

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 350 Ellicott Square Building, Buffalo, New York, on the 10th day of June, 2010.

PRESENT: **Kelly M. Vacco, Vice Chair**
Francis G. Warthling, Treasurer
John F. O'Donnell, Member
Robert A. Mendez, Executive Director
Matthew J. Baudo, Secretary to the Authority/Personnel Director
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
Daniel J. NeMoyer, Director of Human Resources
Karen A. Prendergast, Comptroller
Steven V. D'Amico, Budget and Financial Analyst
Brian C. Bray, Public Affairs Officer

ATTENDEES:

CALL TO ORDER

PLEDGE TO THE FLAG

I. - ROLL CALL

II. - READING OF MINUTES

Motion by Mr. Warthling seconded by Mr. O'Donnell and carried to waive the reading of the Minutes of the Meeting held on Thursday, May 27, 2010.

III. - APPROVAL OF MINUTES

Motion by Mr. Warthling seconded by Mr. O'Donnell and carried to approve the Minutes of the Meeting held on Thursday, May 27, 2010.

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 ORDER RELEASES:

Motion by Mr. Warthling seconded by Mr. O'Donnell and carried to approve for payment of Master Purchase Order Nos. as listed on the attached pages 1-10 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 2-15)

ITEM 2 - ELECTION OF CHAIRMAN

WHEREAS, Heretofore and on the 27th day of April, 2010 the term of Frank E. Swiatek as a Member of the Erie County Water Authority (Authority) expired; and

WHEREAS, Heretofore and on the 27th day of May, 2010 the Erie County Legislature duly appointed John F. O'Donnell as a Member of the Authority to serve for the balance of a three year term expiring April 27, 2013; and

WHEREAS, It is desired to elect a Chairman to fill the vacancy that has been created;

Nominations are opened for the office of Chairman;

Motion by Mr. Warthling seconded by Mr. O'Donnell and carried to nominate Kelly M. Vacco as Chairman of the Authority to serve until the next annual meeting of the Authority.

Motion by Mr. O'Donnell moves the nominations be closed, seconded by Mr. Warthling and carried.

On Roll Call the following votes were cast:

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell

Noes: None

Kelly M. Vacco having received all of the votes, motion by Mr. Warthling seconded by Mr. O'Donnell and carried that the Secretary cast one unanimous ballot electing Kelly M. Vacco as Chairman of the Authority for the ensuing year.

The Secretary cast one unanimous ballot for Kelly M. Vacco.

ITEM 3 - ELECTION OF VICE CHAIRMAN

WHEREAS, It is desired to elect a Vice Chairman to fill the vacancy that has been created;

Nominations are opened for the office of Vice Chairman;

Motion by Mr. O'Donnell seconded by Mrs. Vacco and carried to nominate Francis G. Warthling as Vice Chairman of the Authority to serve until the next annual meeting of the Authority.

Motion by Mrs. Vacco moves the nominations be closed, seconded by Mr. O'Donnell and carried.

On Roll Call the following votes were cast:

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell

Noes: None

Francis G. Warthling having received all of the votes, motion by Mrs. Vacco seconded by Mr. O'Donnell and carried that the Secretary cast one unanimous ballot electing Francis G. Warthling as Vice Chairman of the Authority for the ensuing year.

The Secretary cast one unanimous ballot for Francis G. Warthling.

ITEM 4 - ELECTION OF TREASURER

WHEREAS, It is desired to elect a Treasurer to fill the vacancy that has been created;

Nominations are opened for the office of Treasurer;

Motion by Mr. Warthling seconded by Mrs. Vacco and carried to nominate John F. O'Donnell as Treasurer of the Authority to serve until the next annual meeting of the Authority.

Motion by Mrs. Vacco moves the nominations be closed, seconded by Mr. Warthling and carried.

On Roll Call the following votes were cast:

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell

Noes: None

John F. O'Donnell having received all of the votes, motion by Mr. Warthling seconded by Mrs. Vacco and carried that the Secretary cast one unanimous ballot electing John F. O'Donnell as Treasurer of the Authority for the ensuing year.

The Secretary cast one unanimous ballot for John F. O'Donnell.

