



# ERIE COUNTY WATER AUTHORITY

## Open Meetings Law

### Policy & Procedures for Accessing Public Meetings

#### Section 1: Public Declaration

The Erie County Water Authority (the “Authority”) pledges to the public and its customers to operate in an open and transparent manner, by inviting the public and the media to attend and listen to the deliberations, discussions, and decisions of its Board of Commissioners.

The Authority’s board and committee meetings are the public setting in which Commissioners exercise their duties. It is during these meetings that the public can best observe the Commissioners’ performance of their governance responsibilities, their exercise of management oversight, and their decision-making regarding the Authority’s finances and operations. The better informed, engaged and mission-oriented the Commissioners are, the more likely the Authority will operate consistent with its stated purpose, policies and legal obligations.

These procedures are adopted to allow the public, individually and collectively as represented by a free press, to have access to the public records and meetings of the Authority, in accordance with the provisions of Article 7 of the Public Officers Law.

#### Section 2: Definition.

(a) The “Authority” means the Erie County Water Authority, a body corporate and politic constituting a public benefit corporation of the State of New York, whose formation and powers are set forth in Public Authorities Law §§ 1050-1073.

(b) The “Board” means the Authority’s Board of Commissioners.

(c) “Board Room” means the room designated for board and committee meetings at the Ellicott Square Building, 295 Main Street, Room 350, located in the City of Buffalo.

(d) “Chair” means the Chair of the Board of Commissioners and its Committees.

(e) “Committees” include the Audit Committee, the Ethics Committee, Finance Committee, Governance Committee and such other committee(s) as created and appointed by the Board.

(f) “ECWA Website” means the website controlled and maintained by the Authority at <https://ecwa.org/>

(g) “Executive Session” means that portion of a meeting not open to the public and authorized by a majority vote of the Board or Committee pursuant to a motion identifying one of the enumerated purposes set forth in Public Officers Law § 105.

(h) “Meeting” means the official convening of the Board or its Committees for the purpose of conducting public business.

(i) “Secretary” means the Secretary of the Authority.

(j) “Special Meeting” means a meeting called pursuant to Article I, § 3 of the Authority’s By-Laws.

### **Section 3: Purpose and Scope.**

These procedures govern access to the public records and meetings of the Authority, in accordance with the provisions of Article 7 of the Public Officers Law. These procedures should be read together with Article 7 of the Public Officers Law, which provides additional information about access to records and meetings and when a meeting may be closed to the public and held in executive session. Any conflict governing the access to meetings and records will be construed in favor of the broader access to such meetings and records.

### **Section 4: Open Meeting**

(a) Every Meeting of the Board or its Committees shall be open to the public and media, except those portions of a Meeting lawfully convened in Executive Session, pursuant to Public Officers Law § 105.

(b) Meetings of the Board and its Committees will be held in the Board Room. The Board is also authorized to conduct Meetings at an appropriate facility, adequate to accommodate the members of the public and media and which permits barrier-free physical access to the physically handicapped.

(c) Commissioners may, from time-to-time, appear at such Meetings through audio or video-conferencing. No Commissioner may participate in any audio or video transmission unless the public and media are able to hear or observe the transmission. A Commissioner, whose appearance is made through audio or video-conferencing, may be noted in the minutes as being present for purposes of a quorum, only if the public and media are able to hear such Commissioner whose

appearance is made by an audio or video transmission.

## **Section 5: Meeting Notices**

(a) A public notice will be prepared for each Board and Committee Meeting. The notice shall contain the date, time and location of the Meeting, as well as the name of a contact person to whom questions may be directed about the Meeting.

(b) Notices shall be electronically sent to the following media outlet at least one week prior to the Meeting:

[news@wkbw.com](mailto:news@wkbw.com)  
[newsroom@wivb.com](mailto:newsroom@wivb.com)  
[wgrz-newsroom@wgrz.com](mailto:wgrz-newsroom@wgrz.com)  
[citydesk@buffnews.com](mailto:citydesk@buffnews.com)

The Secretary has the discretion to add the email addresses of specific reporters who regularly attend or cover the business of the Authority.

