



MINUTES

Meeting of the Niagara Falls Water Board September 28, 2020 at 5:00 p.m.

Note: This meeting was held via conference call pursuant to Executive Order 202.1 as extended by 202.60.

1. Attendance and Preliminary Matters

a. Brown P Forster P Larkin P Leffler P Kimble P

Chairman Brown called the meeting to order at 5:03 p.m.

b. Letters and Communications

Mr. Costello noted that there were no letters or communications to discuss at this time.

c. Public Comment (Public comments were to be submitted in writing to be read by the Secretary by 12:00 p.m. on September 28, 2020).

Mr. Costello noted that no public comments were received.

d. Approval of Minutes from July 23, 2020 Special Meeting

Motion by Ms. Larkin and seconded by Mr. Brown to approve the July 23, 2020 special meeting minutes.

Brown Y Forster Absent [Audio Issues] Larkin Y Leffler abstain Kimble Y

Motion carried, 3-0, with one absent during the vote and one abstention.

e. Approval of Minutes from July 27, 2020 Meeting

Motion by Ms. Kimble and seconded by Ms. Larkin to approve the July 27, 2020 meeting minutes.

Brown __Y__ Forster __Absent [Audio Issues]__ Larkin __Y__ Leffler __abstain__ Kimble __Y__

Motion carried, 3-0, with one absent during the vote and one abstention.

2. Executive Director

Mr. Fama seeks guidance from the board regarding State-mandated MWBE reporting. This previously was the responsibility of the Director of Administrative Services and is important for grant reimbursement. Ms. Leffler asked if bringing on an HR Consultant would help; Mr. Fama assumes they would have a person who could assist.

3. Superintendent

Chairman Brown expressed appreciation to the outside sewer/water crews for their work on the recent repair work that was completed on 27th St. Mr. Brown states there were favorable social media comments from satisfied residents.

Mr. Wright noted that a contracted valve replacement project on Hyde Park Blvd. went well. During the same shutdown, Water Board crews were able to replace another leaking valve.

Mr. Forster asks Mr. Wright about any further correspondence with the City Engineering Department regarding the slip line on 18th St. from Whitney Ave to Ontario Ave. Mr. Wright states he has not had any further discussion with City Engineering.

4. Engineering

Mr. Williamson states that the capital plan and/or department budget lines have been incorporated on all resolutions.

5. Personnel Items

a. September 28, 2020 Personnel Actions and Reports

Mr. Fama noted that there was a retirement in the WWTP maintenance group and asked that the Board untable the previously presented personnel action (Item No. 3.0, MW2) in order to hire a replacement. Because of a retirement and a resignation there are no HR/Administrative Department staff. Mr. Brown asked if the Deputy Director of Administrative Services (Item No. 3.0, Deputy Director of Administrative Services) could

handle MWBE program issues discussed earlier in the meeting and Mr. Fama noted that the previous Deputy Director had been responsible for MWBE. Ms. Leffler feels the Board should hold off on the Deputy Director position pending the outcome of the HR Consultant's work. Mr. Brown noted that there is an urgent need for staffing in that area and that the Deputy Director position had been approved even before he came onto the Board.

Motion by Mr. Forster and seconded by Ms. Leffler to un-table line Item No. 1.0 MW2/WWTP Maintenance on the previously tabled personnel actions from 2020.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

Motion by Mr. Forster and seconded by Ms. Leffler to approve line Item No. 1.0 MW2/WWTP Maintenance on the previously tabled personnel actions from 2020.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

Motion by Mr. Brown and seconded by Ms. Leffler to un-table line Item No. 3.0, Deputy Director of Administrative Services, on the previously tabled personnel actions from 2020.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __N__ Kimble __N__

Motion carried, 3-2.

Motion by Mr. Forster and seconded by Ms. Larkin to approve line Item No. 3.0, Deputy Director of Administrative Services, on the previously tabled personnel actions from 2020.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __N__ Kimble __N__

Motion carried, 3-2.

6. Information Technology (IT)

Mr. Fama states there is nothing new to discuss currently.

7. Finance

Ms. Walker states she obtained the 2020 Continuing Disclosure Report late on Friday, September 18, and will be distributing the report to the Board.

8. Questions Regarding July and August 2020 Operations and Maintenance Reports

No questions were asked regarding July/August 2020 O&M reports.

