

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 350 Ellicott Square Building, Buffalo, New York, on the 12th day of June, 2008.

PRESENT: **Frank E. Swiatek, Chairman**
Kelly M. Vacco, Vice Chair
Francis G. Warthling, Treasurer
Robert A. Mendez, Executive Director
Matthew J. Baudo, Secretary to the Authority
Robert J. Lichtenthal, Jr., Deputy Director
Wesley C. Dust, Executive Engineer
Mark J. Fuzak, Attorney
Ronald P. Bennett, Associate Attorney
Paul H. Riester, Director of Administration
Karla L. Thomas, Director of Human Resources
Daniel J. NeMoyer, Public Affairs Officer
Albert J. Meaney, Comptroller
Steven V. D'Amico, Budget and Financial Analyst

ATTENDEES: Joseph Matteliano

CALL TO ORDER

PLEDGE TO THE FLAG

I. - ROLL CALL

II. - READING OF MINUTES

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to waive the reading of the Minutes of the Meeting held on Thursday, June 5, 2008.

III. - APPROVAL OF MINUTES

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve the Minutes of the Meeting held on Thursday, June 5, 2008.

IV. - REPORTS (See "Report" Minutes for Details)

- A) SECRETARY/PERSONNEL**
- B) LEGAL**
- C) FISCAL**
- D) OPERATIONS**
- E) HUMAN RESOURCES**

F) AUDIT COMMITTEE
G) GOVERNANCE COMMITTEE

V. - COMMUNICATIONS AND BILLS

ITEM 1 - MASTER PURCHASE ORDERS:

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve for payment of Master Purchase Order Nos. as listed on the attached sheets pages 1-15 after certification by the Comptroller that the orders are in accordance with the quotations and that the Director of Administration be authorized to execute the above and all associated documents after certifying that they are in conformity with applicable laws and the Authority's By-Laws and Purchasing Guidelines, Policies and Procedures.

VI. - UNFINISHED BUSINESS (NONE)

VII. - NEW BUSINESS (RESOLUTIONS 2-7)

**ITEM 2 - PAYMENT OF INVOICE OF DEPFA BANK FOR SERVICES RENDERED
 IN CONNECTION WITH THE ISSUANCE OF ERIE COUNTY WATER
 AUTHORITY, WEEKLY AJUSTABLE/FIXED RATE WATER WORKS
 SYSTEM REVENUE BONDS, SERIES 1993A AND WEEKLY
 ADJUSTABLE/FIXED RATE WATER WORKS SYSTEM REVENUE
 BONDS, SERIES 1993B - \$31,265.15**

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Heretofore and on the 18th day of February, 1993 the Authority adopted the Third Supplemental Resolution authorizing the issuance of \$27,500,000 Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993A and \$15,000,000 Weekly Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993B; and

WHEREAS, Depfa Bank has submitted an invoice dated May 29, 2008 in the total amount of \$31,265.15 for services performed during the period March 1, 2008 through May 31, 2008 in connection with said bond issuance; and

WHEREAS, Said invoice has been approved for payment by Robert J. Lichtenthal, Jr., Deputy Director;

NOW, THEREFORE, BE IT RESOLVED:

That the abovementioned invoice of Depfa Bank in the amount of \$31,265.15 for professional services rendered during the period March 1, 2008 through May 31, 2008 in

connection with the Erie County Water Authority Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993A and Series 1993B be referred to the Comptroller for his verification and if found to be in order that said invoice be approved and the Treasurer, or in his/her absence the Assistant Treasurer, be and hereby is authorized to pay same.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 3 - AUTHORIZATION TO ISSUE THE STATE ENVIRONMENTAL QUALITY REVIEW NEGATIVE DECLARATION IN CONNECTION WITH THE INSTALLATION OF A SELF-SUPPORTING ANTENNA TOWER AT THE ERIE COUNTY WATER AUTHORITY'S HARRIS HILL PUMP STATION, PROJECT NO. 200800099

