

**MINUTES** of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 350 Ellicott Square Building, Buffalo, New York, on the 18th day of June, 2009.

**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  
Ronald P. Bennett, Associate Attorney  
Paul H. Riester, Director of Administration  
Daniel J. NeMoyer, Director of Human Resources  
Susan Rinaldo, Cash Manager  
Steven V. D'Amico, Budget and Financial Analyst  
Karen Prendergast, Manager of Accounting Services

**ATTENDEES:** Danielle Elliott

**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 2, 2009.

**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 2, 2009.

**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 - CREATION OF MASTER PURCHASE ORDERS:**

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve the creation of Master Purchase Order Nos. as listed on the attached sheet page 1 not to exceed the amount of \$180,000.00 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 2 - 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 1-11 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 3-12)**

**ITEM 3 - AUTHORIZATION TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE TOWN OF WEST SENECA IN CONNECTION WITH THE RECONSTRUCTION PROJECT OF COLLINS AVENUE, TOWN OF WEST SENECA, NEW YORK, PROJECT NO. 200900122**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS**, The Town of West Seneca (Town) has initiated plans to undertake the reconstruction of Collins Avenue in the Town of West Seneca including pavement, curbs and sidewalks; and

**WHEREAS,** The Erie County Water Authority (Authority) intends to replace the existing watermain presently located on Collins 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 project on Collins Avenue in order to achieve cost containment and efficiency; and

**WHEREAS,** Wesley C. Dust, P.E., Executive Engineer and Mark J. Fuzak have reviewed the agreement and recommend entering into a Cooperative Agreement with the Town; and

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

**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 of Collins 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 4 - AUTHORIZATION TO ENTER INTO AMENDMENT NO. 1 TO THE LEASE MANAGEMENT AGREEMENT BETWEEN THE TOWN OF MARILLA AND THE ERIE COUNTY WATER AUTHORITY**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS,** The Erie County Water Authority (Authority) and the Town Board of the Town of Marilla (Town) acting as Water Commissioners for Water District Nos. 2, 3 and 4 (District), and described in Exhibit "A" dated December 8, 1998 entered into a Lease Management Agreement on May 13, 1999; and

**WHEREAS,** The Authority and the Town desire to amend the Lease Management

Agreement pursuant to Paragraph 9.1 of said Agreement; and

**WHEREAS**, The Town has since created an additional Water District known as Water District No. 5, in accordance with provisions of Town Law, Section No. 198, and is now the owner of facilities to be employed in the sale and distribution of water to customers in Water District No. 5; and

**WHEREAS**, The Authority was created to provide a safe and adequate supply of water to the residents of Erie County and has the capacity and expertise to operate and manage the District's facilities; and

**WHEREAS**, The parties find it mutually advantageous for the Authority to furnish a supply of water to the District and to operate and manage the District's facilities; and

**WHEREAS**, The Authority submitted Amendment No. 1 to the Lease Management Agreement between the Town and the Authority offering to cover District No. 5 and amend the Exhibit A to the Agreement to add Water District No. 5 to the map of the water districts that are covered by the Lease Management Agreement and to extend the term for an additional ten (10) year period; and

**WHEREAS**, Under the date of June 11, 2009, the Town, by resolution, authorized execution of the Amendment No. 1 to the Lease Management Agreement between the Town and the Authority; and

**WHEREAS**, Wesley C. Dust, Executive Engineer and Mark J. Fuzak, Counsel recommend that the Authority execute said Amendment No. 1; and

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

**NOW, THEREFORE, BE IT RESOLVED:**

That the Chairman be and he hereby is authorized to execute Amendment No. 1 to the Lease Management Agreement between the Town and the Authority offering to cover District No. 5 and amend the Exhibit A to the Agreement to add Water District No. 5 to the map of the water districts that are covered by the Lease Management Agreement and to extend the term for an additional ten (10) year period; and be it further

**RESOLVED:** That the Secretary be and he hereby is authorized and directed to forward a certified copy of this resolution to the Town Board of the Town of Marilla along with a copy of the duly executed Amendment No. 1.

