)~~(i) ~~Once Board and Committee Meetings are streamed live over the Internet,~~ the notice shall inform the public of the Internet address of the website streaming such Meeting.

~~(i)~~(j) The EWCA Website should also post a Schedule of Upcoming Board and Committee Meetings.

## **Section 6: Agenda and Meeting Materials**

(a) The agenda is a key document for every Meeting since it identifies the matters and issues that are before the Board or Committee for review, discussion or action. Common items to include in the agenda are the roll call, reading and approval of the minutes from the previous meeting, reports, communication and bills, public expression, unfinished business and new business (including resolutions presented for approval) and adjournment.

(b) Any item to be placed on the agenda for a Board or Committee Meeting must be given to the Secretary by Noon on the date designated by the Secretary prior to six business days before the Meeting.

(c) Items to be submitted may include the following: management and committee reports, communications and bills, resolutions with associated documentation, and any other business requiring Board approval or a Committee recommendation. If such items are placed on the Board or Committee agenda, such agenda items will be distributed to the Board and/or Committee members at least one week prior to the meeting. Board and Committee materials will also be posted on the ECWA Website five business days before the Meeting.

(d) All resolutions require a Blue Sheet. When an item requires a Blue Sheet to be signed by the Secretary, it must contain all the required signatures and

must be submitted to the Secretary by Noon, ~~six business days before~~ on the date designated by the Secretary prior to the Meeting. If the Blue Sheet is not received by Noon, the item will be held for the next Meeting.

(e) Pursuant to Article V, § 2 of the By-Laws, the Chair shall review and approved the agenda prepared by the Secretary, and when necessary, may adjust the number of items on the agenda so the Meeting can be conducted within a time frame conducive to the schedule of each Commissioner..

## Section 7: Meeting Minutes

(a) Minutes are the official record of a Board or Committee Meeting. They contain information about all the action taken during a Board or Committee Meeting, and can be considered legal evidence of the facts they report. For this reason, it is important that the minutes be recorded in a way that clearly and accurately reflects all the business transacted during a Meeting.

(b) Meeting minutes should contain the following information:

- i. the Authority's name and the meeting type (i.e. annual, regular, or special board meeting or meeting of a specific committee);
- ii. the date and time of the meeting;
- ~~iii.~~ Members in attendance, excused or absent (including departures and reentries into a meeting);
- ~~iii-iv.~~ Members appearing via videoconferencing at a designated public meeting location or at a private location due to extraordinary circumstances;
- ~~iv-v.~~ Staff and guests in attendance;
- ~~v-vi.~~ Existence of a quorum;
- ~~vi-vii.~~ Motions made and seconded and by whom;
- ~~vii-viii.~~ Brief objective account of any debate;
- ~~viii-ix.~~ Existence of conflicts of interest and how they were resolved;
- ~~ix-x.~~ Voting results with names of abstainers and dissenters
- ~~x-xi.~~ Resolutions adopted
- ~~xi-xii.~~ Future action steps;
- ~~xii-xiii.~~ Time meeting ends; and
- ~~xiii-xiv.~~ Signature of Secretary.

(c) Draft Meeting minutes shall be distributed to members of the Board or the Committee at least five business days in advance of review and approval.

(d) Meeting minutes should be made available to the public within two weeks of the Meeting. Minutes should be marked "draft" and made available to the public even if such minutes have not been approved within two weeks of the

Meeting.

(e) Minutes do not need to be prepared for a Committee Meeting held solely for the purpose of approving minutes from a prior meeting. A Committee should meet to approve minutes from a prior meeting ~~within one month of the prior meeting~~ on the date of the next regularly scheduled Board meeting.

(f) Meeting minutes must be posted on the ECWA Website and shall remain on the ECWA Website for at least ~~five~~ two years.

(g) Official Meetings shall be kept as a permanent record in the Authority's Minute Books.

