

**BUFFALO WATER BOARD MINUTES**  
**December 8, 2021**

**MEMBERS PRESENT:**

**Oluwole A. McFoy**  
**Gerald Kelly**  
**Jessica Brown**  
**William Sunderlin**

**OTHERS PRESENT:**

**Peter Merlo**  
**Jack McMahon**  
**Stephen Waldvogel**  
**Damond Sykes**  
**Dustin Steiner**  
**Charlie Martorana**  
**David Hill**  
**Lisa Foti**  
**William Ferguson**  
**Samantha Podlas**  
**Bill Jackson**  
**Michael Ramos**  
**Greg Keyser**  
**Doug Fultz**  
**Kelly Leeb**  
**Ryan Stoltz**  
**Barbara Miller-Williams**  
**Fouad Arab**  
**Malcolm Ertha**

The regular monthly meeting of the Buffalo Water Board was called to order at 8:00 a.m.

1. Motion by Ms. Brown, seconded by Mr. Sunderlin to approve the agenda. Approved.
2. Motion by Mr. Sunderlin, seconded by Ms. Brown to approve the minutes from the November 10, 2021 meeting. Approved.
3. Motion by Ms. Brown, seconded by Mr. Sunderlin to approve the tentative Buffalo Water Board 2022 meeting schedule. Approved.
4. Mr. Kelly inquired about Federal Funding for Buffalo Water Board Lead Pipe removal efforts. Chairman McFoy reported the Buffalo Water Board is actively seeking grants and loans from programs that New York State manages through the Environmental Facilities Corporation Revolving Loan Programs that manages distribution of Federal Funding throughout New York State.
5. Staff Update: Mr. Hill with Veolia Water provided a staffing update to the Buffalo Water Board.
6. Motion by Ms. Brown, seconded by Mr. Sunderlin to approve a Resolution Regarding American Rescue Plan Financial Assistance and Customer Assistance with Continuation of Water Services During Covid-19 Pandemic, Waiver of Certain Water-Related Charges, Interest and Fees. Approved. (See copy attached)
7. The Buffalo Water Board Rate Consultant, Ms. Foti, and the Bond Counsel, Mr. Jackson provided an update to the Buffalo Water Board on the status of the Buffalo Municipal Water Finance Authority's plan to issue Bonds and Refund of certain existing debt, currently scheduled to be completed December 30, 2021.

8. Mr. McFoy reported that the Buffalo Water Board and City of Buffalo conducted a public hearing concerning the proposed Amendment to the Financing Agreement with the updated Capital Improvement Plan on December 6, 2021. The purpose of the public hearing was to afford the public an opportunity to comment on the proposal. Thereafter, Ms. Brown, seconded by Mr. Sunderlin made a motion to adopt the Amendment to the Financing Agreement with the updated Capital Improvement Plan, which was also approved by the Buffalo Municipal Water Finance Authority on December 6, 2021. Approved.
9. Mr. Waldvogel and Mr. Steiner of GHD Consulting Services, Inc. delivered a report of GHD's on-going professional services to assist the Buffalo Water Board on a number of projects, including: GHD is collaborating with Veolia Water and 120 Water with regard to replacing Lead Based water services; and working to complete the flood protection data model. GHD has been working with the SUNY at Buffalo preparing for harvesting lead pipes for the pipe loop work but have been experiencing delays in delivery of materials needed for the project.

GHD is also continuing to provide engineering and oversight services at Colonel Ward Treatment Facility, for among other matters, the sodium hypochloride system design, the electrical design at the plant, continued work on the Pipe Loop Project, working on outfalls at the facility, and the design of flood protection berm structures as part of the flood protection model analyses.