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

**ITEM 5 - AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH ZOGBY INTERNATIONAL TO PROVIDE A SURVEY OF ERIE COUNTY WATER AUTHORITY CUSTOMERS, IDENTIFIED AS CONTRACT NO. Z-001, PROJECT NO. 200900043**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS,** The Erie County Water Authority's ("Authority") Board of Commissioners authorized the issuance of a Request for Proposals ("RFP") to qualified firms to conduct a telephone survey of customers to gauge attitudes and opinions about the Authority and its operations on February 27, 2009; and

**WHEREAS,** A copy of the RFP was sent to:

Zogby International  
Insight Associates  
TelOpinion/Barry Zepowitz & Associates  
Survey Service; and

**WHEREAS,** The respondents to the RFP were: Zogby International and Insight Associates; and

**WHEREAS,** The RFP process was conducted pursuant to the enacted state legislation (New York State Finance Law §§139-j and 139-k) and the Authority's Purchasing Guidelines, Policies and Procedures; and

**WHEREAS,** Upon evaluating the response to the RFP, the Authority deems it advisable to have Zogby International conduct a telephone survey of customers; and

**WHEREAS,** Daniel J. NeMoyer, Director of Human Resources recommends that the Authority enter into an agreement with Zogby International;

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

**NOW, THEREFORE, BE IT RESOLVED:**

That the Authority accepts the proposal of Zogby International to conduct a telephone survey of customers to gauge attitudes and opinions about the Authority; and be it further

**RESOLVED:** Pursuant to New York State Finance Law §§139-j and 139-k and the Authority's Purchasing Guidelines, Policies and Procedures with the award and execution by the Authority of this agreement, the Restricted Period will cease; 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 Zogby International.

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

**ITEM 6 - AWARD OF CONTRACT TO MOLLENBERG-BETZ, INC. FOR HEATING, VENTILATING AND AIR CONDITIONING SERVICE AND PREVENTATIVE MAINTENANCE WORK WITHIN THE ERIE COUNTY WATER AUTHORITY'S FACILITIES FOR A TWO YEAR PERIOD FROM JULY 1, 2009 THROUGH JUNE 30, 2011, PROJECT NO. 200900094 - \$266,000.00**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS**, The Erie County Water Authority (Authority) heretofore advertised in the Dodge Reports and Front Page on the 6th day of May, 2009, and in Business First on the 8th day of May, 2009, a notice inviting sealed bids or proposals in accordance with Section 1069 of the Public Authorities Law for heating, ventilating and air conditioning service and preventative maintenance work within the Erie County Water Authority's facilities for a two year period from July 1, 2009 through June 30, 2011; and

**WHEREAS**, Sealed bids or proposals were opened in the office of the Authority on the 19th day of May, 2009, at 11:00 a.m., local time, and were as follows:

<b>BIDDERS</b>	<b>AMOUNT</b>
Mollenberg-Betz, Inc.	\$266,000.00
Greater Niagara Mechanical, Inc.	336,340.00
D.V. Brown & Associates, Inc.	501,804.00; and

**WHEREAS**, The bid bonds have all been approved by Anthony Alessi, Claims Representative/Risk Manager; and

**WHEREAS**, Robert Brown, Director of Equal Employment Opportunity, has advised that the low bidder, Mollenberg-Betz, Inc. has complied with the Authority's Affirmative Action Requirements and recommends that they be allowed to proceed with their contract based on that fact; and

**WHEREAS**, Wesley C. Dust, P.E., Executive Engineer and Robert A. Niederpruem, Sr. Production Engineer have reviewed the specifications and bids and determined that Mollenberg-Betz, Inc. is the lowest bidder qualified to perform the project and have recommended that a contract be awarded to that firm for the abovementioned project; and