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, The Erie County Water Authority ("Authority") is proposing to install a self-supporting radio antenna tower with the height of approximately 100 feet at the Harris Hill Pump Station, located at 8630 Main Street, Clarence, New York; and

WHEREAS, Heretofore and on the 20th day of March, 2008, the Authority authorized the issuance of a SEQRA Full Environmental Assessment Form and declared the Authority as lead agency in connection with the installation of a self-supporting antenna tower at the Authority's Harris Hill Pump; and

WHEREAS, In compliance with Part 617 of the implementing regulations pertaining to Article 9 (State Environmental Quality Review Act-SEQRA) of the Environmental Conservation Law, the Authority has reviewed the abovementioned project; and

WHEREAS, The Authority has determined it is duly qualified to act as lead agency with respect to compliance with SEQRA which requires environmental review of certain actions undertaken by local governments; and

WHEREAS, The Authority determined that the proposed action is an Unlisted Action under SEQRA and that it is the agency with the broadest governmental powers for investigating the impact of the proposed action and the greatest capacity for providing the most thorough environmental assessment of the proposed action and the most local agent with permitting authority, and pursuant to such resolution the Authority has undertaken to conduct a coordinated review; and

WHEREAS, All the involved agencies required to be notified under SEQRA have been notified and no agency has contested the determination of the Authority to act as lead agency; and

WHEREAS, After review, the Authority has determined that this project will not have a significant adverse impact on the environment, and therefore, a State Environmental Quality Review Negative Declaration will be issued; and

WHEREAS, Wesley C. Dust, Executive Engineer, and Robert A. Mendez, Executive Director, recommend issuing the SEQRA Negative Declaration in connection with the above project;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority hereby is authorized to issue the SEQR Negative Declaration in connection with the Harris Hill Pump Station Radio Antenna Tower.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling
Noes: None

ITEM 4 - AUTHORIZATION TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE TOWN OF WEST SENECA IN CONNECTION WITH THE RECONSTRUCTION PROJECT ON BARNSDALE AVENUE IN THE TOWN OF WEST SENECA, NEW YORK

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, The Town of West Seneca ("Town") has initiated plans to undertake the reconstruction of Barnsdale Avenue in the Town of West Seneca, New York; and

WHEREAS, The Erie County Water Authority ("Authority") intends to replace the existing watermain presently located on Barnsdale Avenue during the reconstruction project by the Town; and

WHEREAS, The Town and the Authority desire to enter into a Cooperative Agreement to coordinate and facilitate the reconstruction project and the watermain replacement project on Barnsdale Avenue in order to achieve cost containment and efficiency; and

WHEREAS, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director recommend entering into a Cooperative Agreement with the Town;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority accepts the Cooperative Agreement between the Town and the Authority to coordinate and facilitate the reconstruction project and the watermain replacement project on Barnsdale Avenue in order to achieve cost containment and efficiency; and be it further

RESOLVED: That the Chairman be and he hereby is authorized to execute said agreement on behalf of the Authority; and be it further

RESOLVED: That the Secretary be and he hereby is authorized to forward an executed copy of said Agreement together with a certified copy of this resolution to the Town.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 5 - APPROVAL OF CHANGE ORDER NO. 1 OF BUFFALO ENVELOPE FOR THE FURNISHING, STORING AND DELIVERING OF FORMS, ENVELOPES, PAPERS AND STATIONARY, PROJECT NO. 200700184, CONTRACT NO. 07-30-07 - \$146.91

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Heretofore and on the 17th day of July, 2007, the Erie County Water Authority ("Authority") entered into a contract with Buffalo Envelope for the furnishing, storing and delivering of forms, envelopes, papers and stationary, identified as Contract No. 07-30-07; and

WHEREAS, Said contractor has submitted Change Order No. 1 in the sum of \$146.91 as a price escalator agreed for the period July 1, 2008 through December 31, 2008; and

WHEREAS, Paul H. Riester, Director of Administration recommends approval of said Change Order No. 1;

