



Regular Meeting Minutes  
Date: December 21, 2018

**APPROVED**  
January 30, 2019

Members Attending: T. Anderson, M. McKeown, S. Beardsley, P. Brooks, J. Deming, E. Gott, T. Saunders

Excused Absent:

Others attending: M. Baines (Executive Director), M. Kosakowski (Director of Operations), R. Lewis (Principal Account Clerk), E. Wies (Clark Patterson Lee), J. Campbell (Kruk & Campbell, P.C.)

**Call to Order** – With a quorum present, Chairman T. Anderson called the meeting to order at 8:00 am.

**Approval of Agenda**

*Motion: S. Beardsley moved and J. Deming seconded to approve the agenda as presented. Carried unanimously.*

**Approval of Minutes** – November 28, 2018 Regular Board Meeting

*Motion: P. Brooks moved and E. Gott seconded to approve regular board meeting minutes dated November 28, 2018.*

**Privilege of the Floor** – None.

**Financial report:** R. Lewis reviewed the Financial report with the Board (on file with Secretary).

*Motion: E. Gott moved and S. Beardsley seconded to approve the Financial Report. Carried unanimously.*

Other item(s) discussed under the financial portion of the meeting:

- **Capital Projects/Cash Flow Update** – R. Lewis informed the Board that EFC has agreed to release funds for construction on the Lakeville WWTP Upgrades project. A disbursement request totaling close to \$1M was submitted to EFC on 12/14/18, which includes construction costs that LCWSA has incurred to date, plus the most recent payment application from Crane-Hogan. This will improve LCWSA’s cash flow situation significantly, which should eliminate the need for LCWSA to proceed with any short-term borrowing.
- **2018 Audit** – R. Lewis noted that representatives from Bonadio & Co, LLP, will be on site the week of February 11, 2019 to complete the fieldwork component of the audit.

**Bills:** R. Lewis reviewed the monthly bills.

*Motion: J. Deming moved and M. McKeown seconded to approve paying Total Operating & Projects expenditures of \$423,036.30 as follows: Operating Expenditures in an amount not to exceed \$156,361.42; DOCCS Project Expenditures in an amount not to exceed \$31,407.65; Lakeville WWTP Upgrades Project expenditures in an amount not to exceed \$234,987.73; and Other Projects in an amount not to exceed \$279.50. Carried unanimously.*

*Motion: M. McKeown moved and T. Saunders seconded to approve paying the bills for Utilities & Miscellaneous expenditures in an amount not to exceed \$78,722.57. Carried unanimously.*

## Operations and Capital Report

M. Kosakowski reviewed the Operations and Capital Reports with the Board (on file with Secretary). The following item was further discussed by the Board:

- **DOCCS Water Supply Project – Contract No. 2A (Randsco Pipeline, Inc.), Change Order No. 3**  
E. Wies circulated copies of proposed Change Order No. 3 (on file with Secretary) to the Board for review and approval. This proposed change order involves the replacement of the two (2) existing vertical turbine pumps at the Hemlock Pumping Station, to improve long-term reliability and provide for the necessary redundancy for the DOCCS water supply system. Additionally, the change order includes the final quantity adjustment to the contract. Total increase in cost is \$67,119.80.

*Motion: J. Deming moved and M. McKeown seconded to approve Change Order No. 3 (Two (2) New Vertical Turbine Pumps, and Final Quantity Adjustment) to DOCCS Water Supply Project, Contract No. 2A, in the amount of \$67,119.80. Carried unanimously.*

## Other Business

### Lakeville Wastewater Treatment Plant (SPDES NY0032328)

J. Campbell provided an update to the Board on the meeting that was held on December 18, 2018 between DEC Region 8 staff (Karis Manning, Michele Vincent, Pradeep Jangbari, Dennis Harkawik, Esq.) and LCWSA staff and representatives (M. Baines, M. Kosakowski, CPL: E. Wies, Kruk & Campbell: J. Campbell). At this meeting, the DEC distributed a revised draft consent order (on file with Secretary) with the following major changes: additional paragraphs added regarding errors in DMRs/operations reports (submitted by YAWS Environmental Process Control, Inc.), an increase in the fine from \$15,000 to \$25,000 due to those errors in reporting, requirement to define “normal sewage” and make the necessary sewer use ordinance modifications following the DEC model sewer use law. The Board had an extensive discussion regarding the fine, the proposed timelines/timeframes for completing those items in the “Compliance Directive” section, and the most efficient and effective means of correcting/amending the DMRs/operations reports. The Board consensus was to request that the portion of the fine attributable to the errors DMRs/operations reports be presented as a separate amount (i.e. \$10,000), and that certain timeframes be extended from 8 weeks to 16 weeks for the I & I report (Paragraph II.B) and sewer use ordinance modifications (Paragraph II.F). The Board indicated that LCWSA staff should inform YAWS of a January 11, 2019 deadline to complete corrections/amendments to all DMRs/operations reports, and these reports should be submitted to CPL for review prior to being re-submitted to DEC/EPA.

