

MINUTES of the **MEETING** of the **ERIE COUNTY WATER AUTHORITY** held in the office, 295 Main Street, Room 350, Buffalo, New York, on the 17th day of May, 2018 as amended August 16, 2018

PRESENT: Jerome D. Schad, Chairman
 Mark S. Carney, Vice Chairman
 Karl J. Simmeth, Jr., Treasurer
 Terrence D. McCracken, Secretary to the Authority
 Robert J. Lichtenthal, Jr., Deputy Director
 Earl Jann, Executive Director
 Russell J. Stoll, Executive Engineer
 Karen A. Prendergast, Comptroller
 Daniel J. NeMoyer, Director of Human Resources
 Jacqueline Mattina, Deputy Associate Attorney
 John J. Mogavero, Chemist/Chief WTPO
 Paul J. Whittam, Director of Water Quality
 Joseph T. Burns, Deputy Administrative Director
 Anthony Alessi, Claims Representative/Risk Manager
 Steven V. D'Amico, Business Office Manager

ATTENDEES: Mike Wymer
 Gerald Summe
 Sandra Tan
 Jeff Preval, Channel 2
 David Morales, Channel 7

CALL TO ORDER

PLEDGE TO THE FLAG

I. - ROLL CALL

II. - READING OF ANNUAL MINUTES

Motion by Mr. Simmeth seconded by Mr. Carney and carried to waive the reading of the Minutes of the Annual Meeting held on Thursday, May 3, 2018.

DISCUSSION
 None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

III. - APPROVAL OF ANNUAL MINUTES

Motion by Mr. Simmeth seconded by Mr. Carney and carried to approve the Minutes of the Annual Meeting held on Thursday, May 3, 2018.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

IV. - READING OF MINUTES

Motion by Mr. Simmeth seconded by Mr. Carney and carried to waive the reading of the Minutes of the Meeting held on Thursday, May 3, 2018.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

V. - APPROVAL OF MINUTES

Motion by Mr. Simmeth seconded by Mr. Carney and carried to approve the Minutes of the Meeting held on Thursday, May 3, 2018.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

VI. - REPORTS

SECRETARY

1. RFP – Website Design

Secretary McCracken distributed a draft RFP for website development and design which was prepared based on a past RFP. The IT department has been asked to review the draft for possible additions and/or recommendations. Mr. McCracken included a list of local vendors and asked the Commissioners to let him know if they would like any other vendors added to the list. Chairman Schad asked that before the RFP comes back to the Board at our next meeting, if Mr. McCracken would check to see if the ABO has any requirements for the website just to make sure there isn't something that should be added to the RFP. Otherwise, Commissioner Schad likes the draft.

2. Hiring Process of Authority's Attorney [P.A.L. §1053(3)]

Secretary McCracken read a memo from Chairman Schad to Secretary McCracken regarding the hiring process of Authority's Attorney [P.A.L. §1053(3)]. This memo instructed the Secretary to follow a timeline of the hiring process for the new Attorney in order to comply with Policy No. 92 of the Authority's Policy and Procedures Manual.

3. ABO Report

The Secretary read a communication from the ABO as follows:
"It is our expectation that this report be reviewed and discussed by the Board and a written response be provided to the content of the report by May 24, 2018 so that we may incorporate any comments and make any necessary revisions to ensure the report is factually correct. However, please keep in mind that this document is in draft proposal which is an internal working document and it should be considered confidential and not subject to public disclosure."

The Secretary reported that the executive staff has submitted written comments and that those comments will be addressed in the Governance Committee. A motion should be made to refer the report to the Governance Committee.

Commissioner Carney reported that he received and reviewed the draft response prepared by staff. He expressed that the response not only be conciliatory in nature to the obvious insufficiencies that have been pointed out, but that we also direct that the materials which were not turned over and are still in question, be turned over. He believes we have to start to recognize the problems before we can fix them. He also recommends that the response acknowledges the deficiencies, point out changes that we are already making, and be a little more

transparent in what we turn over in response and in request. Chairman Schad concurred with the notion on the dealing with the privilege but thinks it should be done at the meeting when the final letter is prepared.

Chairman Schad motioned and Commissioner Carney seconded and carried that the matter of the ABO report be referred to the Governance Committee.

LEGAL

No Report

FISCAL

1. 2018-2019 Insurance Program Update

Deputy Director Lichtenthal distributed a memo updating the Commissioners on the insurance program. He noted that we are finishing the second year of a three year process. Chairman Schad asked if the pricing shifts each year even though we are on a contract. Mr. Lichtenthal answered yes it does move a little bit. Commissioner Carney raised the question if Lawley, as our broker, is providing quotes along with comparisons with other companies. Mr. Lichtenthal answered yes we work on them to say what do you have. We named Lawley as our Broker of Record for three years allowing them to manage that process so as not create a confusion in the market place that would significantly change the pricing. Commissioner Carney requested a copy of their review process. Patrick Quinn, Steve Powell, Dan Murray and Tony Butino from Lawley introduced themselves and asked the Board if they had any questions. The Board agreed to bring Lawley in at the first meeting in June for a discussion.

