

BUFFALO WATER BOARD MINUTES
December 20, 2023

MEMBERS PRESENT:

Oluwole A. McFoy
William Sunderlin
Gerald E. Kelly
Denine N. Jackson
Raymour P. Nosworthy

OTHERS PRESENT:

Peter Merlo
Jack McMahon
David Hill
Doug Fultz
Charlie Martorana
Stephen Waldvogel
Damond Rand
Lisa Foti
Bill Ferguson
Kelly Leeb
Ryan Stotz
John Davis
Fouad Arab
Damond Sykes
Dustin Steiner
David Connors
Delano Dowell
Matthew Adam
Beth Scheeler

The regular monthly meeting of the Buffalo Water Board (BWB) was called to order at 9:00 A.M.

1. Motion by Mr. Sunderlin, seconded by Ms. Jackson, to approve the agenda. Approved.
2. Motion by Ms. Jackson, seconded by Mr. Sunderlin to approve the minutes of the November 27, 2023, meeting. Approved.
3. Public Comment: After the Chair offered an opportunity for public comments, no comments were received.
4. Motion by Mr. Sunderlin, seconded by Ms. Jackson, to approve the 2024 Water Board meeting schedule. Approved. A copy of the Resolution is attached.
5. Staff Update: Mr. Fultz, with Veolia Water provided a staffing update to the Buffalo Water Board.
6. Motion made by Ms. Jackson, seconded by Mr. Kelly to approve the Engagement of Special Counsel to represent the Buffalo Water Board in a nationwide PFAS Settlement case and other legal action. Upon the recommendation of the Buffalo Water Board legal counsel and the City of Buffalo Corporation Counsel, the Buffalo Water Board authorized the Board Chairman, or any other member of the Buffalo Water Board or the City Corporation Counsel to enter into an Engagement Agreement with Napoli Shkolnik PLLC, on a contingency fee basis and other terms acceptable to the Buffalo Water Board Chairman or the City Corporation Counsel to represent the Buffalo Water Board as Special Counsel to assist the Buffalo Water Board to recover funds from the Settlement of the multi-district class action litigation: In Re Aqueous Film Forming Foam Product Liability Litigation pending before the United States District Court for South Carolina, Charleston Division involving the 3M Company and E.I. Dupont Company

et al. , and to undertake such other legal action, as the Corporation Counsel deems appropriate against other parties responsible for the release of PFAS and related products/wastes in the environment. Approved.

7. Upon the recommendation of the Principal Engineer of the Division of Water, motion made by Mr. Sunderlin, seconded by Ms. Jackson to authorize a cost increase for Arcadis for the Residuals Systems Improvements Project (contract #93002589). The project and contract will continue to be administered by the City of Buffalo, Division of Water, and the contract, as amended, is approved in an amount not-to-exceed \$45,000.00. Approved.
8. Motion made by Ms. Jackson, seconded by Mr. Sunderlin, to authorize and fund an increase for services as part of the Management Agreement dated as of July 1, 2020, with Veolia Water, specifically the Spoils Limit Account in an amount not-to-exceed \$100,000.00 to extend through June 30, 2024. These projects and services will continue to be administered by the City of Buffalo, Division of Water, as part of the Management Agreement with Veolia Water. Approved.
9. Motion made by Mr. Sunderlin, seconded by Mr. Kelly to authorize, and fund a reimbursement to Veolia Water for a New York State Department of Environmental Conservation fee associated with the disposal of hazardous waste for the Residuals Handling System Improvements capital project in an amount not-to-exceed \$18,099.90, with no added administrative fees for Veolia Water. These projects and services have been administered by the City of Buffalo, Division of Water, as part of the Management Agreement with Veolia Water. Approved.
10. Motion made by Mr. Sunderlin, seconded by Ms. Jackson to authorize, and fund a reimbursement to Veolia Water for a service contract with Hach to provide onsite technical services associated with maintenance and calibration for 40 individual filter turbidimeters in an amount not-to-exceed \$49,013.80, inclusive of Veolia's administrative fees. These projects and services will be administered by the City of Buffalo, Division of Water, as part of the Management Agreement with Veolia Water. Approved.
11. Mr. Waldvogel, Mr. Steiner, Mr. Stotz, and Mr. Davis 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 has engaged Brian Smith, P.E. to assist with select projects at the Colonel Ward Treatment Plant; (b) the latest release of the Get Water Wise website includes materials pertaining to Lead Line replacement and affordability programs; (c) GHD reported that social media has been very active and that a service map was released at Mayor Brown's press conference on December 19, 2023; (d) Mr. Davis reported on the very positive response to the continuing Public Outreach Campaign and community engagement and the first newsletter will be going out to contacts in the next week; (e) GHD is coordinating a meeting with Promise Pay and monthly customer information releases to the Get Water Wise web site will be made beginning in January, 2024; (f) GHD is continuing to provide engineering and oversight services at Colonel Ward Treatment Facility, for among other matters, the electrical upgrades at the plant, and contractor meetings for work at the Ralph C. Wilson Centennial Park are continuing.
12. Mr. Hill of Veolia Water presented Veolia Water's monthly management report. Mr. Hill reported that the Buffalo Water Board collected revenue for the past month of approximately \$4.7 million as compared to a budget of \$4.9 million, and to date collections have totaled \$20.4 million, as compared to a budget of \$21.4 million. Mr. Hill also reported that the Promise Pay Program collected over \$50,000 in November. Two New York State programs have been

assisting customers with support payments: the New York State Buffalo East Side Homeowner Assistance Fund (helping customers with payments, with receipt of approximately \$500,000 this month) and the New York State Low Income Household Water Assistance (LIHWA) Program with its funding ending as of September 30, 2023, and no further applications being processed at this time. This program has helped a total of 2,737 customers receive over \$3 million to assist with Buffalo Water and Sewer bills.

Motion by Mr. Sunderlin to enter Executive Session to discuss a litigation matter. Seconded by Ms. Jackson. Approved.

Motion by Mr. Kelly to exit Executive Session. Seconded by Mr. Sunderlin. Approved.

Motion by Mr. Kelly, seconded by Mr. Sunderlin to adjourn at 10:35 A.M. Approved.

Next meeting is scheduled for Wednesday, January 10, 2023, 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, for Board Members and 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 2024

WHEREAS: The suggested schedule for the calendar year 2024 be approved as follows:

2024

January 10	July 17 (Annual Meeting)
February 22	August 21
March 14	September 18
April 17	October 23
May 15	November 7
June 12	December 18

**Tentative dates*

All meetings are scheduled for 9:00 AM at the Colonel Ward Water Treatment Facility Administration Building Conference Room located at 2 Porter Avenue, Buffalo, NY 14201 for all Water Board Members, and a few other designated attendees. Others may attend via video conference call through MSTeams. Either video conference or audio conference into the meeting using a telephone number and ID provided. The call in telephone number posted in the agenda on the Buffalo Water Board web site.

NOW THEREFORE
BE IT RESOLVED:

That the Buffalo Water Board hereby approves the above Schedule of Board Meetings for the calendar year 2024.

MOTION TO _____ Approve _____

MADE BY: _____ Mr. Sunderlin _____

2nd BY: _____ Ms. Jackson _____

AYES _____ 5 _____ NOES _____ 0 _____

Board Meeting of December 20, 2023