*Motion: T. Saunders moved and S. Beardsley seconded to authorize the LCWSA Chairman to sign the final version of the Consent Order, following the requested revisions and subject to final review by the LCWSA attorney, and to authorize LCWSA staff to prepare the necessary payment to NYSDEC in accordance with the final version of the Consent Order. Carried unanimously.*

### LCWSA Employee Transition

The following resolutions and draft agreements related to the employee transition were reviewed by the Board:

- **RESOLUTION NO. 2018-29 RATIFYING TENTATIVE AGREEMENT WITH THE CSEA FULL-TIME UNIT RE: MEMORANDUM OF AGREEMENT (MOA) AND AUTHORIZING EXECUTION OF THE MOA**

WHEREAS, the negotiating parties for the Livingston County Water & Sewer Authority (LCWSA) and the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO have reached a tentative agreement on the terms of a Memorandum of Agreement (MOA); and

WHEREAS, it is now recommended that the Livingston County Water & Sewer Authority (LCWSA) Board ratify this agreement; NOW THEREFORE BE IT

RESOLVED, that the tentative agreement on the terms of a MOA, a copy of which is attached hereto, is hereby ratified; AND BE IT FURTHER

RESOLVED, that the LCWSA Board hereby authorizes the Executive Director to sign the MOA consistent with the terms of the tentative agreement.

*Motion: S. Beardsley moved and M. McKeown seconded to approve Resolution No. 2018-29 Ratifying Tentative Agreement with the CSEA Full-Time Unit Re: Memorandum Of Agreement (MOA) and Authorizing Execution of the MOA. Carried unanimously.*

▪ **CSEA Employee Benefit Fund - Dental Plan Agreement, and Retiree Dental Memorandum of Agreement**

M. Baines noted that the CBA that was recently approved by the Board enables union members to obtain dental coverage through the Solstice Dental Plan which is administered by the CSEA Employee Benefit Fund (CSEA EBF). Employees will pay 100% of the cost of such insurance. In order to permit employees represented by CSEA and their dependents to enroll in the benefit plan, this requires that LCWSA enter into an agreement with the CSEA EBF. The Board reviewed the draft agreement (on file with Secretary).

*Motion: J. Deming moved and S. Beardsley seconded to approve the agreement between LCWSA and CSEA Employee Benefit Fund for the provision of certain benefits to employees represented by CSEA and their dependents, and to authorize the Executive Director to sign the agreement subject to LCWSA attorney review. Carried unanimously.*

M. Baines indicated that CSEA had also provided a draft Memorandum of Agreement (MOA) regarding the provision of dental benefits to members of the CSEA bargaining unit who retire and meet certain criteria. The employer has no obligation to pay for coverage under the Plan, and the CSEA EBF will be solely responsible for administration of the plan. The MOA was forwarded to Susan McClaren, Esq., for review and she indicated that the MOA did include a “hold harmless” provision from a liability standpoint. The Board reviewed the draft MOA (on file with Secretary).

*Motion: P. Brooks moved and M. McKeown seconded to approve the Retiree Dental Memorandum of Agreement (MOA) between LCWSA and CSEA Employee Benefit Fund, and to authorize the Executive Director to sign the agreement subject to LCWSA attorney review. Carried unanimously.*

▪ **Voluntary Disability Benefits Coverage – Rescinding Resolution No. 2017-14**

M. Baines reminded the Board that at the July 26, 2017 Board meeting, the Board approved Resolution No. 2017-14, which provided for voluntary disability benefits coverage to all LCWSA employees. The Disability Benefits insurance policy will expire January 1, 2019 and up until now has only covered the Executive Director and Seasonal Laborers. This benefit was not included in the CBA that was recently approved and therefore is not available to the nine (9) employees who are CSEA union members who will be appointed and/or transferred as of January 1, 2019. In discussions with Susan McClaren, Esq., it was recommended that the Board consider rescinding the resolution and revisiting the benefits discussion at the time of contract negotiations in mid-2020.

