



SARATOGA COUNTY WATER AUTHORITY

JOHN E. LAWLER, CHAIRMAN
ED HERNANDEZ, EXECUTIVE DIRECTOR

260 BUTLER ROAD, GANSEVOORT, NY 12831
TELEPHONE: (518) 761-2058
FACSIMILE: (518) 792-4942
www.saratogacountywaterauthority.com

THOMAS K. CUMM
ANITA M. DALY
ARTHUR J. JOHNSON
KEVIN T. KING
JAMES M. SMITH
PATRICK S. ZIEGLER

SARATOGA COUNTY WATER AUTHORITY BOARD OF DIRECTORS OFFICIAL MEETING MINUTES FRIDAY, FEBRUARY 27, 2015 @ 2:30 P.M.

PRESENT: Supervisor Anita Daly, Kevin King, Treasurer, Supervisor Art Johnson, Thomas K. Cumm, James M. Smith, SCWA Board Members; Executive Director Ed Hernandez; SCWA Special Counsel Leah Everhart, Esq. of Miller, Mannix, Schachner & Hafner. **Absent:** Chairman Jack Lawler, Supervisor Patrick Ziegler.

Vice Chair Anita Daly called the regular meeting to order at 2:30 p.m. and welcomed all in attendance. Vice Chairman Daly reiterated that all Board members should make an effort to confirm their attendance at the monthly meetings with the Secretary in an effort to ensure that a quorum is met. This request was the result of the prior day's meeting being cancelled due to lack of communication from some members of their absence.

Motion was made by Mr. Cumm and seconded by Supervisor Johnson to adopt the draft minutes of the January 22, 2015 meeting as the official minutes of that meeting. Motion passed unanimously.

(As is the practice of the Board, the Board waived a reading of the draft minutes and the adopted minutes including the long form resolutions that were passed at said meeting and the Board waived the reading of the long form resolutions.)

Reports:

Production: Ed Hernandez, Executive Director, reported that water production for the month of January 2015 was 5.6 MGD. Rolling annual average was 4.3 MGD for the period February 2014 through January 2015. Mr. Hernandez noted this was the highest consumption on average to date.

Financial Report: Mr. Hernandez reported that budgeted revenues were \$388,000 and the actual was \$269,000. Mr. Hernandez stated that revenues would be under budget until first quarter invoices went out. Operating expenses were budgeted at \$159,000 and actual operating expenses were at \$67,000 through January 31, 2015. Mr. Hernandez stated that the anticipated Service Fee Request of \$250,000 was received and the first 2008 Bond interest payment was on schedule for March 1st. Mr. Hernandez then discussed the Capital Projects Financial Report. The Capital Project expenses to date are \$1.93 mil.

Construction Report: Mr. Hernandez stated that things were moving along slowly but that things were anticipated to move forward more rapidly in March and April.

Legal Update:

Ms. Everhart discussed that Attorney Schachner was meeting with the Saratoga County IDA on March 9th and was hopeful that an Agreement would be ready for the next meeting in March. She indicated that the memo that had been distributed to Board members as an attorney-client confidential communication was open for questions. Vice Chair Daly expressed that because of the sensitive nature of some of the topics she would prefer that Board members hold their questions, if any, and the Board would address those in Executive Session. At this time, Ms. Everhart presented a long form Resolution to Authorize the Authority to enter into a Lease/Leaseback Agreement with the Saratoga County IDA for purposes of funding the SCWA Outfall Project. Mr. King reviewed the financial terms that were previously agreed upon. Resolution is as follows:

**RESOLUTION # 2015-_____ AUTHORIZING THE SARATOGA COUNTY WATER AUTHORITY
TO LEASE CERTAIN LAND TO AND CONTRACT WITH THE COUNTY OF SARATOGA
INDUSTRIAL DEVELOPMENT AGENCY TO FACILITATE CONSTRUCTION OF THE
AUTHORITY'S OUTFALL PROJECT**

WHEREAS, the Authority was created by act of the State Legislature for the purpose of providing potable water within Saratoga County; and

WHEREAS, the Authority is specifically authorized to acquire, hold, use and sell any real property or facilities which the Authority deems necessary, convenient or desirable to help carry out its purpose; and