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

**NOW, THEREFORE, BE IT RESOLVED:**

That it is hereby determined that Mollenberg-Betz, Inc. is the lowest responsible bidder for the abovementioned project, and that the Chairman be and he hereby is authorized and directed to execute a contract with said contractor for the heating, ventilating and air conditioning service and preventative maintenance work within the Erie County Water Authority's facilities for a two year period from July 1, 2009 through June 30, 2011 in the total amount of \$266,000.00; and be it further

**RESOLVED:** Pursuant to New York State Finance Law §§139-j and 139-k and the Authority's Purchasing Guidelines, Policies and Procedures with the award and execution by the Authority of this contract, the Restricted Period will cease; and be it further

**RESOLVED:** That the Secretary be and he hereby is authorized to return to the unsuccessful bidders their deposit submitted with their bid to the Authority for the abovementioned project; and be it further

**RESOLVED:** That the Director of Administration is hereby authorized and directed to create a Master Purchase Order for the abovementioned contract.

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

**ITEM 7 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR 2009 PAVEMENT REPLACEMENT PROJECT, ERIE COUNTY WATER AUTHORITY SERVICE CENTER, ERIE COUNTY, NEW YORK, PROJECT NO. 200900113**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS,** Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director recommend that the Erie County Water Authority ("Authority") publish a notice inviting sealed bids or proposals pursuant to Section 1069 of the Public Authorities Law for 2009 Pavement Replacement Project, Erie County Water Authority Service Center, Erie County, New York; and

**WHEREAS,** The work, labor and services for the abovementioned project is estimated to cost an amount in excess of \$5,000.00; and

**WHEREAS,** The Advertisement for Bids for 2009 Pavement Replacement Project, Erie County Water Authority Service Center, Erie County, New York will be conducted pursuant to the newly enacted legislation, New York State Finance Law §§ 139-j and 139-k and the Authority's Purchasing Guidelines, Policies and Procedures; and

**WHEREAS,** Jay Meyers, Production Engineer will be the designated contact person for the project with the adoption of this resolution;

**NOW, THEREFORE, BE IT RESOLVED:**

That the plans and specifications and form of bid be prepared for the 2009 Pavement Replacement Project, Erie County Water Authority Service Center, Erie County, New York and upon completion be made available for inspection by bidders in the office of the Authority; and be it further



**RESOLVED:** That the Secretary be and he hereby is authorized and directed to publish a notice inviting sealed bids or proposals pursuant to Section 1069 of the Public Authorities Law for the abovementioned project.

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

**ITEM 8 - REFUND FOR NEW SERVICE INSTALLATIONS - \$32,306.20**

Motion by Mr. Warthling seconded by Mrs. Vacco

**WHEREAS,** The Erie County Water Authority ("Authority") has installed new services identified on its records by OWIP numbers; and

**WHEREAS,** Said new services have been completed and the actual cost thereof ascertained; and

**WHEREAS,** The entire actual cost thereof is less than the estimated cost of the new services; and

**WHEREAS,** Karen A. Prendergast, Manger of Accounting Services, under the date of June 11, 2009, has recommended that the following refunds set forth on attached Schedule "A" be made;

**NOW, THEREFORE, BE IT RESOLVED:**

That the Authority repay the difference between the estimated cost of said new services and the entire actual costs thereof to the parties and in the amounts hereinafter set forth on attached Schedule "A".

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

**ITEM 9 - 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 position of File Clerk 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 position of File Clerk; 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 position of File Clerk as noted on attached schedule "A" attached.

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

**ITEM 10 - AUTHORIZATION TO AMEND ITEM NO. 9.0 (USE OF AUTHORITY VEHICLES) TO 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 ("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**, Matthew J. Baudo, Secretary to the Authority advises that it is in the best interest of the Authority to amend Policy No. 9.0 (Use of Authority Vehicles) of said Manual to read as follows:

**PURPOSE**

To ensure that the policies of the Authority and the responsibilities of the individual with respect to vehicle usage are clearly communicated.

**POLICY**

It is the policy of the Authority to provide personal use vehicles to individuals who incur extensive business mileage or are routinely required to respond to emergencies on a 24 hour basis.