ITEM 5 - AUTHORIZATION TO RESCIND THE APPOINTMENT OF FRANK E. SWIATEK AS CHAIRPERSON OF THE FINANCE COMMITTEE AND APPOINT KELLY M. VACCO AS CHAIRPERSON OF THE FINANCE COMMITTEE

Motion by Mr. Warthling seconded by Mr. O'Donnell

WHEREAS, Pursuant to Section 2824 (8) of the Public Authorities Law (PAL) the Erie County Water Authority (Authority) must adopt a Finance Committee Charter and appoint three independent members to the committee to oversee the Authority's debt and debt practices and to recommend policies concerning the Authority's issuance and management of debt; and

WHEREAS, The Finance Committee shall consist of the three independent members of the Board of Commissioners, who shall constitute a majority on the committee; and

WHEREAS, The Board must appoint a Chairperson of the committee; and

WHEREAS, Heretofore and on the 11th day of May, 2010 the Authority adopted a Finance Committee Charter and appointed a committee consisting of the three members of the Board of Commissioners and Frank E. Swiatek as Chairman of the committee, pursuant to Section 2824 (8) of the Public Authorities Law; and

WHEREAS, The Board of Commissioners deems it necessary to rescind the appointment of Frank E. Swiatek as Chairman of the Finance Committee and appoint Kelly M. Vacco as Chairperson of the Finance Committee;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority hereby rescinds the appointment of Frank E. Swiatek as Chairperson of the Finance Committee and appoints Kelly M. Vacco as Chairperson of the Finance Committee, pursuant to Section 2824 (8) of the Public Authorities Law.

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell
Noes: None

ITEM 6 - AUTHORIZATION TO AMEND RESOLUTION NO. 22 OF THE MINUTES OF THE ANNUAL MEETING OF THE ERIE COUNTY WATER AUTHORITY HELD ON APRIL 30, 2010 RELATIVE TO COMMITTEES

Motion by Mr. Warthling seconded by Mr. O'Donnell

WHEREAS, Heretofore and on the 30th day of April, 2010, the Erie County Water Authority (Authority) authorized that all committee assignments remain the same for the coming year and that the Chairman of the Authority will continue to be empowered to name new committees and assign members; and

WHEREAS, Due to recent officer changes of the Erie County Water Authority's Board Members it is necessary to amend Item No. 22 of the Minutes of the Annual Meeting of the Authority held on April 30, 2010 changing committee members of the Authority's Audit and Governance Committees; and

WHEREAS, The following individuals will be members of the Audit Committee:

Kelly M. Vacco, Chairman
Francis G. Warthling, Vice Chairman
John F. O'Donnell, Treasurer; and

WHEREAS, The following individuals will be members of the Governance Committee:

Kelly M. Vacco, Chairman
Francis G. Warthling, Vice Chairman
John F. O'Donnell, Treasurer;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority hereby amends Resolution No. 22 of the Minutes of the Annual Meeting of the Authority held on April 30, 2010 as set forth stated above.

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell
Noes: None

ITEM 7 - AUTHORIZATION TO AMEND RESOLUTION NO. 10 OF THE MINUTES OF THE ANNUAL MEETING OF THE ERIE COUNTY WATER AUTHORITY HELD ON APRIL 30, 2010 RELATIVE TO THE AUTHORIZATION TO DESIGNATE DEPOSITORIES FOR FUNDS

Motion by Mr. Warthling seconded by Mr. O'Donnell

WHEREAS, Due to recent officer changes of the Erie County Water Authority's Board Members it is necessary to amend Resolution No. 10 of the Minutes of the Annual Meeting of the Authority held on April 30, 2010 to read "the Authority designates the following listed depositories for funds collected by John F. O'Donnell Treasurer....";

NOW, THEREFORE, BE IT RESOLVED:

That the Authority hereby amends Resolution No. 10 of the Minutes of the Annual Meeting of the Authority held on April 30, 2010 to read as stated above.