NOW, THEREFORE, BE IT RESOLVED:

That Change Order No. 1 of Buffalo Envelope in the amount of \$146.91 to provide for the abovementioned change be approved; and be it further

RESOLVED: That the Chairman be and he hereby is authorized to execute said Change Order No. 1 on behalf of the Authority.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 6 - AUTHORIZATION TO AMEND POLICY NO. 13.0 (PHYSICAL STANDARDS AND REQUIREMENTS POLICY) OF THE ERIE COUNTY WATER AUTHORITY'S HUMAN RESOURCES POLICIES/ PROCEDURES MANUAL

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, Heretofore and on the 18th day of May, 1995, by Resolution Item No. 25, the Erie County Water Authority (the "Authority") adopted a Human Resources Policies/Procedures Manual; and

WHEREAS, Heretofore and on the 27th day of December, 2005 the Authority adopted a revised Human Resources Policies/Procedures Manual; and

WHEREAS, Heretofore and on the 17th day of July, 2007 the Authority adopted a Physical Standards & Requirements Policy to incorporate into the Human Resources Policies/Procedures Manual; and

WHEREAS, Matthew J. Baudo, Secretary to the Authority advises that it is in the best interest of the Authority to amend Policy No. 13.0 (Physical Standards & Requirements Policy) of said manual adding the positions of Control Operator and Control Operator Crew Chief as noted on Schedule "A" attached; and

WHEREAS, Matthew J. Baudo, Secretary to the Authority recommends amending Policy No. 13.0 (Physical Standards & Requirements Policy) of the Authority's Human Resources Policies/Procedures Manual adding the positions of Control Operator and Control Operator Crew Chief; and

WHEREAS, Robert A. Mendez, Executive Director concurs with said recommendation;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority amend Policy No. 13.0 (Physical Standards & Requirements Policy) of the Authority's Human Resources Policies/Procedures Manual adding the positions of Control Operator and Control Operator Crew Chief as noted on Schedule "A" attached.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling

Noes: None

ITEM 7 - AUTHORIZATION OF THE SECOND AMENDMENT OF STANDBY BOND PURCHASE AGREEMENT IN CONNECTION WITH ERIE COUNTY WATER AUTHORITY'S WEEKLY ADJUSTABLE/FIXED RATE WATER WORKS SYSTEM REVENUE BONDS, SERIES 1993A AND 1993B

Motion by Mr. Warthling seconded by Mrs. Vacco

WHEREAS, On February 18, 1993, the Authority adopted the Third Supplemental Resolution (the "Third Supplemental Resolution") under the Water Works System Revenue Bond Resolution, authorizing the issuance of \$27,500,000 Weekly Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993A and \$15,000,000 Weekly Adjustable/Fixed Rate Water Works System Revenue Bonds, Series 1993B (collectively, the "Series 1993 Bonds"); and

WHEREAS, In conjunction with the issuance and sale of the Series 1993 Bonds, the Authority entered into Interest Rate Swap Agreements and a Liquidity Guaranty Agreement (the "Liquidity Guaranty") with AIG Financial Products Corp. ("AIG"); and

WHEREAS, In conjunction with the issuance and sale of the Series 1993 Bonds, the Authority also entered into, and caused to be delivered to Manufacturers and Traders Trust Company, as trustee (the "Trustee"), a Standby Bond Purchase Agreement (the "Initial Standby Agreement") with The Industrial Bank of Japan, Limited, acting through its New York Branch; and

WHEREAS, On April 25, 1996, due to a rating downgrade of The Industrial Bank of Japan, the Authority delivered to the Trustee a Standby Bond Purchase Agreement (the "Replacement Standby Agreement") between the Authority and National Australia Bank Limited, acting through its New York Branch, in substitution of, and as a replacement for, the Initial Standby Agreement; and