In addition, a number of vehicles are assigned to personnel for the convenience of the Authority. These individuals are required to commute in the assigned vehicle, as they do not routinely report to one location for work or are required to respond to emergencies when called. The vehicles contain equipment necessary to respond to an emergency, or to perform their daily work assignment. Employees are not authorized to use these vehicles for any other personal travel.

All personal use of vehicles, including commuting, is included in taxable income as required by Internal Revenue Service regulations.

Individuals authorized to use Authority vehicles must have a valid NYS drivers license or, if required, a valid NYS commercial driver's license.

**PROCEDURES**

1. The following individuals have been issued Authority vehicles on a 24-hour basis and are hereby authorized to use the vehicle for personal travel. This personal travel shall be limited to Erie County and a 100 mile radius from the Authority's service district.

Executive Director  
Executive Engineer  
Distribution Engineer - Unit Head for Line Maintenance  
Sr. Production Engineer - Production Department Head  
Sr. Distribution Engineer - Engineering/Construction Department Head  
Production Engineer - Control Unit Head  
Chemist & Chief Water Treatment Plant Operator

2. The Internal Revenue Service requires that individuals allowed to use an Authority owned vehicle for personal travel keep a mileage log and provide information to the employer annually. In accordance with this regulation, a statement containing the total mileage incurred for the year and the percentage attributed to personal use must be submitted to the Comptroller during December of each year.
3. The taxable fringe benefit for personal use determination is based on the Internal Revenue Service lease valuation method using the percentage indicated in the employee's statement.
4. The following individuals have been issued Authority vehicles for business use only and are hereby authorized to use the vehicle to commute to and from work at an Erie County Water Authority worksite:

Pump Mechanic Crew Chief  
Control Operator Crew Chief  
Director of Drinking Water Quality  
Production/Distribution Engineer-Plants  
Electrical Engineer

5. The taxable fringe benefit will be charged at the current IRS published rate for each 1 way commute, and will be calculated for each day the employee worked during the year.
6. The calculated fringe benefit, as outlined in number 3 and 5 above, is included in box 10, "Wages, tips and other compensation" and reported separately in box 23, "Benefits included in box 10" on the employees' W2 form.

7. As required by Internal Revenue Service regulations, FICA tax is withheld from the last pay period in December. State and Federal taxes are the responsibility of the individual; no income taxes are withheld.
8. If an employee with a 24-hour personal use vehicle chooses, or if they fail to provide the required statement, 100% of the value of the calculated fringe benefit will be reported on their W2 and the appropriate FICA taxes will be withheld on that amount.
9. All Authority passenger vehicles, with the exception of vehicles assigned on a 24-hour personal use basis, must display Erie County Water Authority decals on both left and right front doors; and **WHEREAS**, Matthew J. Baudo, Secretary to the Authority recommends amending Policy No. 9.0 (Use of Authority Vehicles) of the Authority's Human Resources Policies/Procedures Manual; and

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

**NOW, THEREFORE, BE IT RESOLVED:**

That the Authority amend Policy No. 9.0 (Use of Authority Vehicles) of the Authority's Human Resources Policies/Procedures Manual as noted above.

Ayes: Three; Comms. Swiatek, Vacco and Warthling

Noes: None

**ITEM 11 - 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 12-20 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 12 - 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 21 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 13 - SERVICE CONNECTION WORK ORDER LIST:**

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to approve Service Connection Work Order Nos. 2009-23 and 2009-24, to Nichols Long & Moore Construction Corp. for Service Area No. 1 under Contract No. 09-07-01 and to Russo Development, Inc. for Service Area No. 2 under Contract No. 09-08-01 and large services under Contract No. 09-06-01 to Kandey Company, Inc.

**VIII. - ADJOURNMENT**

Meeting adjourned until the next regular meeting to be held on Thursday, July 2, 2009.

Matthew J. Baudo  
Secretary to the Authority

SLZ