*Motion: M. McKeown moved and J. Deming seconded to rescind Resolution No. 2017-14 Voluntary Disability Benefits Coverage to Livingston County Water & Sewer Authority Employees. Carried unanimously.*

▪ **RESOLUTION NO. 2018-30 RECOGNITION OF CERTAIN BENEFITS AND COMPENSATION FOR MARK KOSAKOWSKI AS PART OF EMPLOYEE TRANSFER**

WHEREAS, effective January 1, 2019, the salary schedule and benefits of certain LCWSA positions are provided for in the Collective Bargaining Agreement (CBA) and attendant Memorandum of Agreement (MOA) between the Civil Service Employees Association (CSEA) and the Livingston County Water & Sewer Authority (LCWSA), that covers the period of January 1, 2019 through December 31, 2020; and

WHEREAS, compensation and benefits of certain LCWSA positions are provided for in separate employment contracts; and

WHEREAS, the position of Director of Operations (Competitive Class) is not covered under the CSEA CBA and attendant MOA, or a separate employment agreement; and

WHEREAS, Resolution No. 2018-27, provided authorization to fill ten (10) Civil Service positions by transfer and/or appointment, including the position of Director of Operations (Competitive Class); and

WHEREAS, effective January 1, 2019, Mark Kosakowski will be provisionally appointed to the Director of Operations position, immediately following his resignation from his existing Livingston County position of Director of Operations (Public Works Department) effective December 31, 2018 at 11:59 pm to permit such appointment; and

WHEREAS, although the effective date of appointment to the LCWSA is January 1, 2019, the hire date to be used for calculation of seniority and pay and benefits, including: wages and longevity increments, leave time, health insurance benefits (eligibility and contribution) and such other benefits for which hire date and/or seniority are relevant, shall be based upon his last date of hire as a full-time employee with Livingston County prior to appointment to the LCWSA, as set forth below:

Name	Date of Hire/Seniority Date
Mark D. Kosakowski	June 27, 1987

WHEREAS, the position of Director of Operations (Public Works Department) is classified as a “Full-time, permanent Department Head” by Livingston County, and is therefore entitled to certain benefits; NOW THEREFORE BE IT

RESOLVED, that the LCWSA Board recognizes the following benefits for Mark Kosakowski, effective January 1, 2019:

1. **Retirement, Sick Leave, Bereavement Leave, Holidays, Personal Leave, Jury Duty Leave –** Retirement, Sick Leave, Bereavement Leave, Holidays, Personal Leave, and Jury Duty Leave shall be provided to the employee as set forth in the CSEA CBA and attendant MOA.
2. **Vacation –** Vacation accrual shall be provided to the employee on the same basis as provided to CSEA full-time unit employees under the terms of their CBA and attendant MOA.
3. **Health Insurance:**
  - Eligibility –** Employee is eligible for health insurance coverage.
  - Plan Option(s) –** Employee is eligible to enroll in health insurance plan(s) offered by the LCWSA on the same basis as provided to CSEA full-time unit employees under the terms of their CBA and attendant MOA.
  - Employee Contribution Toward Cost of Coverage –** No employee contribution.

**Drop Payments** – Employee is eligible for health insurance drop payment on the same basis as provided to CSEA full-time unit employees under the terms of their CBA and attendant MOA.

**4. Retiree Health Insurance**

Employee is eligible for retiree health benefits if he meets eligibility criteria set forth in the CSEA CBA and attendant MOA.

**5. Deferred Compensation**

Employee is eligible to participate in LCWSA's deferred compensation plan on the same basis as provided to CSEA full-time unit employees under the terms of their CBA and attendant MOA.

**6. Flexible Spending Account**

Employee is eligible to participate in LCWSA's flexible spending account on the same basis as provided to CSEA full-time unit employees under the terms of their CBA and attendant MOA.

AND BE IT FURTHER

RESOLVED, that the 2019 salary for the Director of Operations position shall be fixed at the rate of \$75,500.00, and shall be effective January 1, 2019; and future adjustments in salary shall be approved by resolution of the LCWSA Board; AND BE IT FURTHER

RESOLVED, that the LCWSA Board will provide Mark Kosakowski with an individual accounting of his pay, leave time, vacation accrual, health insurance contribution, retiree health insurance eligibility and deferred compensation match eligibility as of January 1, 2019, within a reasonable time following that date, reflecting the information set forth above.