WHEREAS, the Authority is further authorized to enter into contracts and to borrow and expend any money necessary, convenient or desirable to help carry out its purpose; and

WHEREAS, the Authority owns and operates the Saratoga County Water Treatment and Transmission Facilities Project (Project) which includes raw water intake and pump station facilities in the Upper Hudson River, a water treatment plant in the Town of Moreau, transmission main from the Town of Moreau to the Town of Stillwater and a water storage tank in the Town of Stillwater; and

WHEREAS, the Authority wishes to improve system efficiency of the Project and to improve water quality by installing a pipeline from the existing water treatment plant on Butler Road in the Town of Moreau to an outfall in the Upper Hudson River downstream of an existing dam; and

WHEREAS, such improvements will require acquisition of one or more easements over certain parcels(s) of land located in Saratoga County (the Land), construction on the Land of an Outfall Structure and diffuser system (the Facility) and the acquisition and installation of various machinery and equipment (the Equipment) all ultimately to be owned and operated by the Authority as the Outfall Project; and

WHEREAS, the Outfall Project will serve to sustain the potability of water produced by the Authority's Project and will have other related benefits to the community's health, prosperity and economic well-being; and

WHEREAS, the Authority seeks financing support from the County of Saratoga Industrial Development Agency (SIDA) to effectuate this goal; and

WHEREAS, such support will include a lease from the Authority to SIDA concerning certain lands owned by the Authority; a bill of sale evidencing conveyance from the Authority to SIDA of all facilities currently

located/installed on that land and such facilities to be located/installed there in the future and a certain Installment Sale Agreement between SIDA and the Authority; and

WHEREAS, pursuant to the terms of the Installment Sale Agreement, the Authority agrees to cause the Project to be undertaken and completed, to undertake and complete the Project, to purchase the Project Facility from SIDA upon completion or substantial completion and to make certain installment purchase payments to or upon the order of SIDA as the purchase price for the Project Facility; and

WHEREAS, in return, SIDA agrees to undertake the Project and appoint the Authority as its agent for purposes of doing so, to make the necessary investment and to sell the Project Facility to the Authority upon project completion; and

WHEREAS, as a part of this arrangement, SIDA and the Authority may also enter into an Escrow Agreement whereby SIDA would deposit funds into an account held by a third-party Escrow Agent agreeable to both SIDA and the Authority and the Escrow Agent would then disburse funds from time to time to pay the costs associated with the construction set forth in this Resolution upon the satisfaction of the requirements for making such disbursements as would be set forth in the Escrow Agreement; and

WHEREAS, the Authority's obligation under these agreements will be secured by a Guaranty that will be executed on behalf of the Authority for the benefit of SIDA; and

WHEREAS, the construction contemplated in this Resolution is part of a larger "Action" as that term is defined by the State Environmental Quality Review Act (SEQRA) and, pursuant to SEQRA, in 2006 the Action was identified as a Type I Action and the requisite SEQRA review was conducted which resulted in adoption of a SEQRA Findings Statement; and

WHEREAS, in 2014 the Authority, as SEQRA Lead Agency, found that the proposed upgrades to the Project are relatively minor, that they are not anticipated to result in any new or different environmental impacts than those previously considered during SEQRA review and that no further SEQRA review is necessary; and

WHEREAS, the requirements of SEQRA have thus been met.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. By virtue of the Authority's enabling legislation, the Authority has been vested with all powers necessary and convenient to carry out and effectuate the purpose and intent of this Resolution; and
2. The Authority finds it to be necessary and convenient to lease to SIDA certain property owned by it and to further undertake certain improvements on such property as agent for SIDA and to thereafter acquire the project facilities upon completion of project development;
3. The Authority hereby authorizes, ratifies and affirms
 - a. Execution of a lease agreement in favor of SIDA on terms acceptable to the Authority and in form acceptable to Authority Legal Counsel; and
 - b. Issuance of a bill of sale for all current and future facilities located on such land in form acceptable to Authority Legal Counsel which will remain effective until the Authority acquires all rights in and to the land and facilities from SIDA; and
 - c. All actions necessary and convenient to facilitate project construction and to act as agent for SIDA for such purposes; and

