

BUFFALO WATER BOARD MINUTES
July 13, 2022

MEMBERS PRESENT:

Oluwole A. McFoy
Gerald E. Kelly
Jessica R. Brown
William L. Sunderlin

OTHERS PRESENT:

Charlie Martorana
Jack McMahon
Fouad Arab
William Ferguson
Damon Sykes
Stephen Waldvogel
Lisa Foti
Samantha Podlas
Damond Rand
Doug Fultz
Ryan Stotz
Kelly Leeb
Bill Appenheimer
Beth Scheeler
David Hill
David Connors

The regular monthly meeting of the Buffalo Water Board was called to order at 9:00 a.m. It also constitutes the Buffalo Water Board's annual meeting in accordance with the Board's By-laws.

1. Motion by Mr. Sunderlin, seconded by Ms. Brown to approve the agenda. Approved.
2. Motion by Mr. Sunderlin, seconded by Ms. Brown to approve the minutes from the June 15, 2022, meeting. Approved.
3. There were no public comments made at the Buffalo Water Board meeting.
4. Staff Update: Mr. Hill and Mr. Fultz with Veolia Water provided a staffing update to the Buffalo Water Board.
5. Election of Officers: Mr. McFoy continues pursuant to Mayoral appointment, as authorized by law, as Chair of the Buffalo Water Board. Motion by Mr. Kelly, seconded by Ms. Brown to approve Mr. Sunderlin as Vice Chair of the Buffalo Water Board. Approved.
6. Election of Officers: Motion by Mr. Sunderlin, seconded by Ms. Brown to nominate and elect Mr. Merlo as Secretary and FOIL Officer of the Buffalo Water Board. Approved. Motion by Mr. Sunderlin, seconded by Ms. Brown to nominate and elect Mr. McMahon as Assistant Secretary of the Buffalo Water Board. Approved.
7. Governance Committee: Motion by Mr. Sunderlin, seconded by Mr. Kelly to nominate Ms. Brown as Chair of the Governance Committee of the Buffalo Water Board. Approved.
8. Audit Committee: Motion by Mr. Sunderlin, seconded by Ms. Brown to nominate Mr. Kelly as Chair of the Audit Committee of the Buffalo Water Board. Approved.

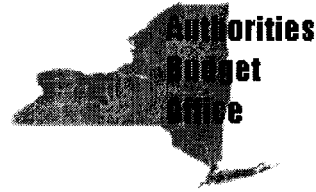
9. PAAA Compliance: The Buffalo Water Board reviewed, the Buffalo Water Board's Mission Statement and Performance Goals established pursuant to the New York State Public Authorities Accountability Act, as amended (PAAA), as attached hereto. Motion by Mr. Sunderlin, seconded by Ms. Brown to confirm and restate the Buffalo Water Board's adoption of such Mission Statement and Performance Goals. Approved.
10. PAAA: Directors Confidential Evaluations are to be completed by each Buffalo Water Board member and delivered to the Buffalo Water Board legal counsel.
11. Motion made by Ms. Brown to approve the Buffalo Water Board Fiscal Year 2022/2023 Budget, seconded by Mr. Sunderlin. Approved.
12. Motion by Ms. Brown, seconded by Mr. Sunderlin to adopt Buffalo Water Board Resolution Regarding American Rescue Plan And Other Financial Assistance With Continuation of Water Services For Qualified Low Income Residential Customers as amended and attached hereto. Approved.
13. GHD and Veolia Water outlined current progress with contract discussions regarding the new Customer Information and Field Work Order System with the Buffalo Water Board.
14. Upon the recommendation of the Associate Engineer of the Division of Water, motion made by Mr. Sunderlin, seconded by Ms. Brown to authorize a contract increase for additional engineering services for Wendel's Structural Retainer Contract (contract # 92002452). The projects and contract will be administered by the City of Buffalo, Division of Water, and the contract, as amended is approved in an amount not-to-exceed \$60,000.00, including this increase authorized by the Buffalo Water Board. Approved.
15. Mr. Waldvogel and Mr. Stotz of GHD Consulting Services, Inc. delivered a report of GHD's on-going professional services to assist the Buffalo Water Board on several projects, including: (a) GHD is collaborating with Veolia Water and other stakeholders to develop a Customer Information System and Field Work Order Management System. Negotiations are continuing with the selected firm; (b) GHD is working with Promise Partnership on file transfers, testing, marketing and outreach investigations; (c) the Capital Improvement Plan including Lead Service Line (LSL) Replacement, and in collaboration with local and national groups, including Promise, Google, Heart of the City, Open Buffalo, 120 Water and Veolia; (d) GHD is continuing to provide engineering and oversight services at Colonel Ward Treatment Facility, for among other matters, the sodium hypochloride system design, electrical upgrades at the plant have commenced, continuing work on the Pipe Loop Project, and the design of flood protection berm structures.
16. Mr. Hill of Veolia Water initiated Veolia Water's monthly management report with the Buffalo Water Board. Mr. Hill reported Colleen Makar has returned to the Veolia Water Buffalo team as Asset Manager and Safety Officer. Mr. Sykes reported that the Buffalo Water Board has received approximately \$900,000 from New York State programs such as the New York State Low Income Household Water Assistance (LIHWA) Program. Veolia Water is developing a campaign to broaden the notice to customers of the benefits of this program and will continue with notices in customer bills and a door hanger through the end of this fiscal year and into the next year as well. The LIHWA Program brochure has already been mailed to over 3,000 accounts that have entered into the affordability program. Mr. Sykes reported that revenue has increased this fiscal year to \$44.7 million, an increase in approximately \$400,000 from the last fiscal year. Mr. Sykes also reviewed a list of the Top 30 users by volume of Buffalo Water over the past fiscal year. This list represents 18% of the revenue generated for the Buffalo Water