*Executive Session*

*Motion: S. Beardsley moved and M. McKeown seconded that the Board adjourn and reconvene in Executive Session at 10:30 am for the purpose of discussing the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation; and that T. Anderson act as Chairman and M. Baines act as Secretary, and J. Campbell remain present. Carried unanimously.*

*Motion: E. Gott moved and T. Saunders seconded to end the Executive Session at 10:40 am. Carried unanimously.*

The Board reconvened in regular session. The following report was presented.

REPORT OF EXECUTIVE SESSION

The Board of Livingston County Water & Sewer Authority having met in Executive Session for the purpose of discussing the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation; hereby reports as follows:  
No action taken.

Dated December 21, 2018

T. Anderson

M. Baines, Secretary

*Motion: S. Beardsley moved and M. McKeown seconded to approve Resolution No. 2018-30 Recognition Of Certain Benefits And Compensation For Mark Kosakowski As Part Of Employee*

*Transfer, and to establish the 2019 salary for the Director of Operations as \$75,500.00. Carried unanimously.*

▪ **RESOLUTION NO. 2018-31 AMENDING EMPLOYMENT AGREEMENT BETWEEN LIVINGSTON COUNTY WATER AND SEWER AUTHORITY AND MICHELLE BAINES (AMENDMENT NO. 3 – REVISIONS TO DEFERRED COMPENSATION PLAN PARTICIPATION)**

WHEREAS, the Employee Agreement between the Livingston County Water and Sewer Authority (LCWSA) and Michelle Baines, dated April 17, 2017, and amended by Resolution Nos. 2017-05 and 2017-17, allows for the employee to participate in the New York State Deferred Compensation Plan; and

WHEREAS, by Resolution Nos. 2018-12 and 2018-13, the LCWSA established the “Livingston County Water and Sewer Authority Section 401(a) Matching Deferred Compensation Plan” (“401(a) Plan”) and the “Livingston County Water and Sewer Authority Section 457(b) Deferred Compensation Plan” (“457(b) Plan”), respectively, with effective plan dates of January 1, 2019; and

WHEREAS, all employees of the LCWSA are eligible to participate in the 457(b) Plan beginning January 1, 2019; and

WHEREAS, an “Eligible Employee” under the 401(a) Plan is defined as an “Employee eligible to participate in the 401(a) Plan either: (i) under the express terms of a collective bargaining agreement between the Employer and Employee representative(s); or (ii) pursuant to a resolution adopted by the Employer’s Board of Directors”;

NOW THEREFORE BE IT RESOLVED, that the LCWSA Board hereby designates Michelle Baines as an eligible employee to participate in the 401(a) Plan; and

BE IT FURTHER RESOLVED, that the LCWSA Board approves the following revisions to the Employment Agreement between the LCWSA and Michelle Baines, which shall be known as Amendment No. 3:

*DELETE:* “9. The employee shall be permitted to participate in the New York State Deferred Compensation Plan and the employer shall promptly undertake measures to facilitate the employee’s participation therein.”

*AND REPLACE WITH:* “9. The employee shall be permitted to participate in the Livingston County Water and Sewer Authority Section 401(a) Matching Deferred Compensation Plan” (“401(a) Plan”) and the “Livingston County Water and Sewer Authority Section 457(b) Deferred Compensation Plan” (“457(b) Plan”), effective January 1, 2019.”

*Motion: M. McKeown moved and P. Brooks seconded to approve Resolution No. 2018-31 Amending Employment Agreement Between Livingston County Water And Sewer Authority and Michelle Baines (Amendment No. 3 – Revisions to Deferred Compensation Plan Participation). Carried unanimously.*

**Existing & New Policies**

M. Baines reminded the Board that the New York State Authorities Budget Office (ABO) requires that public authorities annually review, and update as necessary, various policies including their investment policy,

procurement policy, whistleblower policy, etc. LCWSA staff have reviewed the following policies, and no revisions are recommended at this time:

- Investment Policy (F10-0000)
- Purchasing, Disposition Policy, and Capital Projects (F20-000)
- Whistleblower Policy (P01-001)

*Motion: P. Brooks moved and S. Beardsley seconded to approve the Investment Policy (F10-0000) as presented. Carried unanimously.*