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell
Noes: None

ITEM 8 - AUTHORIZATION TO AMEND RESOLUTION NO. 11 OF THE MINUTES OF THE ANNUAL MEETING OF THE ERIE COUNTY WATER AUTHORITY HELD ON APRIL 30, 2010 RELATIVE TO THE AUTHORIZATION OF INDIVIDUALS TO EXECUTE ERIE COUNTY WATER AUTHORITY CHECKS ON BEHALF OF THE ERIE COUNTY WATER AUTHORITY

Motion by Mr. Warthling seconded by Mr. O'Donnell

WHEREAS, Due to recent officer changes of the Erie County Water Authority's Board Members it is necessary to amend the following resolution of the Minutes of the Annual Meeting of the Authority held on April 30, 2010 reflecting said change:

Item 11 (Authorization To Approve The Following Individuals To Execute Erie County Water Authority Checks on Behalf of the Erie County Water Authority)

Remove: Francis G. Warthling, Treasurer
Add: John F. O'Donnell, Treasurer

NOW, THEREFORE, BE IT RESOLVED:

That the Authority hereby amends Resolution No. 11 of the Minutes of the Annual Meeting of the Authority held on April 30, 2010 to reflect the officer changes in the Authority's Board Members.

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell
Noes: None

ITEM 9 - AUTHORIZATION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE VILLAGE OF BLASDELL

Motion by Mr. Warthling seconded by Mr. O'Donnell

WHEREAS, the Village owns and operates a water system consisting of six districts within the Village and two districts located in the Town of Hamburg and is a Bulk Water customer of the ECWA; and

WHEREAS, the ECWA provides direct service to all surrounding areas of the Town of Hamburg and City of Lackawanna, and for these areas the ECWA owns the water system facilities and has all responsibilities including capital improvements and maintenance; and

WHEREAS, the Village has determined that it would be in the best interest of the Village to have the ECWA takeover water service to the entire Village and the areas serviced by the Village in the Town of Hamburg as a direct service provider, thereby eliminating all future involvement and responsibility of the Village with respect to water system facilities, except for the payment of direct service public fire protection fee, for hydrants within the Village, to the ECWA; and

WHEREAS, the ECWA and the Village understand that the Village will need to undergo a number of legal procedures in order to authorize the transfer of facilities from the existing Village and Town water districts, as well as other water system facilities owned by the Village to the ECWA, which procedures will take a considerable amount of time; and

WHEREAS, the ECWA has advised the Village that prior to undertaking to accept the facilities from the Village and begin servicing the Village as a direct service provider, the Village will need to undertake a number of improvements to the existing Village water system facilities to bring them up to the standards required by the ECWA which will thereafter have sole responsibility for water service; and

WHEREAS, the parties do hereby agree as follows:

The Village agrees that it will undertake the improvements to the water system facilities in the Village of Blasdell and Town of Hamburg that were outlined in correspondence dated May 12, 2008 (Attachment 1) by Wesley C. Dust, PE ECWA Executive Engineer, it being the understanding of the parties that in order to authorize and construct the improvements outlined, it will take more than one year for the Village to design, go through the necessary authorization procedures, and construct the improvements.

Upon completion of the improvements the Village will undertake steps required in order to authorize the transfer of the water system facilities owned by the Village to the ECWA.

The parties agree that due to the legal proceedings required to be undertaken by the Village prior to performing the improvements and dissolving the various water districts of the Village, certain of which actions will be subject to permissive referendum, the Village cannot guarantee that it will be in a position to complete the work required and to authorize the transfer. On this basis, the Village will have no legal obligation to transfer the water system facilities to the ECWA and the ECWA will have no obligation to accept the transfer of the water system facilities, unless the Village undertakes all the improvements set forth by the ECWA, and completes all steps necessary to authorize transfer within two years following the date of this Memorandum of Understanding, unless the date is extended due to the extenuating circumstances and upon the mutual agreement of both parties.

The parties recognize that the initial rate charged by ECWA and the surcharge proposed by the Village will not exceed the current rates charged by the Village.

A second leak detection survey will be completed by September 2010 and leaks found will be repaired. Any water line that incurs multiple repairs averaging greater than 4 repairs/mile/year will be replaced prior to conversion to direct service.