9. Safety

Ms. Senia noted that hydrogen sulfide industrial monitoring has been completed at the WWTP and that all of the samples were below both the regulatory and recommended exposure limits. She also has learned that the Water Board will be receiving close to \$12,000 as a refund for the hazardous waste tax that the Water Board had paid back in the Spring. This refund is the result of a regulatory fee dispute that Mr. Costello had filed.

10. General Counsel and Secretary

Mr. Costello noted that the Water Board received the renewal proposal for its property, liability, and umbrella insurance policies today. The policies expire on October 18, and a proposed walk-on resolution to authorize the renewal has been prepared.

11. From the Chairman

Chairperson Brown had nothing new at this time.

12. Resolutions

2020-09-001 – AUTHORIZING SETTLEMENT OF PERSONAL-INJURY LITIGATION WITH ANTONIO TOLEDO

Motion by Ms. Larkin and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-002 – AWARD BID FOR 12 INCH COMBINED SEWER REPAIR PROJECT NEAR CORNER OF WALNUT AVENUE AND TRONOLONE PLACE

a. Bid Tabulation and Award Recommendation

Motion by Ms. Kimble and seconded by Ms. Larkin to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-003 – NEW WORLD ENTERPRISE RESOURCE PLANNING SOFTWARE AS A SERVICE AGREEMENT WITH TYLER TECHNOLOGIES

a. Software as a Service Agreement with Tyler Technologies

Ms. Larkin supports this migration to the cloud but believes that a project plan is needed before an agreement or purchase order is signed.

Motion by Ms. Larkin and seconded by Mr. Forster to amend the resolution to provide that the Executive Director is added as a person responsible for the implementation of the resolution and to provide that the Water Board shall not execute the New World Enterprise Resource Planning Software as a Service Agreement or issue a purchase order on the authority of this Resolution unless and until a project plan for the requisite system migration has been created and approved by the Executive Director.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

Motion by Mr. Forster and seconded by Ms. Larkin to approve the Resolution as amended.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-004 – EXTENDING BID FOR PRIMARY TREATMENT POLYMER

a. 2018 Primary Treatment Polymer Bid Board Item

Motion by Ms. Kimble and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-005 -- ADDITION OF PIPING PROJECTS TO WWTP PROJECT 9 ENGINEERING SERVICES AGREEMENT

- a. CPL Memorandum**
- b. JM Davidson Proposal**

Motion by Ms. Leffler and seconded by Ms. Kimble to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-006 – AUTHORIZING WWTP PROJECT 7 CONSTRUCTION PHASE ENGINEERING SERVICES

a. CPL Memorandum

Motion by Ms. Kimble and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-007 – AUTHORIZING WWTP PROJECT 5, PHASE 1, TASKS 2 AND 3 CONSTRUCTION WORK AND CONSTRUCTION ADMINISTRATION AND INSPECTION

a. CPL Memorandum

b. Ferguson Electric Proposals

Motion by Ms. Leffler and seconded by Ms. Larkin to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-008 – AUTHORIZING WWTP PROJECT 5, PHASE 2 ENGINEERING SERVICES

a. CPL Memorandum

Motion by Ms. Leffler and seconded by Ms. Larkin to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-009 – AUTHORIZING TAKE HOME VEHICLE FOR SUPERVISOR OF COLLECTIONS AND DISTRIBUTION (OUTSIDE MAINTENANCE)

Ms. Larkin noted that the Board previously passed a vehicle use policy that allows the Executive Director to allow take-home vehicles on a limited basis. She sought explanation regarding why the take-home vehicle is needed and assurances that there is no personal use of the vehicle. Mr. Wright explained that the acting supervisor having a take-home vehicle would help the Water Board respond quickly to main breaks and to problems at the lift stations. Saving time in the response to lift station problems can help prevent basement flooding. It can add 15-20 minutes to the response to require the acting supervisor to travel to the WWTP to pick up a Water Board vehicle and then to proceed to the problem area. There are calls every day of the week, and lift station issues usually are associated with rain. Ms. Larkin asked if the vehicle has GPS and is marked. Mr. Wright confirmed that the truck

has GPS and is marked. Mr. Wright, Mr. Fama, and IT have access to monitor GPS, and reports can be generated for individual vehicles. Ms. Leffler asked if there are additional liability or insurance issues associated with this; Mr. Costello stated that if the vehicle is being used only for business purposes it is under the Water Board's insurance. Ms. Leffler asked what would happen if the vehicle was broken into and damaged while in the employee's driveway and Mr. Costello stated the Water Board likely would be responsible for the repair. Ms. Kimble asked if there has been any time analysis to see how much time it actually takes to retrieve the vehicle and stated she does not feel a take-home vehicle is necessary because the City is not that large. Mr. Wright said in his personal experience when he was in that position it took an extra 30 minutes to reach the scene of an incident when he had to travel from home to the WWTP to pick up a truck. Ms. Larkin asked what would happen if there was personal use of the vehicle and that it be added to the resolution that the truck would be taken away. Mr. Brown feels that there are risks to allowing a take home vehicle but there are risks in delayed response to water main breaks that happen at all times of day.