### **Section 8: Executive Session**

(a) The Board or one of its Committees may conduct a portion of its Meeting in Executive Session, upon the majority vote of the Board or the Committee taken during an open session pursuant to a motion identifying one of the enumerated purposes set forth in Public Officers Law § 105, as listed below:

- (1) Matters which will imperil the public safety if disclosed;
- (2) Any matter which may disclose the identity of a law enforcement agent or informer;
- (3) Information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- (4) Discussions regarding proposed, pending or current litigation;
- (5) Collective negotiations pursuant to Article 14 of the Civil Service Law;
- (6) The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particulate person or corporation;
- (7) The preparation, grading or administration of examinations; and
- (8) The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by the Authority, but only when publicity would substantially affect the value thereof.



(b) In the agenda for the Meeting, the Chair should give notice to other Board or Committee members, as well as the public, if a motion will be made to move into Executive Session. If such motion is not listed on the agenda, then a motion to move into Executive Session must have unanimous support of the members of the Board or Committee.

(c) Before the Board or Committee recesses the open session of the Meeting to enter into Executive Session, a motion must be made and seconded with sufficient details as to the enumerated purpose requiring the matter to be held in Executive Session. If the motion is carried, the Chair will designate, during the open session, the individuals invited to participate in the Executive Session in addition to members of the Board or Committee. These names are to be recorded in the minutes. The minutes of the open session must reflect the time the Board or Committee enter and exited the Executive Session.

(d) The Chair has the duty to ensure that only the matter(s) identified in the motion will be discussed during the Executive Session.

(e) No motions or formal votes may be taken in Executive Session.

(f) Attendance at the Executive Session shall be limited to the members of the Board or the Committee, and any other persons authorized by the Board or Committee, who have been identified on the record in the open session prior to convening the Executive Session.

## **Section 9: Recording and Broadcasting of Meetings.**

(a) The Authority:

~~i. Audio recordings of the Board and Committee Meetings shall be posted on the ECWA Website and shall remain on the ECWA Website for at least two years.~~

~~ii.i.~~ Effective as of May 16, ~~a date to be determined in~~ 2019, the Authority will stream live all Board and Committee Meetings on the Internet. All ~~videoaudio and visual~~ transmissions will be archived and made available on the ECWA Website for at least a five~~two~~-year period.

(b) The Public and the Media:

i. Any Meeting open to the public may be photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or

video means by any member of the public or the media.

- ii. Operation of equipment to photograph, record or broadcast a Meeting is permitted unless it is obtrusive, disruptive, or interferes with the deliberative process or the right of persons in attendance to observe or listen to the proceedings.
- iii. Use of equipment necessary to photograph, record or broadcast is permitted without notice to or express permission from the Authority or those in attendance at the meeting.
- iv. Use of special lighting or large equipment necessary to photograph, record or broadcast a meeting is permitted unless it is obtrusive or disruptive.
- v. Personnel who operate equipment necessary to photograph, record and/or broadcast a meeting shall be permitted to move about the room, as long as such movement does not disrupt or interfere with the deliberative process.
- vi. Use of equipment necessary to photograph, record and/or broadcast a meeting shall not be limited to a location from which such equipment is not reasonably capable of photographing, recording and/or broadcasting.
- vii. Persons operating equipment necessary to photograph, record and/or broadcast shall be given a reasonable opportunity to modify their actions in order to avoid interference with the deliberative process.

(c) There is no privacy interest in statements made during the open session of a Board or Committee Meeting. Distaste or embarrassment shall not constitute a basis for prohibiting or limiting the photographing, recording or broadcasting of those present at a Meeting.

### **Section 10: Public Expression**

Members of the public are encouraged to express their views at the regular Meetings of the Board. Individuals who wish to address the Board must submit a written request to the Secretary, containing the name and address of the individual who will be addressing the Board and the subject matter to be raised. Unless the Board approves a motion to suspend the rules, written requests must be received by forty-eight (48) hours prior to time of the regular Board meeting, at the following address or email: Secretary of the Authority, Erie County Water Authority, 295 Main Street,

Room 350, Buffalo, New York 14203 or [secretary@ecwa.org](mailto:secretary@ecwa.org). Individuals will be permitted two minutes to address the Board, unless the Board Chair extends the time.