10. Mr. Hill of Veolia Water presented Veolia Water's monthly management report with the Buffalo Water Board. Mr. Hill noted that revenue receipts for the past month were slightly higher than budget projections, continuing the same trend for the first five month period this year as this time last year. He reported that residential customers continue to enroll in the Affordability Program, Amnesty Program and ROLL Program. Mr. Hill reported that the Emergency Response Plan was recently updated and that work on the outfalls continues with GHD and the United States Army Corps of Engineers. Contingency Plan development is nearing completion for remote operation of the Massachusetts Avenue Pumping Station, and Veolia Water continues to work with 120 Water to devise a plan to follow the new Lead and Copper Rules for the continued protection of Buffalo Water customers.

Motion by Ms. Brown, seconded by Mr. Sunderlin to adjourn at 8:44 A.M. Approved.

Next meeting, Wednesday, January 5, 2022 at 8:00 A.M. This meeting will be held in the Colonel Ward Water Treatment Facility Administration Building Conference Room located at 2 Porter Avenue, Buffalo, NY 14201, or by virtual conference call, as authorized by law.

**RESOLUTION OF THE BUFFALO WATER BOARD FOR COMPLIANCE WITH THE PAAA SCHEDULE OF BOARD MEETINGS FOR CALENDAR YEAR 2022**

WHEREAS: The suggested schedule for the calendar year 2022 be approved as follows:

**2022**

January 5	July 13 (Annual Meeting)
February 9	August 10
March 2	September 7
April 13	October 5
May 11	November 2
June 15	December 7

*\*Tentative dates*

All meetings are scheduled for 8:00 AM at the Col. Ward Pumping Station. Due to the Coronavirus Pandemic, tentatively, all meetings are held via conference call with the call in telephone number posted in the agenda on the Buffalo Water web site.

NOW THEREFORE  
BE IT RESOLVED:

That the Buffalo Water Board hereby approves the above Schedule of Board Meetings for the calendar year 2022.

MOTION TO \_\_\_\_\_ Approve \_\_\_\_\_

MADE BY: \_\_\_\_\_ Ms. Brown \_\_\_\_\_

2<sup>nd</sup> BY: \_\_\_\_\_ Mr. Sunderlin \_\_\_\_\_

AYES \_\_\_\_\_ 4 \_\_\_\_\_ NOES \_\_\_\_\_ 0 \_\_\_\_\_

Board Meeting of December 8, 2021

**BUFFALO WATER BOARD RESOLUTION REGARDING  
AMERICAN RESCUE PLAN FINANCIAL ASSISTANCE  
AND CUSTOMER ASSISTANCE WITH CONTINUATION  
OF WATER SERVICES DURING COVID-19 PANDEMIC,  
WAIVER OF CERTAIN WATER-RELATED CHARGES,  
INTEREST AND FEES**

WHEREAS, on March 15, 2020, Byron W. Brown, Mayor of the City of Buffalo, declared a State of Emergency for the entire City of Buffalo in coordination with Andrew M. Cuomo, Governor of the State of New York's, declaration of a State of Emergency for the entire State of New York (the "State"), effective March 7, 2020, in response to the COVID-19 Pandemic; and

WHEREAS, the Buffalo Water Board ("Buffalo Water"), by prior resolutions adopted on July 8, 2020, November 12, 2020, January 20, 2021 and July 21, 2021 established and extended moratoria on terminations and disconnections of residential water customers, non-residential customers whose account services residential premises and certain eligible small business customers during the COVID-19 Pandemic, determined to restore water services and grant waivers of interest, late fees, penalties and certain service charges for residential customers, non-residential customers whose account services residential premises and certain eligible small business customers adversely affected by changes in financial circumstances due to the COVID-19 Pandemic through December 21, 2021; and

WHEREAS, the State Public Service Law sections 32 and 89-1, applicable to Buffalo Water, requires, among other things, that no residential customers, non-residential customers whose account services residential premises and certain eligible small business customers will have water service terminated or disconnected for non-payment of an overdue charge or have any lien on real property sold or enforced, occurring from the period of time after the state of emergency is lifted or expired or after December 31, 2021, whichever date is earlier, until July 1, 2022, unless various conditions are met; and