This Agreement shall not be assigned by either party without the express written consent of both the Village and the ECWA; and

WHEREAS, The Village has submitted a Memorandum of Understanding (“MOU”) outlining the intent of the proposed project and responsibilities of both Authority and the Village; and

WHEREAS, Under the date of May 20, 2010, the Village, by resolution, authorized execution of the MOU with the Authority; and

WHEREAS, Wesley C. Dust, Executive Engineer and Robert A. Mendez, Executive Director recommend entering into a MOU with the Village;

NOW, THEREFORE, BE IT RESOLVED:

That the Chairman or in his absence the Vice Chair be and he hereby is authorized to execute said MOU with the Village; 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 Village.

Ayes: Three; Commrs. Vacco, Warthling and O’Donnell

Noes: None

ITEM 10 - AUTHORIZATION TO ADVERTISE FOR BIDS FOR FURNISHING AND DELIVERING ELECTRIC ACTUATORS FOR FILTER TO WASTE VALVES, PROJECT NO. 201000110

Motion by Mr. Warthling seconded by Mr. O’Donnell

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 to Furnish and Deliver Electric Actuators for Filter to Waste Valves; and

WHEREAS, The work, labor and services for the abovementioned project is estimated to cost an amount in excess of \$10,000.00; and

WHEREAS, The Advertisement for Bids to Furnish and Deliver Electric Actuators for Filter to Waste Valves 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, Daniel J. Seider, P.E., Distribution 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 Furnishing and Delivering Electric Actuators for Filter to Waste Valves 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. Vacco, Warthling and O'Donnell
Noes: None

ITEM 11 - RATIFICATION OF THE INSTALLATION OF HYDRANTS AND VALVES AND RETIREMENT OF EXISTING HYDRANTS AND VALVES - VARIOUS LOCATIONS

Motion by Mr. Warthling seconded by Mr. O'Donnell

WHEREAS, The Engineering Department of the Erie County Water Authority ("Authority") advised that hydrants and valves were installed as part of the Authority's program to keep pace with improvements in fire fighting technology, as follows:

Replace existing hydrant at 85 Foisset Road, Town of Cheektowaga with a new Kennedy hydrant on 3/19/10. Work done by ECWA forces under Work Authorization No. 107.200 5941.

Old Rensselaer hydrant originally installed in 1953 was scrapped and retired under Retirement Authorization No. R100015;

Replace existing hydrant at corner of Mapleview Road and Flora Rd., Town of Cheektowaga with a new Kennedy hydrant on March 22, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5942.

Old Rensselaer hydrant originally installed in 1953 was scrapped and retired under Retirement Authorization No. R100016;

Replace existing hydrant at 660 Mapleview Road, Town of Cheektowaga with a new Kennedy hydrant on March 23, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5943.

Old Rensselaer hydrant originally installed in 1953 was scrapped and retired under Retirement Authorization No. R100017;

Replace existing hydrant at Huth Road and Foisset Road, Town of Cheektowaga with a new Kennedy K81 hydrant on March 29, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5944.

Old Iowa hydrant originally installed in 1949 was scrapped and retired under Retirement Authorization No. R100018;

Replace existing hydrant at 27 Greenleaf Lane, Town of Cheektowaga with a new Kennedy K81 hydrant on March 31, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5947.

Old Rensselaer hydrant originally installed in 1952 was scrapped and retired under Retirement Authorization No. R100021;

Replace existing hydrant at 52 Ontario Drive, Town of Cheektowaga with a new Kennedy K81 hydrant on April 1, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5950.

Old Rensselaer hydrant originally installed in 1953 was scrapped and retired under Retirement Authorization No. R100022;

Replace existing hydrant at Pleasant Parkway and Griswald Street, Town of Cheektowaga with a new Kennedy K81 hydrant on April 26, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5956.

Old Rensselaer hydrant originally installed in 1978 was scrapped and retired under Retirement Authorization No. R100028;

Replace existing hydrant at 750 Beach Road, Town of Cheektowaga with a new Kennedy hydrant on April 8, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5953.

Old Iowa hydrant originally installed in 1931 was scrapped and retired under Retirement Authorization No. R100025;

Replace existing hydrant at Fonda Drive and Beach Road, Town of Cheektowaga with a new Kennedy K81 hydrant on May 6, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5961.

Old Rensselaer hydrant originally installed in 1952 was scrapped and retired under Retirement Authorization No. R100033;

Replace existing hydrant at corner of Barton Road and White Acres Road, Town of Clarence with a new Clow hydrant on April 7, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5952.