### **Section 11: Conflicts of Interest**

(a) A conflict of interest is a situation in which the personal interest of a Commissioner comes into actual, potential or perceived conflict with his/her fiduciary or public responsibilities as a board member. Commissioners should always serve the interests of the Authority above their own personal interests when conducting public business.

(b) Commissioners are required to disclose any actual, potential or perceived conflict involving any item or matter coming before the Board or Committee for approval. When an actual or potential conflict exists, the Commissioner should recuse himself or herself from any discussion or voting on such item or matter.

### **Section 12: FOIL Appeals**

Any appeal to the Board pursuant to the Authority's Policy & Procedures for Accessing Public Records and the New York State Freedom of Information Law is considered a quasi-judicial proceeding pursuant Public Officers Law § 108 (1) and is not subject to the provisions of the Open Meetings Law.

### **Section 13: Severability**

If any provision of the Policy & Procedures for Accessing Public Meetings ("Policy and Procedures") or its application to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the Policy & Procedures or its application to other persons and circumstances.

**Adopted on October 18, 2018**

**Amended on May 6, 2019**

**Amended on January 21, 2020**

**Amended on March 21, 2024**

**APPENDIX A**

**PROCEDURES FOR MEMBER VIDEOCONFERENCING  
PURSUANT TO PUBLIC OFFICERS LAW § 103-a**

## **Procedures for Member Videoconferencing Pursuant to Public Offices Law § 103-a**

In compliance with Public Officers Law § 103-a (2)(a), the Erie County Water Authority, following a public hearing, authorized by resolution on February 22, 2024, the use of videoconferencing as described in Public Officers Law § 103-a.

The following procedures are hereby established to satisfy the requirement of Public Officers Law § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. Members of the Board of Commissioners of the Erie County Water Authority (the “Board”) shall be physically present at any meeting of the Board unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Secretary to the Authority or Board Chairman no later than four business days prior to the scheduled meeting in order for proper notice to the public be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, the Board shall update its notice as soon as practicable to include that information. If it is not practicable for the Board to update its notice, the Board may reschedule its meeting.
4. If there is a quorum of members participating at a physical location(s) open to the public, the Board may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Board but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to Public Officers Law § 105 the Board shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed

or voted upon. This shall include the use of first and last name placards or placards identifying the Board member's title (i.e., Chair, Vice Chair, Treasurer) physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.

6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to Public Officers Law § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.
7. The public notice for the meeting shall inform the public:
  - (i) that extraordinary circumstances videoconferencing will (or may) be used,
  - (ii) where the public can view and/or participate in such meeting,
  - (iii) where required documents and records will be posted or available, and
  - (iv) the physical location(s) for the meeting where the public can attend.
8. The Board shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Erie County Water Authority website within five business days following the meeting and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
9. If members of the Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Board shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Board shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
10. Open meetings of the Erie County Water Authority conducted using extraordinary circumstances videoconferencing pursuant to the provisions of Public Officers Law § 103-a shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of the guideline, "disability" shall have the meaning defined in Executive Law § 292.

11. The in-person participation requirements of Public Officers Law §103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law if the Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Erie County Water Authority to hold an in-person meeting.
12. These procedures shall be conspicuously posted on the Erie County Water Authority website.

**Adopted on March 21, 2024**



# ERIE COUNTY WATER AUTHORITY

## Open Meetings Law

### Policy & Procedures for Accessing Public Meetings

#### Section 1: Public Declaration

The Erie County Water Authority (the “Authority”) pledges to the public and its customers to operate in an open and transparent manner, by inviting the public and the media to attend and listen to the deliberations, discussions, and decisions of its Board of Commissioners.

The Authority’s board and committee meetings are the public setting in which Commissioners exercise their duties. It is during these meetings that the public can best observe the Commissioners’ performance of their governance responsibilities, their exercise of management oversight, and their decision-making regarding the Authority’s finances and operations. The better informed, engaged and mission-oriented the Commissioners are, the more likely the Authority will operate consistent with its stated purpose, policies and legal obligations.