WHEREAS, Buffalo Water, in collaboration with the City of Buffalo, finds that adverse health and financial consequences related to the COVID-19 Pandemic continue to exacerbate economic challenges faced by many persons served by Buffalo Water; and

WHEREAS, Buffalo Water, in collaboration with the City of Buffalo, is committed to developing and implementing equitable solutions to address the needs of the people of the City of Buffalo and the equitable provision of its essential services and to its role in protecting public health; and

WHEREAS, Buffalo Water, as part of such implementation, in addition to complying with the requirements of the State Public Service Law sections 32 and 89-1, will apply financial resources made available by the City of Buffalo through the American Rescue Plan and will provide protection against disconnection, will restore water service and grant financial assistance to low income customers eligible under the American Rescue Plan's Emergency Rental Assistance Program and the Homeowner Assistance Fund, respectively, who are in arrears for unpaid water charges and interest, late fees, penalties and service charges as provided in this Resolution.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Buffalo Water, in collaboration with the City of Buffalo, will continue to use financial assistance funding provided from the American Rescue Plan and City of Buffalo to pay water charges and any interest, late fees, penalties, meter replacement fees and/or burst meter charges, turn-on and turn-off fees otherwise imposed on accounts, that are either two quarters or \$300.00 in arrears for low income residential service customers, who qualify for eligibility under the American Rescue Plan's Emergency Rental Assistance Program and the Homeowner Assistance Fund, respectively. Buffalo Water may require customers to submit an application, records or other information demonstrating eligibility as a low income customer and will identify, communicate and conduct affirmative outreach to contact eligible low income residential customers and assist, as necessary or appropriate, to obtain an application or other information demonstrating eligibility as a low income customer. The benefits provided in this Resolution section number one shall be in addition to the benefits described in this Resolution, and will continue in effect for the duration of the funding available by the American Rescue Plan and City of Buffalo.
  
2. No residential customer, non-residential customer whose account services residential premises and certain eligible small business customers will have water services terminated or disconnected for non-payment of an overdue charge or have any lien on real property sold or enforced, pursuant to State Public Service Law sections 32 and 89-1, occurring between December 21, 2021, one hundred eighty (180) days from the day when the COVID-19 State of Emergency was lifted, and July 1, 2022, unless at least thirty (30) days prior to the disconnection or lien action, notice of intention to do so together with a notice of the right to self-certify to a change in financial circumstances due to the COVID-19 Pandemic or enter into a Deferred Payment Agreement ("DPA") is issued to such customer.
  
3. Any residential customers, non-residential customers whose account services residential premises and certain eligible small business customers who: (a) certify that they have experienced "a change in financial circumstances due to the COVID-19 state of emergency which began on March 7, 2020," and (b) enter into or restructure a Deferred Payment Agreement with Buffalo Water until July 1, 2022 will not be obligated to pay interest, late fees, penalties, meter replacement fees and/or burst meter charges, turn-on and turn-off fees as part of the DPA. This provision does not apply to and excludes any charges for water use or principal charges for provision or consumption of water, and also excludes any other fees or charges otherwise required by the Buffalo Water Board Schedule of Water Rates, Fees and Charges set forth in 21 N.Y.C.R.R. Part 10085 *et seq.* 3. Any residential customers, non-residential customers whose account services residential premises and certain eligible small business customers who do not certify that they have experienced a change in changes in financial circumstances due to the COVID-19 Pandemic and do not enter into or restructure a DPA with Buffalo Water will be obligated to pay interest, late fees, penalties, meter replacement fees and/or burst meter changers, turn- on and turn-off fees.

