



**Regular Meeting of the  
Niagara Falls Water Board  
February 28, 2013 5:00 PM at  
Michael C. O’Laughlin Municipal Water Plant**

**1. Call to Order** *Chairman Ted Janese called meeting to order at 5:00 p.m.*

**1. Roll Call:**

Janese \_\_P\_\_ Leffler \_\_P\_\_ Kimble \_\_P\_\_ Vitello \_\_P\_\_ Edwards \_\_P\_\_

*Please note: Ms. Kimble was present for the Water Board Meeting at 5:05 p.m. right after the Executive Session began.*

**2. Letters and Communications**

- 1. Public Speakers (All speakers must register with the Chairman prior to roll call and are limited to 5 minutes per person – total time for all speakers may not exceed 1 hour)**

*Damon DeCastro*

- 2. Presentations - None**

**3. Discussion of Items for Action**

**1. Routine Items**

- 1. Approval of Minutes from 20 DEC 2012/24 JAN 2013**

*Motion by Mr. Vitello and seconded by Mr. Edwards to approve. Motion was carried 2-0-3.*

*Edwards \_\_Y\_\_ Kimble \_\_abstain\_\_ Leffler\_\_abstain\_\_ Vitello \_\_abstain\_\_  
Janese \_\_Y\_\_*

**2. Personnel Actions**

*Motion by Mr. Vitello and seconded by Mr. Edwards to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**3. Bid Approvals – COMTEL/Polymer**

*Motion by Ms. Kimble and seconded by Mr. Vitello to approve the bid for Comtel. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

*Motion by Ms. Kimble and seconded by Mr. Edwards to approve the bid for Polymer. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**4. Budget Transfers through 31 JAN 2013**

*Motion by Mr. Vitello and seconded by Ms. Kimble. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**2. From the Executive Director**

**1. Resolution Awarding Water Meter Installation Contract**

*Motion by Ms. Kimble and seconded by Mr. Vitello to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**2. Resolution Awarding New Vehicle Purchase – Sewer/Pipes**

*Motion by Ms. Kimble and seconded by Mr. Vitello to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**3. Resolution Awarding New Vehicle Purchase – Water/Pipes**

*Motion by Ms. Kimble and seconded by Mr. Edwards to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**4. Resolution Awarding New Vehicle Purchase – WTP**

*Motion by Ms. Kimble and seconded by Mr. Edwards to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**5. Resolution Authorizing Settlement of Claim – Cross**

*Motion by Mr. Vitello and seconded by Ms. Kimble to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**6. Resolution Authorizing Settlement of Claim – National Fuel**

*Motion by Ms. Kimble and seconded by Mr. Edwards. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**7. Resolution Authorizing Settlement of Claim – Curcione**

*Motion by Ms. Kimble and seconded by Mr. Vitello to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**8. Resolution Awarding Bid for WWTP Roof Repairs**

*Motion by Mr. Edwards and seconded by Ms. Kimble to approve. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

**9. Resolution Authorizing Investigation of Board Member Misconduct**

*See attached edited statement of Ms. Kimble. Original statement available on audio.*

*Mr. Ottaviano recommended that Ms. Kimble and Mr. Janese recuse themselves from the vote.*

*Motion by Mr. Vitello and seconded by Mr. Edwards to approve. Motion failed 2-1-2.*

*Edwards \_\_Y\_\_ Kimble \_\_abstain\_\_ Leffler \_\_Y\_\_ Vitello \_\_N\_\_ Janese \_\_abstain\_\_*

**10. Resolution Authorizing Investigative Officer and Report**

*Mr. Ottaviano recommended that Mr. Janese recuse himself from the vote.*

*Motion by Mr. Vitello and seconded by Ms. Kimble to approve. Motion was carried 3-1-1.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_N\_\_ Janese \_\_abstain\_\_*

*Motion by Ms. Kimble and seconded by Ms. Leffler to approve using an outside investigator. Motion was carried 3-1-1.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_N\_\_ Janese \_\_abstain.*

**4. From the Chairman** *None*

**4. Informational Items and Reports**

- 1. Bank Transfer Activity**
- 2. Cash Disbursements**
- 3. Schedule of Investments**
- 4. Capital Construction**
- 5. O & M Report for December/January**

**6. Unfinished Business**

**7. New Business & Additional Items for Water Board Discussion**

**Executive Session –**

*Motion by Mr. Janese and seconded by Mr. Vitello to enter into an Executive Session at 5:01 p.m. Motion was carried 4-0*

*Edwards \_\_Y\_\_ Kimble \_\_absent\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

*Executive Session ended at 6:05 p.m.*

**Adjournment of Meeting**

*Motion by Ms. Kimble and seconded by Ms. Leffler to adjourn meeting at 6:45 p.m. Motion was carried 5-0.*

*Edwards \_\_Y\_\_ Kimble \_\_Y\_\_ Leffler \_\_Y\_\_ Vitello \_\_Y\_\_ Janese \_\_Y\_\_*

Statement from Renae Kimble

Thursday, February 28, 2012

I would like to address this Resolution regarding an investigation. What should not be lost in this discussion is that Under the Public Authorities Reform Act of 2009 – our role and responsibility as board members is to execute our fiduciary duty.