Motion by Ms. Larkin and seconded by Mr. Brown to amend the resolution to state that the Executive Director may revoke the use of the vehicle if the requirements of this resolution or if the NFWB's motor vehicle use policy are violated.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __N__

Motion carried, 5-0.

Motion by Mr. Forster and seconded by Ms. Larkin to approve the Resolution as amended.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __N__

Motion carried, 4-1.

**2020-09-010 – AWARD BID FOR GENERAL CONTRACT WORK WWTP PROJECT 1:
SEDIMENTATION BASINS AND SCUM COLLECTION SYSTEM MODIFICATIONS**

a. AECOM Award Recommendation and Bid Tabulation

Motion by Ms. Larkin and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-011 – APPROVE QUOTE FOR CLEANING WWTP EAST AND WEST WET WELLS

a. National Vacuum Quote

Motion by Ms. Leffler and seconded by Ms. Larkin to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-012 – EXTENDING BID FOR SLUDGE DEWATERING POLYMER

a. 2018 Sludge Dewatering Polymer Bid Board Item

Motion by Ms. Kimble and seconded by Mr. Forster to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-013 – GRANT CONSULTANT AGREEMENT

Note: Renumbered; Previously Resolution No. 2020-07-008 that was tabled to September meeting.

Mr. Forster thinks CPL does an excellent job. Ms. Leffler agrees but would like to know why the cost has been considerably higher than what is in the proposal they submitted in response to the RFP. Jay Meyers of CPL was on the call but did not have information regarding prior billings. Ms. Larkin confirmed there is an MWBE consultant on the CPL proposal.

Motion by Ms. Leffler and seconded by Ms. Larkin to approve the grant consultant proposal of Clark Patterson Lee (“CPL”) at a total fee not to exceed \$58,000.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-014 – HUMAN RESOURCES CONSULTING SERVICES AGREEMENT

[Note: The Board considered this resolution out of order because Chairperson Brown was going to exit the call during its consideration.]

Prior to the Board considering the resolution Chairperson Brown explained that he had recused himself from all aspects of the HR Consultant proposals because he is related to one of the proposers. He exited the conference call prior to discussion on the resolution. Mr. Costello telephoned Mr. Brown and he rejoined the call when discussion of this resolution concluded.

Ms. Leffler asked for the scores prior to the Board's submission of written questions to the proposers. At that time, the evaluators had the proposals in the following order based on scores: EBC, Alcott, and JBM. Ms. Larkin noted that JBM was last because one evaluator gave that proposer all zeros.

Mr. Forster notes that he looks forward to restoring professionalism and competence in the human resources function, including compliance with Civil Service law and protection of confidential information. Mr. Forster states that he believes JBM is the best fit for the NFWB because they have done work for the City and County.

Ms. Larkin notes this is not a long-term commitment but assistance bringing the Water Board up to speed by evaluating needs and helping to hire a new Director of Administrative Services.

Ms. Kimble states she has a problem with JBM because of the relationship they have with the Chairperson and does not want any appearance of impropriety. The Chairperson will have to recuse himself from any decision based on the HR Consultant's work if JBM is selected.

Ms. Leffler agrees that the perception is a problem and also is uncomfortable with the relationship between JBM and the City because she feels the Water Board needs to be careful with its relationship with the City.

Ms. Larkin states that she knows JBM is professional and does not believe they should be eliminated as an option to assist the NFWB based solely on their relationship to Chairperson Brown.

Motion by Mr. Forster and seconded by Ms. Larkin to approve the HR Consultant proposal by JBM at an amount not to exceed \$27,000 per year.

Brown absent Forster Y Larkin Y Leffler N Kimble N

Motion failed, 2-2, with Chairperson Brown having recused himself and absent.

2020-09-015 – AWARDING BID FOR WWTP PROJECT 3 GENERAL AND MECHANICAL CONSTRUCTION WORK

a. Arcadis Project 3 Award Recommendation Memorandum

Motion by Mr. Forster and seconded by Ms. Leffler to approve.