2. April 2018 Investment Report

Mr. Lichtenthal distributed the April 2018 investment report. He noted that the cash balances continue to hold and continue to have slow upticks in interest investment earnings as market rates continue to mildly increase. We are laddering our investments so as not to get locked in too short or not to get in too long.

3. Monthly Financial Report – April 2018

Steve D'Amico distributed the April 2018 Investment Report. This report includes operating revenue, investment income, operating expense and net income. Commissioner Schad noted that the operating revenue residentials seemed a little off and asked if this is a timing issue or an anomaly. Mr. D'Amico explained that this is a consistent decline in usage.

OPERATIONS

1. Update on Hydraulic Integrity

Russell Stoll distributed a memo regarding the hydraulic integrity study. The Authority issued Request for Proposals for the study. Proposals were received from four firms which are currently being reviewed by the Engineering Department staff. It is anticipated that the proposal review will be completed in the next two weeks. At that time a recommendation of the selected firm will be brought to the Board. Mr. Stoll told the Board the study could take approximately 2-6 months. The budget for this project is in the range of \$80,000-100,000 which has been approved in the budget.

Chairman Schad asked the status on the negotiations on Phase 2 for the SCADA and Customer Service/Accounting project. Mr. Jann informed the Board that EMA is coming into town next week and negotiations will be discussed. He hopes the negotiations will be wrapped up next week.

HUMAN RESOURCES

No Report

AUDIT COMMITTEE

No Report

GOVERNANCE COMMITTEE

1. Summary of 5/3/18 meeting

Schad

Commissioner Schad gave a summary of the May 3, 2108 meeting

FINANCE COMMITTEE

No Report

ETHICS BOARD

1. Summary of 5/3/18 meeting

Schad

Commissioner Schad gave a summary of the May 3, 2108 meeting

VII. - COMMUNICATIONS AND BILLS

ITEM 1 - CREATION AND/OR AMENDMENT OF MASTER PURCHASE ORDERS

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

ITEM 2 - MASTER PURCHASE ORDER RELEASES, PURCHASE ORDERS AND PURCHASE ORDER AMENDMENTS

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

VIII. - UNFINISHED BUSINESS

T-1 APPROVAL OF THE AMENDMENT TO THE PROPOSED POLICY NO. 94.0 (ITEM NO. 4 4/19/18)

Motion to refer to Governance Committee by Mr. Schad seconded by Mr. Carney

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

T-2 ADOPTION OF POLICY NO. 96.0 (ITEM NO. 15 4/19/18)

Motion to refer to Governance Committee by Mr. Schad seconded by Mr. Carney

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

T-3 AUTHORIZATION TO ACCEPT THE PROPOSAL OF _____ TO PROVIDE BOND COUNSEL SERVICES FOR THE ERIE COUNTY WATER AUTHORITY'S PROPOSED 2018 BOND OFFERING (ITEM NO. 4 5/3/18)

Motion to remove from table by Mr. Carney seconded by Mr. Simmeth

T-3 AUTHORIZATION TO ACCEPT THE PROPOSAL OF _____ TO PROVIDE BOND COUNSEL SERVICES FOR THE ERIE COUNTY WATER AUTHORITY'S PROPOSED 2018 BOND OFFERING (ITEM NO. 4 5/3/18)

Motion to accept the proposal of Philips Lytle LLP to provide bond counsel services for the Erie County Water Authority's proposed 2018 Bond Offering by Mr. Carney seconded by Mr. Simmeth

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

IX. - NEW BUSINESS**ITEM 3 - FINAL ACCEPTANCE OF PROJECT WITH DN TANKS, INC. FOR CONTRACT NO. W-22A, BALL SOUTH TANK REPLACEMENT, PROJECT NO. 201300266, CONTRACT NO. 15-15-10 - \$20,000.00**

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

Commissioner Carney verified that this resolution was the close out of a \$3.4 million contract and questioned if there was a punch list to be completed. Mike Wymer of Wendel Engineers, the consultant for this project informed the Commissioner that the punch list was completed over two years ago. This was a dispute between the contractor and subcontractor over some extra excavation that prevented us from closing the job. He assured the Commissioner that we have proof the dispute had been resolved.