*Motion: P. Brooks moved and S. Beardsley seconded to approve the Purchasing, Disposition Policy, and Capital Projects (F20-000) as presented. Carried unanimously.*

*Motion: P. Brooks moved and S. Beardsley seconded to approve the Whistleblower Policy (P01-001) as presented. Carried unanimously.*

M. Baines informed the Board that New York State had recently passed a new Sexual Harassment Prevention Law which requires all employers in New York State to adopt a model sexual harassment prevention policy, customize it for their organization and share it with each of their NYS employees, along with the formal Complaint Form provided by New York State. Livingston County updated its existing policy at its September 26, 2018 Board of Supervisors meeting. LCWSA staff have reached out to Susan McClaren, Esq., at Webster Szanyi LLP, who has recommended that the LCWSA Board approve a more comprehensive policy that covers all forms of discrimination, not just sexual harassment. The Board reviewed the draft policy that has been provided by Webster Szanyi.

*Motion: M. McKeown moved and J. Deming seconded to approve the Non-discrimination and Anti-Harassment Policy as presented. Carried unanimously.*

M. Baines noted that as of January 1, 2019, Records Management support to LCWSA will no longer be provided by the Livingston County IT Department/ Records Management Division, and it will therefore be necessary for the Board to adopt its own Records and Retention Disposition Schedule. The New York State Archives division of the State Education Department has developed Records Retention and Disposition Schedule MI-1, for use by miscellaneous local governments including public benefit corporations. The Board reviewed the following draft resolution.

#### **RESOLUTION NO. 2018-32 ADOPTING RECORDS RETENTION AND DISPOSITION SCHEDULE MI-1**

WHEREAS, as of January 1, 2019, Records Management support to the Livingston County Water & Sewer Authority (LCWSA) will no longer be provided by the Livingston County IT Department/ Records Management Division; and

WHEREAS, prior to January 1, 2019, the Records Management Division will be transferring all "Livingston County Public Works" and "Livingston County Water & Sewer Authority" records that are being physically stored by the Records Management Division to the LCWSA Office, having an address of 1997 D'Angelo Drive, Lakeville NY 14480; and

WHEREAS, managing these existing public records and any new public records will become the responsibility of the LCWSA, as of January 1, 2019; and

WHEREAS, it is therefore necessary for the LCWSA to adopt its own records retention and disposition schedule and to designate an official custodian of public records/Records Management Officer for the LCWSA;  
NOW THEREFORE BE IT

RESOLVED, by the LCWSA Board, that Records Retention and Disposition Schedule MI-1 (latest version attached hereto), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed herein; BE IT FURTHER

RESOLVED, that in accordance with Article 57-A:

(a) only those records will be disposed of that are described in Records Retention and Disposition Schedule MI-1 after they have met the minimum retention periods described therein;

(b) only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

BE IT FURTHER RESOLVED, that the Secretary of the LCWSA Board shall be designated as the official custodian of public records/Records Management Officer for the LCWSA.

*Motion: J. Deming moved and P. Brooks seconded to approve Resolution No. 2018-32 Adopting Records Retention and Disposition Schedule MI-1. Carried unanimously.*

#### **January 2019 Organizational Meeting Date**

The Board discussed setting the meeting date for the annual organizational meeting. The Board consensus was to schedule the meeting for January 30, 2019 at 8am.

*Motion: M. McKeown moved and J. Deming seconded to approve scheduling the organizational meeting for January 30, 2019 at 8 am, and directed the Secretary to notify the public with an advertisement in the Authority's official newspapers. Carried unanimously.*

#### **Communications**

The following items were provided to Board members for informational purposes. No action taken.

- "City of Binghamton – Water System Cybersecurity" Audit Report by Office of NYS Comptroller (dated November 2018)
- 2018 Audit Engagement Letter from Bonadio & Co., LLP (dated November 20, 2018)
- Authorities Budget Office (ABO) Policy Guidance No. 17-01 – Board Member Training ("As a best practice, the ABO recommends that directors participate in refresher training upon re-appointment to the Board or at least every three years.")
- 2018 Regional Economic Development Council Awards (Finger Lakes Region – pages 23-36) Includes: CFA#83902 Livingston County Water & Sewer Authority – New UV Disinfection Equipment at Lakeville WWTP (p. 24) – DEC WQIP Grant Award: \$767,250

*Adjourn: Motion: P. Brooks moved and J. Deming seconded to adjourn the board meeting at 11:05 am. Carried unanimously.*