Board and is comprised of several educational institutions. He reported that water production still remains below pre-Covid levels. Mr. Fultz reported that an additional 20% of the City of Buffalo will have been investigated for water leaks this year. This is the third year of a five year program to inspect the entire City for detection of water service leaks. The Buffalo Water Board Chairman requested a report to identify and locate private service leaks, as compared to public service leaks. Mr. Fultz reported that work has begun to install the lagoon liner. An independent contractor has been hired to clean the solids basin during the day shift, and City crews will work the second shift to progress the cleaning process. An in-person laboratory audit was recently conducted at the Colonel Ward facility.

Motion by Mr. Sunderlin, seconded by Ms. Brown to adjourn at 10:01 A.M. Approved.

Next meeting, Tuesday, August 9, 2022, at 9:00 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.

**Authorities Budget Office
Policy Guidance**



Authority Mission Statement and Performance Measurements

Name of Public Authority: Buffalo Water Board

Public Authority's Mission Statement:

The Buffalo Water Board is a public benefit corporation of the State of New York and is dedicated to providing water service to its customers, in fulfillment of its obligations and the exercise of its authorities established by the Buffalo Municipal Water Finance Authority Act of the State of New York and other applicable law. The Buffalo Water Board seeks to protect the health and well being of the personnel who operate and maintain the Buffalo Water System and the people it serves, with an efficient water utility that preserves and protects water infrastructure and the environment for future generations.

Date Readopted: July 13, 2022

List of Performance Goals (If additional space is needed, please attach):

- **Performance Goal:** Establish and collect equitable water rates, charges and revenues that will satisfy the revenue requirements of the Buffalo Water System.
- **Measurement:** Did the Board manage its rate structure and collect sufficient revenues to operate the Buffalo Water System?
- **Performance Goal:** Establish realistic budgets and capital improvement plans that are current and predictive of future needs of the Buffalo Water System.
- **Measurement Goal:** Did the Board prepare realistic budgets to pay for operations, maintenance and capital projects necessary and appropriate for the provision of services and maintenance of the Buffalo Water System?
- **Performance Goal:** Establish best management practices, in line with industry standards for other public water utilities comparable in size and age to the Buffalo Water System.
- **Measurement Goal:** How do policies and procedures for management, operation and maintenance of the Buffalo Water Board compare to other public water facilities and systems of comparable size and age?

Additional questions:

1. Have the board members acknowledged that they have read and understood the mission of the public authority? Yes

2. Who has the power to appoint the management of the public authority?

The Members of the Buffalo Water Board are appointed by the Mayor of the City of Buffalo, and confirmed by the City of Buffalo Common Council. Pursuant to the Financing Agreement by and between the City of Buffalo, the Buffalo Municipal Water Finance Authority and the Buffalo Water Board dated as of September 24, 1992, as amended, the Buffalo Water Board uses the services of the employees and officers of the City of Buffalo, including but not limited to, the Commissioner of Public Works, Parks and Streets and the City Engineer to operate and maintain the Buffalo Water System. In addition, the Buffalo Water Board continues its engagement of Veolia Water North America-Northeast, LLC pursuant to a Management Agreement dated as of July 1, 2020, as its professional manager to manage the operation and maintenance of the Buffalo Water System.

3. If the Board appoints management, do you have a policy you follow when appointing the management of the public authority?