(c) Notices shall also be conspicuously posted near the public entrances to Room 350 at the Ellicott Square Building and the Union Road Service Center, 3030 Union Road, Cheektowaga, New York.

(d) Except for Special Meetings, all notices should be electronically sent and conspicuously posted one-week prior to the meeting.

(e) Individuals who wish to receive [email notices of all Board and Committee Meetings and postings](#) may sign up on the ECWA Website. Notices will be electronically sent to these individuals at least 72-hours prior to the Meeting.

(f) The [ECWA Website Homepage](#) will also post the date and time of the next scheduled Board and/or Committee Meeting(s).

(g) Notices of Special Meetings shall be electronically sent and conspicuously posted immediately.

(h) Once Board and Committee Meetings are streamed live over the Internet, the notice shall inform the public of the Internet address of the website streaming such Meeting.

(i) The EWCA Website should also post a [Schedule of Upcoming Board and Committee Meetings](#).

## **Section 6: Agenda and Meeting Materials**

(a) The agenda is a key document for every Meeting since it identifies the matters and issues that are before the Board or Committee for review, discussion or action. Common items to include in the agenda are roll call, approval of the minutes from the previous meeting, reports, old business and new business (including resolutions presented for approval) and adjournment.

(b) Any item to be placed on the agenda for a Board or Committee Meeting must be given to the Secretary by Noon six business days before the Meeting.

(c) Items to be submitted may include the following: management and committee reports, communications and bills, resolutions with associated documentation, and any other business requiring Board approval or a Committee recommendation. If such items are placed on the Board or Committee agenda, such agenda items will be distributed to the Board and/or Committee members at least one week prior to the meeting. Board and Committee materials will also be posted on the ECWA Website five business days before the Meeting.

(d) All resolutions require a “blue sheet.” When an item requires a “blue sheet” to be signed by the Secretary, it must contain all the required signatures and must be submitted to the Secretary by Noon, six business days before the Meeting. If the blue sheet is not received by Noon, the item will be held for the next Meeting.

(e) Pursuant to Article III, § 2 of the By-Laws, the Chair shall review the items submitted for the Meeting and shall determine the items to be placed on the agenda.

## **Section 7: Meeting Minutes**

(a) Minutes are the official record of a Board or Committee Meeting. They contain information about all the action taken during a Board or Committee Meeting, and can be considered legal evidence of the facts they report. For this reason, it is important that the minutes be recorded in a way that clearly and accurately reflects all the business transacted during a Meeting.

(b) Meeting minutes should contain the following information:

- i. the Authority’s name and the meeting type (i.e. annual, regular, or special board meeting or meeting of a specific committee);
- ii. the date and time of the meeting;
- iii. Members in attendance, excused or absent (including departures and reentries into a meeting);
- iv. Staff and guests in attendance;

- v. Existence of a quorum;
- vi. Motions made and seconded and by whom;
- vii. Brief objective account of any debate;
- viii. Existence of conflicts of interest and how they were resolved;
- ix. Voting results with names of abstainers and dissenters
- x. Resolutions adopted
- xi. Future action steps;
- xii. Time meeting ends; and
- xiii. Signature of Secretary.

(c) Draft Meeting minutes shall be distributed to members of the Board or the Committee at least five business days in advance of review and approval.

(d) Meeting minutes should be made available to the public within two weeks of the Meeting. Minutes should be marked “draft” and made available to the public even if they have not been approved in the two weeks after the Meeting.

(e) [Meeting minutes must be posted](#) on the ECWA Website and shall remain on the ECWA Website for at least two years.

(f) Official Meetings shall be kept as a permanent record in the Authority’s Minute Books.

### **Section 8: Executive Session**

(a) The Board or one of its Committees may conduct a portion of its Meeting in Executive Session, upon the majority vote of the Board or the Committee taken during an open session pursuant to a motion identifying one of the enumerated purposes set forth in Public Officers Law § 105, as listed below:

- (1) Matters which will imperil the public safety if disclosed;
- (2) Any matter which may disclose the identity of a law enforcement agent or informer;
- (3) Information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- (4) Discussions regarding proposed, pending or current litigation;
- (5) Collective negotiations pursuant to Article 14 of the Civil Service Law;
- (6) The medical, financial, credit or employment history of a particular

person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particulate person or corporation;

- (7) The preparation, grading or administration of examinations; and
- (8) The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by the Authority, but only when publicity would substantially affect the value thereof.