4. Eligible small business customers as used in this Resolution consist of a small business with twenty-five or fewer employees that is not (a) a publicly held company, or a subsidiary thereof, (b) seasonal, short-term, or temporary customer, (c) high energy customer as defined by the State Public Service Commission, or (d) a customer that Buffalo Water can demonstrate has resources to pay outstanding water charges, interest and fees, provided that Buffalo Water notifies the small business customer of its reasons and of the customer's right to contest this determination through the Public Service Commission's complaint procedures.
5. Buffalo Water will make reasonable efforts to identify, communicate and conduct affirmative outreach to contact customers who are in arrears in payment of their water charges. When a residential customer, non-residential customer whose account services residential premises or certain eligible small business owner has filed a self-certification of change in financial circumstances, Buffalo Water will record the certification in its records and will offer to negotiate a DPA or restructure an existing DPA with the residential customer, non-residential customer whose account services residential premises or certain eligible small business owner, after the completion of a financial disclosure statement and delivery of any requested supporting documentation.
6. Qualifying customers may enter into or renegotiate a DPA without the requirement of a down payment, with reasonable installment payments and will not be subject to payment of late fees, penalties, and interest for arrearages incurred during the time the customer is a party to a DPA.
7. When a qualifying customer has a DPA, Buffalo Water will not terminate or discontinue water services, nor enforce any lien for unpaid arrears, regardless of any payment default or restructure the DPA, until July 1, 2022, or the expiration of the applicable period of this Resolution. Except for eligible low income residential customers described in Resolution section number one, the moratorium on terminations and availability of DPAs is a grace period to assist eligible customers to pay their bills and obtain financial assistance, and any unpaid balance of water charges, late fees, penalties, and interest or other charges or arrears otherwise imposed by Buffalo Water Board Schedule of Rates, Fees and Charges, set forth in 21 N.Y.C.R.R Part 10085 et seq., will be due and payable as of after July 1, 2022.
8. Any dispute about whether a small business customer is eligible for the statutory protections mandated by Public Service Law sections 32 and 89-1 may be resolved through the Public Service Commission's consumer complaint process. Buffalo Water shall have the burden to demonstrate that the small business is not eligible for the moratorium protections and has the resources to pay its outstanding water charges.
9. Buffalo Water will not require any eligible residential customer, non-residential customer whose account services residential premises or certain eligible small business customer to apply for or to receive assistance from the Home Energy Assistance Program (HEAP), COVID Emergency Rental Assistance Program (ERAP), Emergency Broadband Benefit

9. Buffalo Water will not require any eligible residential customer, non-residential customer whose account services residential premises or certain eligible small business customer to apply for or to receive assistance from the Home Energy Assistance Program (HEAP), COVID Emergency Rental Assistance Program (ERAP), Emergency Broadband Benefit Program (EBB) or any other federal or state assistance program as a condition precedent for eligibility for protection from termination or disconnection. Buffalo Water, however, will encourage eligible customers to apply for such assistance.
10. Buffalo Water will provide each water customer with overdue water charges with a notice or fact sheet of customer rights with each invoice and post it on its website.

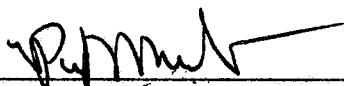
STATE OF NEW YORK     )  
   ) SS.:  
 COUNTY OF ERIE         )

I, the undersigned Secretary of the Buffalo Water Board (the "Board"), DO HEREBY CERTIFY that I have compared the annexed extract of the minutes of the meeting of the Board, including the resolution contained therein, held the 8<sup>th</sup> day of December, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Board and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of said Board had due notice of said meeting, (B) said meeting was duly held, (C) pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and public notice of the time and place of said meeting was duly given in accordance with such Article 7, (D) there was a quorum of the members of the Board present throughout said meeting, and (E) the said resolution was offered by Jessica Brown, and seconded by William L. Sunderlin, and was adopted by unanimous vote of the Buffalo Water Board.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand this 8<sup>th</sup> day of December, 2021.

  
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 Peter J. Merlo, P.E., Secretary  
 Buffalo Water Board