Yes, the policies are stated in the Buffalo Municipal Water Finance Authority Act of the State of New York, the New York State Public Authorities Law, and other related laws of the State of New York and the Financing Agreement by and between the City of Buffalo, the Buffalo Municipal Water Finance Authority and the Buffalo Water Board dated as of September 24, 1992, as amended.

4. Briefly describe the role of the Board and the role of management in the implementation of the mission.

The Buffalo Water Board meets regularly, in public sessions, in compliance with the New York Open Meetings Law and related laws. It regularly receives and reviews reports from the Commissioner of Public Works, Parks and Streets, the City Engineer, its independent Consulting Engineers, Legal Counsel and Auditors, and Rate Consultant regarding the operation and maintenance of the Buffalo Water System to oversee the management of the Buffalo Water System. It also works cooperatively with the United States Environmental Protection Agency, and various departments and agencies of State of New York, County of Erie, City of Buffalo, including but not limited to, City of Buffalo Commissioner of Public Works, Parks and Streets, City of Buffalo Comptroller, City of Buffalo Corporation Counsel and other City of Buffalo officers and employees and Veolia Water North America-Northeast, LLC to implement policies and procedures to achieve the mission of the Buffalo Water Board.

5. Has the Board acknowledged that they have read and understood the responses to each of these questions? Yes

**BUFFALO WATER BOARD RESOLUTION REGARDING
AMERICAN RESCUE PLAN AND OTHER FINANCIAL
ASSISTANCE WITH CONTINUATION OF WATER
SERVICES FOR QUALIFIED LOW INCOME
RESIDENTIAL CUSTOMERS**

WHEREAS, the Buffalo Water Board (“Buffalo Water”), by prior resolutions adopted on July 8, 2020, November 12, 2020, January 20, 2021, July 21, 2021 and December 8, 2021 established and extended moratoria on terminations and disconnections for residential water customers and other eligible 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 and other eligible customers adversely affected by changes in financial circumstances due to the COVID-19 Pandemic; and

WHEREAS, Buffalo Water, in collaboration with the City of Buffalo, finds that adverse health and financial consequences continue to exacerbate economic challenges faced by many low income 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, safety and welfare; and

WHEREAS, Buffalo Water, as part of such implementation 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 residential customers eligible under the American Rescue Plan’s Emergency Rental Assistance Program, the Homeowner Assistance Fund and the Low Income Household Water Assistance Program, respectively, who are in arrears for unpaid water charges and interest, late fees, penalties and other 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, the Homeowner Assistance Fund and the Low Income Household Water Assistance Program, respectively. Buffalo Water may require customers to submit an application, records or other information demonstrating eligibility as a low income residential customer.
2. Any qualified low income residential customers who enter into or restructure a Deferred Payment Agreement (“DPA”) with Buffalo Water will be obligated to pay all charges for water use or principal charges for provision or consumption of water, and any interest, late

fees, penalties, and all 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. as part of the DPA.

3. Buffalo Water will make reasonable efforts to identify, communicate and conduct affirmative outreach to contact low income residential customers who are in arrears in payment of their water charges, and assist such customers, as necessary or appropriate, to submit an application for financial assistance. When a low income residential customer has submitted an application, records or other information demonstrating eligibility as a low income residential customer, Buffalo Water will record the certification in its records and will offer to negotiate a DPA or restructure an existing DPA with the low income residential customer, after the completion of a financial disclosure statement and delivery of any requested supporting documentation.
4. Qualifying customers may enter into or renegotiate a DPA with the requirement of a reasonable down payment, with reasonable installment payments and subject to payment of late fees, penalties, and interest for arrearages incurred during the time the customer is a party to a DPA.
5. 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 the expiration of the applicable period of this Resolution, or such time when the customer does not qualify as a low income residential customer. The moratorium on terminations and availability of DPAs is a grace period and deferral to assist eligible customers to pay their water service bills and obtain financial assistance, and any deferred 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 after the expiration of the applicable period of this Resolution, or at such time when the customer does not qualify as a low income residential customer.
6. 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.
7. This Resolution shall be effective as of July 1, 2022, and shall continue in effect until the earlier of: (a) the date when Federal and State funding for low income residential customer assistance set forth in paragraph one above has discontinued, or (b) the date the Buffalo Water Board terminates this Resolution.

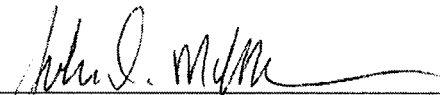
STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

I, the undersigned Assistant 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 13th day of July, 2022, 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 Ms. Brown, and seconded by Mr. 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 13 day of July, 2022.



John D. McMahon, P.E., Assistant Secretary
Buffalo Water Board