Old Mathew hydrant originally installed prior to 1999 by the Town of Clarence was scrapped and retired under Retirement Authorization No. R100024;

Replace existing valve at the corner of Franklin Street and Niagara Street, City of Tonawanda with a new Resilient Seat Valve on March 31, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5946.

Old gate valve originally installed prior to 2004 by City of Tonawanda was scrapped and retired under Retirement Authorization No. R100020;

Replace existing valve at Trier Avenue and Orchard Avenue, Town of West Seneca with a new Resilient Seat Valve on April 14, 2010. Work done by ECWA forces under Work Authorization No. 107.200 5954.

Old gate valve originally installed in 1928 was scrapped and retired under Retirement Authorization No. R100027; and

WHEREAS, Wesley C. Dust, P.E., Executive Engineer and Robert A. Mendez, Executive Director ratify said installations and work;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority approve the retirement of the abovementioned hydrants and valves at the abovementioned locations; and be it further

RESOLVED: That the installation of the new hydrants and valves in the abovementioned locations, as part of the Authority's continuing program to improve its facilities is hereby approved, ratified and confirmed.

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell
Noes: None

ITEM 12 - AUTHORIZATION TO RETAIN LEGAL SERVICES

Motion by Mr. Warthling seconded by Mr. O'Donnell

WHEREAS, The Erie County Water Authority (the "Authority") and six current and former employees and members have been named as individual Defendants in a Complaint filed in United States District Court for the Western District of New York (Index No. 10CV388) by Plaintiffs Jacob and Lynn Gruber; and

WHEREAS, By Authority resolution dated April 29, 1999 the Authority approved confirmation of the benefits of Section 18 of the New York State Public Officers Law upon its officers and employees for defense and indemnification in litigation arising out of acts or omissions while the employee was acting within the scope of his or her employment or duties; and

WHEREAS, The Authority will agree to confer the benefits of defense and indemnification of the individual defendants in the aforementioned lawsuit for acts or omissions while the employee was acting within the scope of his or her employment or duties; and

WHEREAS, The Authority's Public Officials and Employment Practices Liability insurance carrier, Scottsdale Insurance Company ("Scottsdale"), has agreed to defend and indemnify the Authority and its officers and employees with a reservation of rights in the lawsuit; and

WHEREAS, Scottsdale has determined that the law firm Hodgson Russ LLP will provide such defense for the Authority and its officers, members and employees;

NOW, THEREFORE, BE IT RESOLVED:

That the Authority is hereby authorized to retain the legal services of Hodgson Russ LLP for the Erie County Water Authority and current and former employees in the matter of Jacob & Lynn Gruber vs. the Erie County Water Authority, etc., et al pending in United States District Court for the Western District of New York; and be it further

RESOLVED: Based on need the Authority shall retain necessary additional legal counsel to defend the Authority and officers and employees.

Ayes: Three; Commrs. Vacco, Warthling and O'Donnell

Noes: None

ITEM 14 - PURCHASE ORDERS:

Motion by Mr. Warthling seconded by Mr. O'Donnell and carried to approve for payment of Purchase Order Nos. as listed on the attached pages 11-16 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 15 - PURCHASE ORDER AMENDMENTS:

Motion by Mr. Warthling seconded by Mr. O'Donnell and carried to approve for payment of Purchase Order Amendments as listed on the attached page 17 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 16 - SERVICE CONNECTION WORK ORDER LIST:

Motion by Mr. Warthling seconded by Mr. O'Donnell and carried to approve Service Connection Work Order Nos. 2010-21 and 2010-22, 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.

Mrs. Vacco went on the record to thank Mr. Swiatek for his service and dedication to the Water Authority while he was here. She added that he was always extremely gracious to her, taught her the ropes, was very open and welcoming and that she hopes to do the same. She went on to say that she wanted to recognize Frank at this meeting for his dedication and that he took his position very seriously and very personally.

VIII. - ADJOURNMENT

Meeting adjourned until the next regular meeting to be held on Thursday, June 24, 2010.

Matthew J. Baudo
Secretary to the Authority/Personnel Director

PF