

MINUTES/REPORT of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY'S INDEPENDENT ETHICS PANEL (IEP)** held in the office, 3030 Union Road, Cheektowaga, New York 14227 on the 11th day of July 2019.

PRESENT: Paul W. Wolf, Ad hoc Member
Matthew Plunkett, Ad hoc Member
Maureen Krause, Ad hoc Member
Margaret A. Murphy, General Counsel
Shari Zajdel, Confidential Secretary (Legal)

CALL TO ORDER AT 9:30 a.m.

The meeting began with a preliminary discussion with the Erie County Water Authority's General Counsel Margaret A. Murphy, regarding the review process of the Annual Financial Disclosure Statements ("Statements"). Thereafter, photographs were taken of the IEP members for the website.

I. ROLL CALL

Shari Zajdel recorded the names of the individuals present at the meeting.

II. NEW BUSINESS

Item 1 – Election of IEP Chair

Motion by Mr. Plunkett and seconded by Ms. Krause to make Paul W. Wolf the IEP Chair for the ensuing year.

DISCUSSION:

None

VOTE:

Ayes: Two; Members Plunkett and Krause

Abstain: One; Member Wolf

Motion carried.

Item 2 – Review of 2018 ECWA Financial Disclosure Statements.

Ms. Zajdel informed the IEP that the Legal Department timely received 55 Statements from all members, officers and employees, who are required by Article VI, § 2 of the Erie County Water Authority's Code of Ethics & Conflicts of Interest Policy, to file a Statement upon commencement of employment or annually. These Statements were then divided evenly amongst the three IEP members for review. Each member reviewed the Statements in his/her pile and separated the Statements having no issues (Round One) from the Statements needing further review (Round Two). Each member passed his/her Round One pile to another member to verify the Statement had no issue requiring further review. If two members found the Statements had no issue, then the Statements passed Round One and were approved.

Thirty-eight (38) Statements were approved in Round One. These 38 Statements were submitted by the following: three current Commissioners (Schad, Carney, Jones); a past Commissioner (Simmeth); a former Executive Director (Jann); two IEP members (Krause, Plunkett); and 31 employees, including 2 new employees (Fronczak, Wymer) two former employees (Mogavero, Riester), the former Secretary/current Deputy Administrative Director (Burns) and the General Counsel (Murphy).

After discussion and review of the Statements, motion by Ms. Krause and seconded by Mr. Plunkett to approve 38 Statements in Round One.

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

Motion carried.

In a second round (Round Two), the IEP members reviewed and openly discussed the remaining 17 Statements.

IEP Member Wolf's Statement was reviewed. Mr. Wolf, who left one box unchecked on his Statement, stated that he assumes he represents clients who are ECWA customers, but has no cases in his law office against the Authority. Both Mr. Plunkett and Ms. Krause understood Mr. Wolf's reason for leaving the box unchecked and found no ethical conflict.

Motion by Mr. Plunkett and seconded by Ms. Krause to approve this Statement submitted by Mr. Wolf.

VOTE:

Ayes: Two; Members Plunkett and Krause

Abstain: One; Member Wolf
Motion carried.

The IEP members then reviewed four Statements where the filers left one box unchecked.

One of the four files () acknowledged he was not required to file with the Erie County Board of Ethics (ECBOE), but instead of checking the NO box to say he did not file with the ECBOE he wrote "NA." Motion by Ms. Krause and seconded by Mr. Plunkett to approve this Statement.

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

Motion carried.

Motion by Mr. Plunkett and seconded by Ms. Krause to send letters to three remaining employees regarding omission of checking a box on the Statement. ().

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

Motion carried.

The IEP members then discussed five employees who noted a family member working at the Authority. (). Ms. Murphy answered questions from IEP members regarding the grandfather provisions set forth in Article IV, § 2 of the Code of Ethics & Conflict of Interest Policy and the impact of these provisions for future advancement or promotion of such family members.

Motion by Ms. Krause and seconded by Mr. Plunkett to approve the four of the five Statements. ().

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

Motion carried.

The other employee's Statement was held for further discussion regarding a second issue. ().

Four employees indicated they were required to file with the Erie County Board of Ethics ("ECBOE") but failed to file. () After review, it was determined that none were required to file. The issue is now whether the employees read the policy.

Motion by Mr. Plunkett and seconded by Ms. Krause to send letters to the four employees asking them to explain why they checked the box and to re-read and verify they have read the entire Code of Ethics & Conflict of Interest Policy.

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

Motion carried.

A former Commissioner indicated he was NOT required and did NOT file with the ECBOE. Ms. Murphy recalls that a member of the legal staff contacted ECBOE to verify all Authority members, officers and employees had filed. She recalls an email was sent to the former commissioner informing him the Authority had received his Statement, but he also needed to file with the ECBOE.

Motion by Ms. Krause and seconded by Mr. Plunkett to hold this Statement while staff contact ECBOE and/or the former commissioner. ().

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

One filer has a relative that contracts with the Authority, but the employee has no approval or oversight over the contract (). A discussion ensued as to whether the vendor should be reviewed. Ms. Murphy indicated that the vendor was subject to bidding requirements.

Motion by Mr. Plunkett and seconded by Ms. Krause to approve the Statement.

VOTE:

7/11/19

Ayes: Three; Members Wolf, Plunkett and Krause
Noes: None

Motion carried.

Seven Statements reviewed were approved in Round Two. The Panel directed Ms. Murphy to send letters to the seven remaining employees and possibly one former Commissioner.

After reviewing and discussing the three remaining Statements, a motion was made by Ms. Krause, seconded by Mr. Plunkett to interview three employees whose Statements were inconsistent or incomplete. ().

III. RECOMMENDATIONS

Following a discussion among the members, a motion was made by Ms. Krause, seconded by Mr. Plunkett to report the following recommendations to the Ethics Committee:

- (1) To add the position of Director of Water Quality to the list required to file Annual Financial Disclosure Statements with the Authority;
- (2) To clarify and review the 2019 Annual Financial Disclosure Statement and the Code of Ethics & Conflict of Interest Policy relating to the representation of water customers;
- (3) To correct typos in the 2018 Financial Disclosure Statement (for new employees) & to incorporate such changes into the 2019 Annual Financial Disclosure Statement;
- (4) To have the IEP, even though it is only an advisory committee, to follow the Authority's Open Meetings Policy, including those provisions relating to posting of notices, allowing open session to be live streamed and recorded, allowing the public and media to attend during open session, affording the public to speak during the meeting, and following rules regarding executive session.
- (5) To have a separate web page setting forth the procedure to report ethical violations by emailing either the Chair of the IEP or the Authority's General Counsel, the Code of Ethics & Conflict of Interest Policy, the Whistleblower Policy, a PDF-fillable Financial Disclosure Statement, and the pictures and biographies of the IEP members,

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

Motion carried.

The IEP agreed to file its minutes and report with the Board by July 31, 2019 to be placed on the August 8th Board Agenda.

The next meeting of the IEP is scheduled for September 12, 2019 at 9:30 a.m. at the Service Center and will be live streamed and recorded.

IV. ADJOURNMENT

Motion by Mr. Plunkett and seconded by Ms. Krause to adjourn at 11:44 a.m.

VOTE:

Ayes: Three; Members Wolf, Plunkett and Krause

Noes: None

Motion carried.