- d. Upon completion of the project, acquisition of such facilities from SIDA and payment for such interests in an amount not to exceed \$1,600,000.
- 4. The Authority Chairman is hereby authorized to execute any and all documents referenced in this Resolution including the Installment Sale Agreement, Lease Agreement, Guaranty and Escrow Agreement and any other documents necessary and incidental thereto upon review and approval by Authority Legal Counsel.
- 5. The Authority Executive Director and Authority Legal Counsel are hereby authorized and directed to take all steps deemed necessary to effectuate the terms of this Resolution and, upon execution, the terms of the Installment Sale Agreement, Lease Agreement, Guaranty and Escrow Agreement and any other documents necessary and incidental thereto.

The question of the adoption of this Resolution was duly put to a vote on roll call which resulted as follows:

AYES: Cumm, Daly, Johnson, King, Smith
NAYS: None
ABSENT: Lawler, Ziegler
ABSTAIN: None

The Resolution was declared duly adopted on February 27, 2015.

State of New York)
)
 County of Saratoga)

I, Carol Alden, Secretary of the Saratoga County Water Authority, do hereby certify that the foregoing is a true copy, and the whole thereof, of a Resolution duly adopted by the Saratoga County Water Authority on the 27th day of February, 2015.

IN WITNESS WHEREOF, I have hereunto subscribed my name and signed this certificate this 27th day of February, 2015.

Carol A. Alden
 Sec. of the Saratoga County Water Authority

Motion was made by Mr. King and seconded by Mr. Smith to approve the payment abstracts for February at a total cost of \$88,664.72 in operating costs and \$347,478.90 for DBP Project costs. Mr. King stated that the Tech II Business Services payment would be reduced. All other expenses were routine in nature. He also noted that there was one outstanding payment to Bond Counsel that was being reviewed with them. **Motion passed unanimously.**

Mr. King then discussed that the Finance Committee met prior to this meeting and reviewed the 2014 Investment Report. The Committee approved the report and recommended that the Board approve and accept for submission to PARIS. Mr. King then discussed the investments in the Debt Service Reserve Fund. He noted that interest rates were very low and that the recommendation of Environmental Capital was to keep the funds in the Treasury Reserve until interest rates rose. The Finance Committee recommended that \$500,000 be invested in a 5 year Treasury note and leave the remainder in the Treasury Reserve. **Motion was made to invest the \$500,000 at this time by Supervisor Johnson and seconded by Mr. Cumm. Motion passed unanimously.**

The next agenda item was to adopt the proposed Continuing Disclosure Policy. Ms. Everhart requested that the matter be tabled for some minor revisions.

Next agenda item was a revision to the SCWA Cross Connection Rules and Regulations. Mr. Cumm requested that this item be discussed in Executive Session due to attorney-client privileged information.

The March meeting of the SCWA Board of Directors was scheduled for March 26, 2015 at 2:30 p.m. Prior to that meeting the Audit Committee will meet at 2:00 p.m. Members of the Audit Committee are Cumm, Daly, and Johnson. There will also be a Governance Committee meeting at 2:25 p.m. Members of the Governance Committee are King, Lawler and Smith. Supervisor Johnson and Kevin King indicated they would not be able to attend the next meeting.

At 2:55 p.m., Mr. Cumm made a motion to adjourn to Executive Session for attorney-client privileged communications. Motion was seconded by Mr. Smith. Unanimous.

At 3:05 p.m. Mr. Cumm made a motion to return to open session. Supervisor Johnson seconded that motion. Unanimous.

At this time, a motion was made by Supervisor Johnson to accept the addition of language under Section 1, §1.3, as follows:

“1.3 No cross-connection to or from the Authority’s potable water system or to or from any private water system connected to the Authority’s potable water system shall be undertaken without the express written approval of the Authority. Any such cross-connection shall require submission of detailed plans and specifications to the Executive Director and no approval shall be issued until and unless the Executive Director shall have made favorable recommendation for approval to the Authority and the Authority has approved such cross-connection.”

Motion was seconded by Mr. King. Motion approved unanimously.

At 3:15 p.m. Motion to adjourn was made by Mr. Smith and seconded by Supervisor Johnson. Motion passed and meeting was adjourned.

Respectfully Submitted,

Carol A. Alden, Confidential Secretary