These procedures are adopted to allow the public, individually and collectively as represented by a free press, to have access to the public records and meetings of the Authority, in accordance with the provisions of Article 7 of the Public Officers Law.

#### Section 2: Definition.

(a) The “Authority” means the Erie County Water Authority, a body corporate and politic constituting a public benefit corporation of the State of New York, whose formation and powers are set forth in Public Authorities Law §§ 1050-1073.

(b) The “Blue Sheet” means the Erie County Water Authority Authorization Form for Approval/Execution of Documents,” commonly referenced as the “Blue Sheet.”

(c) The “Board” means the Authority’s Board of Commissioners.

(d) “Board Room” means the room designated for board and committee meetings at the Ellicott Square Building, 295 Main Street, Room 350, located in the City of Buffalo.

(e) “Chair” means the Chair of the Board of Commissioners and its Committees.



(f) “Committees” include the Audit Committee, the Ethics Committee, Finance Committee, Governance Committee and such other committee(s) as created and appointed by the Board.

(g) “ECWA Website” means the website controlled and maintained by the Authority at <https://ecwa.org/>

(h) “Executive Session” means that portion of a meeting not open to the public and authorized by a majority vote of the Board or Committee pursuant to a motion identifying one of the enumerated purposes set forth in Public Officers Law § 105.

(i) “Meeting” means the official convening of the Board or its Committees for the purpose of conducting public business.

(j) “Secretary” means the Secretary of the Authority.

(k) “Special Meeting” means a meeting called pursuant to Article III, § 3 of the Authority’s By-Laws.

### **Section 3: Purpose and Scope.**

These procedures govern access to the public records and meetings of the Authority, in accordance with the provisions of Article 7 of the Public Officers Law. These procedures should be read together with Article 7 of the Public Officers Law, which provides additional information about access to records and meetings and when a meeting may be closed to the public and held in executive session. Any conflict governing the access to meetings and records will be construed in favor of the broader access to such meetings and records.

### **Section 4: Open Meeting**

(a) Every Meeting of the Board or its Committees shall be open to the public and media, except those portions of a Meeting lawfully convened in Executive Session, pursuant to Public Officers Law § 105.

(b) Meetings of the Board and its Committees will be held in the Board Room. The Board is also authorized to conduct Meetings at an appropriate facility, adequate to accommodate the members of the public and media and which permits barrier-free physical access to the physically handicapped.

(c) Consistent with the opinions of the Committee on Open Government, Commissioners may, from time-to-time, appear at such Meetings through videoconferencing at a designated public meeting location. No Commissioner may

participate in any video transmission unless the public and media are able to hear and see the transmission. A Commissioner, whose appearance is made through videoconferencing, may be noted in the minutes as being present for purposes of a quorum and voting, only if the public and media are able to hear, see and identify such Commissioner.

(d) Consistent with Public Officers Law § 103-a and the resolution adopted by the Authority on February 22, 2024, a Commissioner may appear at such Meetings through videoconferencing at a private location due to extraordinary circumstances. Such appearance by a Commissioner must be consistent with Public Officers Law § 103-a and the Procedures for Member Videoconferencing which are attached to this Policy as Appendix A. The Procedures for Member Videoconferencing may be amended, from time to time, and the most current version of such Procedures must be attached to this Policy.

## **Section 5: Meeting Notices**

(a) A public notice will be prepared for each Board and Committee Meeting. The notice shall contain the date, time and location of the Meeting, as well as the name of a contact person to whom questions may be directed about the Meeting.