Brown Y Forster Y Larkin Y Leffler Y Kimble Y

Motion carried, 5-0.

2020-09-016 – AWARDING BID FOR WWTP PROJECT 3 ELECTRICAL CONSTRUCTION WORK

a. **Arcadis Project 3 Award Recommendation Memorandum**

Note: Same as Resolution 2020-09-015 and not re-duplicated.

Motion by Mr. Forster and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-017 – AWARD BID FOR 21 INCH COMBINED SEWER REPAIR ON MCKOON AVENUE

a. **Bid Tabulation and Award Recommendation**

Motion by Mr. Forster and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-018 – APPROVING ZERO COST CHANGE ORDER FOR 15-INCH COMBINED SEWER REPAIR PROJECT NEAR 1340 MICHIGAN AVENUE

a. **Memorandum from City Engineering**

Motion by Ms. Kimble and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

2020-09-019 – APPROVING ZERO COST CHANGE ORDER FOR EMERGENCY REPAIR CONTRACT

a. **Memorandum from City Engineering**

Motion by Ms. Kimble and seconded by Ms. Larkin to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

**2020-09-020 – AMENDMENT NO. 1 TO EMPLOYMENT AGREEMENT
WITH SEAN W. COSTELLO TO REDUCE LENGTH OF RENEWAL TERM**

a. Amendment No. 1 to Employment Agreement

Motion by Mr. Forster and seconded by Ms. Leffler to approve.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.

**2020-09-021 – NOTICE OF NON-RENEWAL OF CERTAIN EMPLOYMENT
CONTRACTS**

Ms. Leffler asked for clarification that the employees were not being terminated, they just would not have contracts. Mr. Brown confirmed that was the case. Mr. Costello explained that there are three contracts that need notice in October.

Motion by Mr. Forster and seconded by Ms. Kimble to table.

Brown __N__ Forster __Y__ Larkin __N__ Leffler __Y__ Kimble __Y__

Motion carried, 3-2.

13. Unfinished/Old Business

Mr. Forster wished to address Resolution 2020-07-001 – Approving Deduction of Sewer Charges for Water Used for Irrigation – Niagara Golf Partners LLC, which was not acted upon in July 2020. Mr. Forster made the motion to approve in July and did not receive a second. The Water Board previously has approved two other deduct meters and it would be fair to approve a deduct meter for the water used for irrigation.

Ms. Leffler questions if this resolution is regarding the remainder of 2020 season or for 2021. Mr. Costello states that this permit for the deduct meter would expire December 31, 2022.

Mr. Brown has not heard from the Director of Financial Services or the Executive Director regarding this resolution. He asked Mr. Costello to display on the meeting screen the historical consumption charges for the meter to show the potential lost revenue.

Mr. Forster made a motion to waive the agenda deadline and consider the resolution and received no second.

2020-09-022 – ACCEPTING PROPOSAL FOR PROPERTY, LIABILITY & UMBRELLA INSURANCE POLICIES

Motion by Ms. Leffler and seconded by Ms. Kimble to waive the agenda deadline. After ensuing discussion this motion did not come to a vote.

Ms. Larkin asked why this was not the subject of an RFP. Mr. Costello explained that in 2019 the Board issued an RFP for the insurance broker, for a two-year term. The broker then helped put together the insurance package and is compensated with commission paid by the insurance companies. This would be a renewal of the policies first put into place in 2019. Mr. Forster questioned the amount of the rate increase; Mr. Costello replied 6.7%, and the increase is not claims related. Mr. Brown noted there is nothing else to which the Board can compare the cost of this insurance. The Board asked Mr. Costello to request that USI secure additional quotes for comparison and will schedule a special meeting prior to October 18 to approve the insurance renewals. Mr. Brown asked who primarily works with the broker. Mr. Costello works on liability and property matters, and the Administrative Services Department is closer to Workers Compensation matters.

Mr. Costello states that after a response from the insurance broker a special meeting will be scheduled prior to October 18, 2020 for renewal of the insurance policies.

14. New Business & Additional Items for Discussion

Nothing new to discuss at this time.

15. Executive Session (if needed)

No executive session was held.

16. Adjournment of Meeting

Motion by Ms. Leffler and seconded by Ms. Larkin to adjourn at 7:03 p.m.

Brown __Y__ Forster __Y__ Larkin __Y__ Leffler __Y__ Kimble __Y__

Motion carried, 5-0.