(b) In the agenda for the Meeting, the Chair should give notice to other Board or Committee members, as well as the public, if a motion will be made to move into Executive Session. If such motion is not listed on the agenda, then a motion to move into Executive Session must have unanimous support of the members of the Board or Committee.

(c) Before the Board or Committee recesses the open session of the Meeting to enter into Executive Session, a motion must be made and seconded with sufficient details as to the enumerated purpose requiring the matter to be held in Executive Session. If the motion is carried, the Chair will designate, during the open session, the individuals invited to participate in the Executive Session in addition to members of the Board or Committee. These names are to be recorded in the minutes. The minutes of the open session must reflect the time the Board or Committee enter and exited the Executive Session.

(d) The Chair has the duty to ensure that only the matter(s) identified in the motion will be discussed during the Executive Session.

(e) No motions or formal votes may be taken in Executive Session.

(f) Attendance at the Executive Session shall be limited to the members of the Board or the Committee, and any other persons authorized by the Board or Committee, who have been identified on the record in the open session prior to convening the Executive Session.

## **Section 9: Recording and Broadcasting of Meetings.**

(a) The Authority:

- i. [Audio recordings](#) of the Board and Committee Meetings shall be posted on the ECWA Website and shall remain on the ECWA Website for at least two years.

- ii. Effective \_\_\_, 2019, the Authority will stream live all Board and Committee Meetings on the Internet. All audio and visual transmissions will be archived and made available on the ECWA Website for a two-year period.

(b) The Public and the Media:

- i. Any Meeting open to the public may be photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means by any member of the public or the media.
- ii. Operation of equipment to photograph, record or broadcast a Meeting is permitted unless it is obtrusive, disruptive, or interferes with the deliberative process or the right of persons in attendance to observe or listen to the proceedings.
- iii. Use of equipment necessary to photograph, record or broadcast is permitted without notice to or express permission from the Authority or those in attendance at the meeting.
- iv. Use of special lighting or large equipment necessary to photograph, record or broadcast a meeting is permitted unless it is obtrusive or disruptive.
- v. Personnel who operate equipment necessary to photograph, record and/or broadcast a meeting shall be permitted to move about the room, as long as such movement does not disrupt or interfere with the deliberative process.
- vi. Use of equipment necessary to photograph, record and/or broadcast a meeting shall not be limited to a location from which such equipment is not reasonably capable of photographing, recording and/or broadcasting.
- vii. Persons operating equipment necessary to photograph, record and/or broadcast shall be given a reasonable opportunity to modify their actions in order to avoid interference with the deliberative process.

(c) There is no privacy interest in statements made during the open session of a Board or Committee Meeting. Distaste or embarrassment shall not constitute a basis for prohibiting or limiting the photographing, recording or broadcasting of those present at a Meeting.

## **Section 9: Conflicts of Interest**

(a) A conflict of interest is a situation in which the personal interest of a Commissioner comes into actual, potential or perceived conflict with his/her fiduciary or public responsibilities as a board member. Commissioners should always serve the interests of the Authority above their own personal interests when conducting public business.

(b) Commissioners are required to disclose any actual, potential or perceived conflict involving any item or matter coming before the Board or Committee for approval. When an actual or potential conflict exists, the Commissioner should recuse himself or herself from any discussion or voting on such item or matter.

## **Section 10: FOIL Appeals**

Any appeal to the Board pursuant to the Authority's Policy & Procedures for Accessing Public Records and the New York State Freedom of Information Law is considered a quasi-judicial proceeding pursuant Public Officers Law § 108 (1) and is not subject to the provisions of the Open Meetings Law.

## **Section 11: Severability**

If any provision of the Policy & Procedures for Accessing Public Meetings ("Policy and Procedures") or its application to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the Policy & Procedures or its application to other persons and circumstances.