(b) Notices shall be electronically sent to the following media outlet at least one week prior to the Meeting:

[news@wkbw.com](mailto:news@wkbw.com) (WKBW)  
[newsroom@wivb.com](mailto:newsroom@wivb.com) (WIVB)  
[wgrz-newsroom@wgrz.com](mailto:wgrz-newsroom@wgrz.com) (WGRZ)  
[citydesk@buffnews.com](mailto:citydesk@buffnews.com) (Buffalo News)  
[buffalo-news@charter.com](mailto:buffalo-news@charter.com) (Spectrum News)  
[newsroom@wben.com](mailto:newsroom@wben.com) (WBEN)  
[news@wbfo.org](mailto:news@wbfo.org) (WNED)

The Secretary has the discretion to add the email addresses of specific reporters who regularly attend or cover the business of the Authority.

(c) Notices shall also be conspicuously posted near the public entrances to Room 350 at the Ellicott Square Building and the Union Road Service Center, 3030 Union Road, Cheektowaga, New York.

(d) If videoconferencing is used to conduct a Meeting, the public notice shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.

(e) Except for Special Meetings, all notices should be electronically sent and conspicuously posted one-week prior to the meeting.

(f) Individuals who wish to receive email notices of all Board and Committee Meetings and postings may sign up on the ECWA Website. Notices will be electronically sent to these individuals at least 72-hours prior to the Meeting.

(g) The ECWA Website Homepage will also post the date and time of the next scheduled Board and/or Committee Meeting(s).

(h) Notices of Special Meetings shall be electronically sent and conspicuously posted immediately.

(i) The notice shall inform the public of the Internet address of the website streaming such Meeting.

(j) The EWCA Website should also post a Schedule of Upcoming Board and Committee Meetings.

## **Section 6: Agenda and Meeting Materials**

(a) The agenda is a key document for every Meeting since it identifies the matters and issues that are before the Board or Committee for review, discussion or action. Common items to include in the agenda are the roll call, reading and approval of the minutes from the previous meeting, reports, communication and bills, public expression, unfinished business and new business (including resolutions presented for approval) and adjournment.

(b) Any item to be placed on the agenda for a Board or Committee Meeting must be given to the Secretary by Noon on the date designated by the Secretary prior to the Meeting.

(c) Items to be submitted may include the following: management and committee reports, communications and bills, resolutions with associated documentation, and any other business requiring Board approval or a Committee recommendation. If such items are placed on the Board or Committee agenda, such agenda items will be distributed to the Board and/or Committee members at least one week prior to the meeting. Board and Committee materials will also be posted on the ECWA Website five business days before the Meeting.

(d) All resolutions require a Blue Sheet. When an item requires a Blue Sheet to be signed by the Secretary, it must contain all the required signatures and must be submitted to the Secretary by Noon, on the date designated by the Secretary prior to the Meeting. If the Blue Sheet is not received by Noon, the item

will be held for the next Meeting.

(e) Pursuant to Article V, § 2 of the By-Laws, the Chair shall review and approved the agenda prepared by the Secretary, and when necessary, may adjust the number of items on the agenda so the Meeting can be conducted within a time frame conducive to the schedule of each Commissioner..

## **Section 7: Meeting Minutes**

(a) Minutes are the official record of a Board or Committee Meeting. They contain information about all the action taken during a Board or Committee Meeting, and can be considered legal evidence of the facts they report. For this reason, it is important that the minutes be recorded in a way that clearly and accurately reflects all the business transacted during a Meeting.

(b) Meeting minutes should contain the following information:

- i. the Authority's name and the meeting type (i.e. annual, regular, or special board meeting or meeting of a specific committee);
- ii. the date and time of the meeting;
- iii. Members in attendance, excused or absent (including departures and reentries into a meeting);
- iv. Members appearing via videoconferencing at a designated public meeting location or at a private location due to extraordinary circumstances;
- v. Staff and guests in attendance;
- vi. Existence of a quorum;
- vii. Motions made and seconded and by whom;
- viii. Brief objective account of any debate;
- ix. Existence of conflicts of interest and how they were resolved;
- x. Voting results with names of abstainers and dissenters
- xi. Resolutions adopted
- xii. Future action steps;
- xiii. Time meeting ends; and
- xiv. Signature of Secretary.