“Which means to perform each of our duties as board members in good faith and with that degree of diligence, care and skill which an ordinary prudent person in like position would use under similar circumstances, and may take into consideration the views and the policies of any elected official or body, or other person and ultimately apply independent judgment in the best interest of the authority, its mission and the public.”

We are entrusted with the responsibility of ensuring that this public authority meets the highest standards of honesty, accountability and efficiency.

Unfortunately, this has not happened at the Niagara Falls Water Board for the past few months.

I have presented Water Board Counsel, John Ottaviano with a substantial amount of proof, case law and information regarding Ted Janese's residency violation. It is not only frustrating, but very disturbing to see this information ignored, downplayed and even misrepresented in an attempt to keep Ted Janese on the Water Board. Clearly, he no longer resides at 8825 Point Avenue in Niagara Falls, but at 1145 Jarrett Drive in Lewiston, NY, since October 2012, if not sooner.

During this time, two other members of the Water Board resided outside of the City of Niagara Falls. Tom Vitello and I both reside within the City of Niagara Falls. According to our By-Laws, Section 1230-2 (2) of Title 10-B, Article 5 of the Public Authorities Law and Section 6 of the Niagara Falls Water Board By-Laws state in relevant part, "any member fulfilling the requirement that at least three members be residents of the City shall forfeit his or her membership upon termination of residency in Niagara Falls." (Emphasis added)

The vacancy occurs by operation of the by-laws and is instantaneous rather than resulting from a hearing. Ted Janese's property at 8825 Point Avenue was put up for sale in May 2012; his wife purchased a new home at 1145 Jarrett Drive in Lewiston on August 14, 2012, where Ted Janese now lives.

I presented to John Ottaviano nine pictures of an empty house. This property is staged to perpetrate a sham that he has a physical presence in the property. The pictures provided clearly demonstrate no resemblance of bonafide living in the property.

Furthermore, from October 10, 2012 through January 7, 2013, the property at 8825 Point Avenue, the address where Ted Janese claims to have a physical presence within the City of Niagara Falls had no measurable water consumption based upon the same water meter readings.

Ted Janese in an e-mailed letter dated December 12, 2012 maintained that his Niagara Falls residence was suitable for living, yet he apparently has not consumed any water since October 2012. The

cupboards are completely void any food. There is no refrigerator; there is no furniture for sitting in living areas.

I made a request to John Ottaviano to conduct an aggressive not just the run of the mill type of investigation; meaning to visit the property and not just depend upon the standard documents presented by Ted Janese, which were a Warranty Deed in his name for 8825 Point Avenue, Niagara Falls, Niagara County Board of Elections Voter Registration information, National Fuel bill due December 12, 2012, HSBC bank statement, 1040 U.S. Individual Income Tax Return for 2011 and the Warranty Deed for the house at 1145 Jarrett Drive, Lewiston, NY in his wife's name.

What I find truly amazing regarding this investigation is that, of course the Tax returns would reflect the 8825 Point Avenue address in 2011, and he would not change his voter registration information to reflect his new address, even though the Republican Executive Committee List of Niagara County shows his address at Jarrett Drive, and he must be the only one in Western New York to have an HSBC bank statement, from HSBC Bank in Western New York.



First Niagara Bank took over HSBC bank in May, 2012. This was a major news story that was covered throughout the news media in the region. This bank statement is clearly bogus too.

Then at the Work Session meeting that was held in December, John Ottavaino stated that Ted Janese told him to visit the property on Point Avenue. According to John Ottavaino, he stated that there were dirty dishes in the dishwasher, towels and a toothbrush in the bathroom

I replied that Ted Janese was further perpetrating a sham, my pictures did not reflect any of that, and it was added since Ted Janese's residency became an issue. I stated to John, I asked you to conduct an unconventional investigation, which would include visiting the property before now, he stated to me how was I to get into the house, by pretending to be a home buyer, I said no, by telling the truth, telling the realtor that you were conducting an investigation.

The individual who took the nine pictures for me told the realtor that they needed to get into the house, clearly not perpetrating deception or a fraud.

The investigation conducted by John Ottavaino was not thorough. And I have questioned John Ottavaino's integrity throughout this entire ordeal. He has a conflict of interest in this matter; he is listed as the Special Counsel on the Republican Executive Committee List of Niagara County along with Ted Janese and Roger Lance as at-large members.

John Ottavaino, as an officer of the court and a member of the Attorney Grievance Committee should have recused himself as it has been very clear to me that when I brought this information to his attention on November 25, 2012 by letter his written reply and conclusions ignored the case law requirement that a person must be physically present with the intent to remain for a time without any aura of a sham, he questioned the exact date the photographs were taken, alleging that he and the Water Board were without authority to address this gross injustice, we know that that is not true under the Code of Ethics.

