

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

Excused:

Absent:

Others attending: M. Baines (Executive Director), M. Kosakowski (Director of Operations), R. Lewis (Principal Account Clerk), B. Harris (Account Clerk/Typist), E. Wies (Clark Patterson Lee), J. Campbell (Kruk & Campbell, P.C.), J. LaFountain (6059 Boller Ave)

Approval of Agenda

Motion: *S. Beardsley moved and M. McKeown seconded to approve the agenda with the addition of an Executive Session at the conclusion of "Other Business". Carried unanimously.*

Approval of Minutes – March 27, 2019 Regular Board Meeting

Motion: *E. Gott moved and J. Deming seconded to approve regular board meeting minutes dated March 27, 2019. Carried unanimously.*

Privilege of the Floor

Jason LaFountain – LCWSA Acct 11639 (6059 Boller Ave, Town of Livonia) – Emergency Call Out Charge (\$317.00) J. LaFountain noted that he had recently received a letter from LCWSA indicating that there would be no adjustments to the charge on the account. This letter was in response to his letter dated February 18, 2019, requesting that the emergency call out charge be refunded. This letter was reviewed by the Board at the February 27, 2019 Board meeting. The Board determined that LCWSA staff responded appropriately and billed the account in accordance with the "Customer Service Call Policy" (C05-200), and therefore there would be no adjustments to the charge on the account. J. LaFountain indicated that he still believes that he is entitled to a refund of \$317.00 for the call out, and that LCWSA staff failed to inform him that the water had not been shut off to the property. Chairman T. Anderson informed J. LaFountain that the Board would re-visit the discussion later in the meeting.

J. LaFountain departed the meeting.

Financial report: R. Lewis reviewed the Financial report with the Board (on file with Secretary). R. Lewis noted that the expenditures to date of \$8,376,656.24 listed in the "Capital Projects in Progress" report for the DOCCS Water Supply Project (WSP) also includes the Farm Upsizing Project (\$318,000 cost), which was completed concurrently with the DOCCS WSP. Therefore, the actual overall combined budget for the two projects is \$8,692,000 (\$8,374,000 + \$318,000). R. Lewis informed the Board that the first bills for the quarterly capital charge will be sent to Dairy Knoll Farms LLC and Sparta Farms LP in early May 2019, in accordance with the 20-yr Water Improvement Repayment Agreements that were executed between the farms and LCWSA.

With Phase 1 of the Lakeville WWTP Upgrades project nearing completion, R. Lewis noted that the first debt payment to EFC will be due in February 2020, which will require LCWSA to determine the appropriate debt charge for 2020 and onwards for those customers located in the Lakeville WWTP sewer service area.

R. Lewis updated the Board that LCWSA staff is currently reviewing various sample banking RFPs.

Motion: M. McKeown moved and T. Saunders seconded to approve the Financial Report. Carried unanimously.

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

- **Section 401(a) Matching Deferred Compensation Plan – Proposed First Amendment**

M. Baines updated the Board that the IRS has issued a favorable determination on the tax-qualified status of LCWSA's Section 401(a) plan, conditioned upon the adoption of the proposed amendment that was prepared by Robert Pizzo, Esq., who developed the original plan document for LCWSA in 2018. The following resolution was reviewed by the Board:

RESOLUTION NO. 2019 – 02 FIRST AMENDMENT TO LIVINGSTON COUNTY WATER & SEWER AUTHORITY SECTION 401(A) MATCHING DEFERRED COMPENSATION PLAN

WHEREAS, the Livingston County Water & Sewer Authority Section 401(a) Matching Deferred Compensation Plan (the "Plan") was established, effective January 1, 2019 for the benefit of eligible employees;

WHEREAS, under Section 11.1 of the Plan, the Livingston County Water & Sewer Authority (the "Employer") has the right to amend the Plan; and

WHEREAS, the Employer now wishes to amend Subsection (b) of Section 9.1 of the Plan, as requested by the Internal Revenue Service as a condition to issuing an initial favorable determination on the tax qualified status of the Plan under Section 401(a) of the Internal Revenue Code.

NOW, THEREFORE, Subsection (b) of Section 9.1 of the Plan is amended, effective January 1, 2019 to read as follow:

(b) All distributions required under this Article will be determined and made in accordance with Section 401(a)(9) of the Code, including, but not limited to, the incidental benefit requirements of Section 401(a)(9) of the Code and Treasury Regulations issued thereunder.

Motion: E. Gott moved and S. Beardsley seconded to approve Resolution No. 2019-02 First Amendment to Livingston County Water & Sewer Authority Section 401(a) Matching Deferred Compensation Plan, and to authorize the Chairman to sign the necessary documentation. Carried unanimously.

- **2019 Audit – Engagement Letter (Bonadio & Co, LLP)**

M. Baines reminded the Board that the 5-year agreement with Bonadio & Co, LLP covered audit years 2014 through 2018. To ensure continuity, especially with various organizational changes that have occurred recently (including the employee transfer on January 1, 2019), it is recommended that the Authority retain Bonadio & Co, LLP for the 2019 audit year. The Board reviewed the Engagement Letter prepared by Bonadio & Co, LLP for auditing services for the year ending December 31, 2019. The letter identifies a proposed fee of \$11,000 which the Board felt was reasonable and consistent with the fees charged for prior years' audits.

Motion: E. Gott moved and T. Saunders seconded to retain Bonadio & Co, LLP for the 2019 audit for a fee of \$11,000.00, and to authorize the Chairman and the Executive Director to sign the Engagement Letter. Carried unanimously.