WHEREAS, On June 21, 2007, the Authority delivered to the Trustee a Standby Bond Purchase Agreement (the "Alternate Standby Agreement") between the Authority and DEPFA BANK plc, New York Branch ("DEPFA"), which was provided by AIG pursuant to Section 2.1

of the Liquidity Guaranty, in substitution of, and as a replacement for, the Replacement Standby Agreement; and

WHEREAS, On April 24, 2008, due to conditions in the credit markets, the Board of Commissioners of the Authority determined that it was in the best interests of the Authority to amend certain provisions of the Alternate Standby Agreement to provide for a temporary waiver by DEPFA of certain potential Events of Default as defined in the Alternate Standby Agreement and to increase the commitment fee payable by the Authority there under during the pendency of such waiver, such waiver being executed by the Chairman on April 29, 2008; and

WHEREAS, in order to effectuate the timely and proper redemption and defeasance of the Series 1993 Bonds the Authority will be required to deposit with the Trustee the proper amount of interest due up to the date of actual redemption; and

WHEREAS, the Series 1993 Bonds carry a variable rate of interest which is adjusted weekly thereby making an advance calculation of interest due not possible; and

WHEREAS, the Third Supplemental Resolution governing the Series 1993 Bonds defines certain maximum interest rates payable on the bonds; and

WHEREAS, applying these predetermined interest rates would not be in the best interests of the Authority and it would be in the best interest of the Authority to amend the definition of "Maximum Rate" as set forth in Section 1.1 of the original agreement; and

WHEREAS, Damon & Morey LLP, counsel to the Authority, has participated in the preparation of and reviewed the proposed second amendment of the Alternate Standby Agreement, and has found the proposed amendment to be in compliance with the requirements of the Third Supplemental Resolution and the other documents governing the Series 1993 Bonds, subject to the receipt of any necessary consents from other parties to such documents;

NOW, THEREFORE, BE IT RESOLVED: That the Authority approves the second amendment of the Alternate Standby Agreement as proposed; and be it further

RESOLVED: That the Chairman, or his designee, be and he hereby is authorized and directed to execute the second amendment to the Alternate Standby Agreement with such changes, additions or modifications as the Chairman or his designee deem proper and in the best interest of the Authority, and to deliver the executed second amendment to the Alternate Standby Agreement to DEPFA and the Trustee; and be it further

RESOLVED: That the Chairman and the Secretary, or their respective designees, be and they hereby are authorized and directed to execute and deliver all ancillary instruments and certificates as the Chairman, the Secretary or their respective designees deem proper in connection with the foregoing resolutions.

Ayes: Three; Commrs. Swiatek, Vacco and Warthling
Noes: None

ITEM 8 - PURCHASE ORDERS:

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve for payment of Purchase Order Nos. as listed on the attached sheets pages 16-24 after certification by the Comptroller that the orders are in accordance with the quotations and that the Director of Administration be authorized to execute the above and all associated documents after certifying that they are in conformity with applicable laws and the Authority's By-Laws and Purchasing Guidelines, Policies and Procedures.

ITEM 9 - PURCHASE ORDER AMENDMENTS:

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve for payment of Purchase Order Amendments as listed on the attached sheet page 25 after certification by the Comptroller that the orders are in accordance with the quotations and that the Director of Administration be authorized to execute the above and all associated documents after certifying that they are in conformity with applicable laws and the Authority's By-Laws and Purchasing Guidelines, Policies and Procedures.

ITEM 10 - SERVICE CONNECTION WORK ORDER LIST:

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve Service Connection Work Order Nos. 2008-22 and 2008-23, to C. Destro Development Co., Inc. for Service Area No. 1 under Contract No. 07-04-01 and to C. Destro Development Co., Inc. for Service Area No. 2 under Contract No. 07-05-01 and large services under Contract No. 07-03-01 to Kandey Company, Inc.

VIII. - ADJOURNMENT

Meeting adjourned until the next regular meeting to be held on Thursday, June 26, 2008 at 4:00 p.m.

Matthew J. Baudo
Secretary to the Authority

SLZ