(c) Draft Meeting minutes shall be distributed to members of the Board or the Committee at least five business days in advance of review and approval.

(d) Meeting minutes should be made available to the public within two weeks of the Meeting. Minutes should be marked "draft" and made available to the public even if such minutes have not been approved within two weeks of the Meeting.

(e) Minutes do not need to be prepared for a Committee Meeting held

solely for the purpose of approving minutes from a prior meeting. A Committee should meet to approve minutes from a prior meeting on the date of the next regularly scheduled Board meeting.

(f) Meeting minutes must be posted on the ECWA Website and shall remain on the ECWA Website for at least five years.

(g) Official Meetings shall be kept as a permanent record in the Authority's Minute Books.

### **Section 8: Executive Session**

(a) The Board or one of its Committees may conduct a portion of its Meeting in Executive Session, upon the majority vote of the Board or the Committee taken during an open session pursuant to a motion identifying one of the enumerated purposes set forth in Public Officers Law § 105, as listed below:

- (1) Matters which will imperil the public safety if disclosed;
- (2) Any matter which may disclose the identity of a law enforcement agent or informer;
- (3) Information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- (4) Discussions regarding proposed, pending or current litigation;
- (5) Collective negotiations pursuant to Article 14 of the Civil Service Law;
- (6) The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particulate person or corporation;
- (7) The preparation, grading or administration of examinations; and
- (8) The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by the Authority, but only when publicity would substantially affect the value thereof.

(b) In the agenda for the Meeting, the Chair should give notice to other Board or Committee members, as well as the public, if a motion will be made to move

into Executive Session. If such motion is not listed on the agenda, then a motion to move into Executive Session must have unanimous support of the members of the Board or Committee.

(c) Before the Board or Committee recesses the open session of the Meeting to enter into Executive Session, a motion must be made and seconded with sufficient details as to the enumerated purpose requiring the matter to be held in Executive Session. If the motion is carried, the Chair will designate, during the open session, the individuals invited to participate in the Executive Session in addition to members of the Board or Committee. These names are to be recorded in the minutes. The minutes of the open session must reflect the time the Board or Committee enter and exited the Executive Session.

(d) The Chair has the duty to ensure that only the matter(s) identified in the motion will be discussed during the Executive Session.

(e) No motions or formal votes may be taken in Executive Session.

(f) Attendance at the Executive Session shall be limited to the members of the Board or the Committee, and any other persons authorized by the Board or Committee, who have been identified on the record in the open session prior to convening the Executive Session.

### **Section 9: Recording and Broadcasting of Meetings.**

(a) The Authority:

- i. Effective as of May 16, 2019, the Authority will stream live all Board and Committee Meetings on the Internet. All video transmissions will be archived and made available on the ECWA Website for at least a five-year period.

(b) The Public and the Media:

- i. Any Meeting open to the public may be photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means by any member of the public or the media.
- ii. Operation of equipment to photograph, record or broadcast a Meeting is permitted unless it is obtrusive, disruptive, or interferes with the deliberative process or the right of persons in attendance to observe or listen to the proceedings.
- iii. Use of equipment necessary to photograph, record or broadcast is

permitted without notice to or express permission from the Authority or those in attendance at the meeting.

- iv. Use of special lighting or large equipment necessary to photograph, record or broadcast a meeting is permitted unless it is obtrusive or disruptive.
- v. Personnel who operate equipment necessary to photograph, record and/or broadcast a meeting shall be permitted to move about the room, as long as such movement does not disrupt or interfere with the deliberative process.
- vi. Use of equipment necessary to photograph, record and/or broadcast a meeting shall not be limited to a location from which such equipment is not reasonably capable of photographing, recording and/or broadcasting.
- vii. Persons operating equipment necessary to photograph, record and/or broadcast shall be given a reasonable opportunity to modify their actions in order to avoid interference with the deliberative process.

(c) There is no privacy interest in statements made during the open session of a Board or Committee Meeting. Distaste or embarrassment shall not constitute a basis for prohibiting or limiting the photographing, recording or broadcasting of those present at a Meeting.