I wrote back to the Water Board attorney and informed him that his conclusions were wrong and misguided, that I believed he was

representing the interest of a select few on the Board and that he was not protecting the integrity of the Board and its by-laws.

Ted Janese responded to the board by letter stating, "I have spent an overwhelming majority of my time there since September. However, I have always maintained my physical presence at Point Avenue. I'm there three to four times per week. I eat there, I have dressed there, I mow the lawn, complete home improvement projects and occasionally slept there. Since the birth of my daughter, I have not slept at the Point Avenue home for obvious reasons."

We all know that these statements are not true.

Under the Whistleblower law, protections are afforded to employees, volunteers, board members of public authorities and organizations who come forward with credible information regarding illegal practices or violations of adopted policies of public authorities and organizations. These individuals are protected from retaliation and allow this information to be reported, period.

The Water Consumption report was anonymously placed in my mail box at 3302 Hyde Park Boulevard, Niagara Falls, New York, where I reside.

I and anyone else in a similar position who knew that the Water Board by-laws were violated have an obligation to inform the board and the public of this matter which is in the public domain regarding a public official, the Chairman of the Water Board. One cannot allege personal privilege when one is committing fraud by trying function above the law, and trying to circumvent the law, and ignore the residency policy in our by-laws.

Water Consumption information is used by the City of Niagara Falls Assessor's Office for the express purpose of rooting out individuals who are attempting to perpetrate a fraud regarding their residency when attempting to obtain tax exemptions from the City of Niagara Falls for which they are not entitled.

The Water Board itself has also provided water bill and water consumption information to members of the general public. On July 26, 2012, Isadore Kenneth Hamilton attended a meeting of the Water Board

and spoke during the public comment period. He asked for a copy of the Water Bill of the Niagara Community Center Association, in which Ted Janese said, would be provided to him. Mary Jean Buddenhagen was the staff person responsible for providing him with the information.

I also asked Mary Jean by e-mail, dated July 27, 2012 for the same information regarding the Niagara Community Center Association, and it was mailed out to me, I was also informed that Isadore Kenneth Hamilton did receive his copy of the same information.

The Niagara Community Center Association has been closed for over five years and has received no public or government funding. Programs held since its closure has been funded by private contributions of benevolent minded individuals.

The alleged complaint by Ted Janese is not only retaliatory in nature but it is disingenuous, and I question its legality, as he lists his residence at 5815 Buffalo Avenue. The complaint should have listed his residence, not the address of the Niagara Falls Water Board. This is absurd. He is a volunteer, not an administrative employee of the Water

Board with business cards which states that he is employed by the Water Board, nor does he reside at the Buffalo Avenue address.

He is a volunteer, just like we all are who are required by Public Authorities Law and our By-Laws to meet the residency requirements to volunteer to serve on this board.

Mr. Lawrence Edwards and Ms. Gretchen Leffler are both residents of the City of Niagara Falls. These two new appointments do nothing to cure the voided actions taken by the Board over the period of time when Ted Janese's lack of residency created a vacancy as early as October 2012, when only two members of the Board, Mr. Vitello and I were legal residents of the City of Niagara Falls.

This is the crux of the matter, Ted Janese is the one who has violated his oath of office as a member of the Niagara Falls Water Board, the Code of Ethics of the Water Board with his fraudulent conduct and deceit, the By-Laws of the Public Authorities Law and the Water Board, the NYS Rules of Professional Conduct, effective, April 1, 2009 as amended through July 1, 2012 and the NY Lawyers Code of

Professional Responsibility that all practicing attorneys are to abide by, morally, ethically and professionally.

I will not be the scapegoat here. This is not a threat but a fact, if this board decides to launch this retaliatory witch hunt, I will have no choice but to ask for the NYS Inspector General to come in and conduct a thorough investigation of this matter. We all have a fiduciary obligation to report information that impacts this organization. That is the oath that we take. Yes, there is privileged information that cannot be divulged, such as Personnel Records or information, HIPPA information, etc.

This however, is something totally different which cannot be swept under the rug nor can the Code of Ethics be used in a manipulative fashion to retaliate against the one member of the board who anonymously received information that shows one violating the By-laws of this agency.

Niagara Falls and Niagara County are both known throughout the Western New York region for a culture of corruption, deceit, and conflict of interest issues. The time is now to put an end to this sad,

sordid, unethical and fraudulent blemish to the Niagara Falls Water Board and to the Citizens of Niagara Falls.

This is Ted Janese's mess and Ted Janese's mess alone, not Renae Kimble. This mess is one in which can be easily remedied and that is by Ted Janese tendering his resignation immediately and not by trying to cast aspersions on the truth, that he is the only member of this board who has violated the public's trust, the integrity of this board and violated the Code of Ethics. He is the only one who should be investigated.