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

ITEM 4 - AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH NUSSBAUMER & CLARKE, INC. TO PROVIDE CONSULTING ENGINEERING SERVICES FOR MISCELLANEOUS ELECTRICAL DESIGN SERVICES 2018-2019, IDENTIFIED AS CONTRACT NO. NC-037, PROJECT NO. 201800056 (T-4)

Motion to table by Mr. Carney seconded by Mr. Schad

DISCUSSION

Commissioner Carney pointed out that this contract indicates it is an estimated cost of \$25,000 with no cap. Russell Stoll, Executive Engineer explained that this is an “as needed service” so yes, there is no cap. The required work would be estimated and then negotiated at the time they are assigned the work.

Margaret Murphy, Associate Counsel asked the Commissioners if they have been provided with a contract which Commissioner Carney had not seen. She explained the Board should not be authorizing execution of a contract unless it has been read and any questions you have should be resolved in the contract. The Board agreed to table this item until the contract has been reviewed.

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

ITEM 5 - AUTHORIZATION TO RESCIND ITEM NO. 3 OF THE MINUTES OF THE MEETING OF THE ERIE COUNTY WATER AUTHORITY HELD ON MAY 3, 2018 RELATIVE TO THE AUTHORIZATION OF ENTERING INTO A COOPERATIVE AGREEMENT WITH THE TOWN OF CHEEKTOWAGA IN CONNECTION WITH THE RECONSTRUCTION OF WOODBINE PLACE FROM CHEROKEE DRIVE TO CLOVER PLACE AND EVERGREEN PLACE FROM WOODBINE PLACE TO CLOVER PLACE IN THE TOWN OF CHEEKTOWAGA, NEW YORK, PROJECT NO. 201700073

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

ITEM 6 - AUTHORIZATION TO SOLICIT REQUEST FOR PROPOSALS FOR PUBLIC RELATIONS SERVICES, PROJECT NO. 201800099

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

Commissioner Carney questioned if the RFP should include a cap of what the value of the contract is as the last PR contract included a cap (\$60,000). Robert Lichtenthal suggested that since this is a RFP and not a sealed bid, the Commissioners might want to see what the responses come back like and then at that time it becomes a negotiating point as you move forward with the contact. Also if there is a cap, a vendor may not include a concept or idea that the Commissioners would like included because the cap is too high. The Commissioners agreed to keep the RFP as is.

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

ITEM 7 - APPROVAL OF AMENDMENT NO. 3 OF IVR TECHNOLOGY GROUP, LLC. TO ASSIST THE ERIE COUNTY WATER AUTHORITY IN ENHANCING ITS DATA BASE OF CONTACT EMAILS, WIRELESS NUMBERS AND ANY OTHER SOCIAL MEDIA COMMUNICATION SYSTEMS DEEMED NECESSARY, IDENTIFIED AS PROJECT NO. 201600192 - \$35,000.00 (T-5)

Motion to table by Mr. Carney seconded by Mr. Schad

DISCUSSION

Commissioner Carney expressed his desire to table this item as he is not familiar with the contract and unsure of what services they provide to the Authority. He understands that it is an emergency notice system but would like more clarification from IT as to why we need this service. He would also like input from web design people and from media people. He believes it is important to make sure we are spending money wisely. Chairman Schad explained that this service came out of situation when we referred to tv stations but it was the customers who were upset and this was a way to get directly to the customer. Chairman Schad expressed that he would like to continue this service although he agrees that further discuss is needed as to how we can provide this service more efficiently.

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

**ITEM 8 - AUTHORIZATION TO AMEND THE ERIE COUNTY WATER
AUTHORITY'S ANNUAL O & M BUDGET FOR FISCAL YEAR 2018**

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

Commissioner Carney noted that we are creating a new full-time attorney position, and it has been indicated to him that by creating this position it will cut back on the Authority's use of outside counsel. He would like to make it clear that he is approving this due to the fact that this hire will significantly reduce our need for outside counsel.

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

ITEM 9 - AUTHORIZATION TO UPGRADE THE TITLE OF ATTORNEY

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

**ITEM 10 - AUTHORIZATION TO APPOINT TWO (2) NON-VOTING EX-OFFICIO
MEMBERS TO THE ECWA GOVERNANCE COMMITTEE**

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

Vice Chairman Carney reiterated that this was a wonderful suggestion at the last meeting as to expanding on who to rely upon. Chairman Schad he agrees as it will now be the Secretary to the Authority and Associate Counsel as ex-officio members of the Governance Committee.

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

ITEM 11 - SERVICE CONNECTION WORK ORDER LIST

Motion by Mr. Simmeth seconded by Mr. Carney

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

X. - ADJOURNMENT

Motion made by Mr. Simmeth, second by Mr. Carney and carried that the meeting adjourn.

DISCUSSION

None

VOTE

Ayes: Three; Commrs. Schad, Carney and Simmeth

Noes: None

Terrence D. McCracken
Secretary to the Authority

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