### **Section 10: Public Expression**

Members of the public are encouraged to express their views at the regular Meetings of the Board. Individuals who wish to address the Board must submit a written request to the Secretary, containing the name and address of the individual who will be addressing the Board and the subject matter to be raised. Unless the Board approves a motion to suspend the rules, written requests must be received by forty-eight (48) hours prior to time of the regular Board meeting, at the following address or email: Secretary of the Authority, Erie County Water Authority, 295 Main Street, Room 350, Buffalo, New York 14203 or [secretary@ecwa.org](mailto:secretary@ecwa.org). Individuals will be permitted two minutes to address the Board, unless the Board Chair extends the time.

## **Section 11: Conflicts of Interest**

(a) A conflict of interest is a situation in which the personal interest of a Commissioner comes into actual, potential or perceived conflict with his/her fiduciary or public responsibilities as a board member. Commissioners should always serve the interests of the Authority above their own personal interests when conducting public business.

(b) Commissioners are required to disclose any actual, potential or perceived conflict involving any item or matter coming before the Board or Committee for approval. When an actual or potential conflict exists, the Commissioner should recuse himself or herself from any discussion or voting on such item or matter.

## **Section 12: FOIL Appeals**

Any appeal to the Board pursuant to the Authority's Policy & Procedures for Accessing Public Records and the New York State Freedom of Information Law is considered a quasi-judicial proceeding pursuant Public Officers Law § 108 (1) and is not subject to the provisions of the Open Meetings Law.

## **Section 13: Severability**

If any provision of the Policy & Procedures for Accessing Public Meetings ("Policy and Procedures") or its application to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the Policy & Procedures or its application to other persons and circumstances.

**Adopted on October 18, 2018**

**Amended on May 6, 2019**

**Amended on January 21, 2020**

**Amended on March 21, 2024**



**APPENDIX A**

**PROCEDURES FOR MEMBER VIDEOCONFERENCING  
PURSUANT TO PUBLIC OFFICERS LAW § 103-a**

## **Procedures for Member Videoconferencing Pursuant to Public Offices Law § 103-a**

In compliance with Public Officers Law § 103-a (2)(a), the Erie County Water Authority, following a public hearing, authorized by resolution on February 22, 2024, the use of videoconferencing as described in Public Officers Law § 103-a.

The following procedures are hereby established to satisfy the requirement of Public Officers Law § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. Members of the Board of Commissioners of the Erie County Water Authority (the “Board”) shall be physically present at any meeting of the Board unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Secretary to the Authority or Board Chairman no later than four business days prior to the scheduled meeting in order for proper notice to the public be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, the Board shall update its notice as soon as practicable to include that information. If it is not practicable for the Board to update its notice, the Board may reschedule its meeting.
4. If there is a quorum of members participating at a physical location(s) open to the public, the Board may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Board but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to Public Officers Law § 105 the Board shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed

or voted upon. This shall include the use of first and last name placards or placards identifying the Board member's title (i.e., Chair, Vice Chair, Treasurer) physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.

6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to Public Officers Law § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.
7. The public notice for the meeting shall inform the public:
  - (i) that extraordinary circumstances videoconferencing will (or may) be used,
  - (ii) where the public can view and/or participate in such meeting,
  - (iii) where required documents and records will be posted or available, and
  - (iv) the physical location(s) for the meeting where the public can attend.
8. The Board shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Erie County Water Authority website within five business days following the meeting and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
9. If members of the Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Board shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Board shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
10. Open meetings of the Erie County Water Authority conducted using extraordinary circumstances videoconferencing pursuant to the provisions of Public Officers Law § 103-a shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of the guideline, "disability" shall have the meaning defined in Executive Law § 292.

11. The in-person participation requirements of Public Officers Law §103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law if the Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Erie County Water Authority to hold an in-person meeting.
12. These procedures shall be conspicuously posted on the Erie County Water Authority website.

**Adopted on March 21, 2024**