Bills: R. Lewis reviewed the monthly bills.

Motion: *E. Gott moved and M. McKeown seconded to approve paying Total Operating & Projects expenditures of \$290,534.81 as follows: Operating Expenditures in an amount not to exceed \$126,824.63; Project Expenditures in an amount not to exceed \$140.00; Lakeville WWTP Upgrades Project expenditures in an amount not to exceed \$163,570.18. 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 \$205,854.12. Carried unanimously.*

Operations and Capital Report

M. Kosakowski reviewed the Operations and Capital Reports with the Board (on file with Secretary). The Board asked that moving forward the number of stakeouts and workorders completed from the prior year for the same month be provided in the operations report for comparison purposes.

Other Business

Lakeville Wastewater Treatment Plant (SPDES NY0032328) – Consent Order Update

E. Wies updated the Board that Compliance Directives IIA (Submittal of plan listing manholes to be repaired or replaced), IIC (List of known sources of inflow and infiltration), IIH (Submittal of corrected DMRs/Facility Operating reports) have been completed. The focus is now on completion of items listed as Compliance Directives IIB (I/I Report) and IIF (Revised Sewer Use Ordinance). E. Wies noted that flow monitoring will be necessary as part of IIB, and that LCWSA has purchased four (4) flowmeters and an additional four (4) flowmeters are available for LCWSA’s use through an intermunicipal agreement for shared services with the Town of Batavia. The Board reviewed the following resolution:

RESOLUTION NO. 2019 – 03 APPROVING INTERMUNICIPAL AGREEMENT FOR SHARED SERVICES WITH THE TOWN OF BATAVIA (PORTABLE FLOW METER EQUIPMENT)

WHEREAS, the Livingston County Water & Sewer Authority (LCWSA) desires to use certain portable flow meter equipment owned by the Town of Batavia; and

WHEREAS, the Town of Batavia has drafted and approved an “Intermunicipal Agreement for Shared Services with the Livingston County Water & Sewer Authority (LCWSA)” (attached hereto) for use of this portable sewer flow meter equipment; and

WHEREAS, the LCWSA Board and the LCWSA attorney have reviewed the agreement and find the terms and conditions acceptable; NOW THEREFORE BE IT

RESOLVED, that the LCWSA Board hereby authorizes the Executive Director to sign the agreement and forward a fully executed copy of the agreement and a certified copy of this resolution to the Town of Batavia.

Motion: *S. Beardsley moved and J. Deming seconded to approve Resolution No. 2019-03 Approving Intermunicipal Agreement for Shared Services With The Town Of Batavia (Portable Flow Meter Equipment). Carried unanimously.*

P. Brooks entered the meeting.

In an effort to better track engineering and legal services costs associated with the Consent Order, specifically the Compliance Directive submittals, CPL and Kruk & Campbell have prepared proposals with estimated budgets for presentation to the Board. The Board reviewed the following proposals (on file with Secretary):

- **Legal Services Proposal (Kruk & Campbell)**

J. Campbell presented the proposal for Professional legal services relating to the DEC Order on Consent. The proposal includes a rate of Two Hundred Dollars (\$200.00) per hour with an estimated cost of approximately Ten Thousand Dollars (\$10,000) for budget allocation purposes.

Motion: E. Gott moved and T. Saunders seconded to approve the Kruk & Campbell proposal for legal services for NYSDEC Consent Order compliance, to be billed at a rate of \$200.00/hour, with a budget of \$10,000.00. Carried Unanimously.

- **Engineering Services Proposal (CPL) – Compliance Directives IIA & IIC**

E. Wies presented the proposal for design, bidding, and constructions services associated with the manhole rehabilitation and gravity sewer and lateral repair work that will need to be completed as part of implementation of Compliance Directives IIA and IIC. The proposed fee is \$16,300 and includes design, bidding, construction administration, and construction observation.

Motion: E. Gott moved and T. Saunders seconded to approve the CPL proposal for engineering, bidding, and construction phase services for NYSDEC Consent Order Compliance Directives IIA & IIC (Manhole Rehab, Gravity Sewer/Lateral Repair Work), for a lump sum fee of \$16,300. Carried Unanimously.

- **Engineering Services Proposal (CPL) – Compliance Directives IIB**

E. Wies presented the proposal for engineering services associated with the preparation of the required Infiltration/Inflow (I/I) report. E. Wies noted the level of effort is difficult to estimate due to variables, including how much time may be required to evaluate and format existing televising data, the number of meetings and site visits that may be required, and how many anticipated variations of the cross-connections may be evaluated. It is proposed that in lieu of a lump sum fee, that the work be billed hourly for the not-to-exceed fee of \$40,000.

Motion: J. Deming moved and E. Gott seconded to approve the CPL proposal for engineering services for NYSDEC Consent Order Compliance Directive IIB (I/I Report), to be billed hourly for the not-to-exceed fee of \$40,000. Carried Unanimously.

Groveland Station Wastewater Treatment Plant–Disinfection Evaluation/Study & WQIP Grant Application

M. Baines reminded the Board that in March 2019, LCWSA received notice from the NYSDEC that the SPDES permit for the Groveland Station sewage treatment plant will be modified to include a new requirement for disinfection of the effluent. The compliance schedule included in the letter requires that engineering documents be submitted by 2022, and that the project be operational by 2024.

At the March 27, 2019 Board meeting, the Board discussed pursuing the same funding source (NYSDEC Water Quality Improvement Project (WQIP) Program) for the Groveland Station treatment plant disinfection project, as was done back in 2018 for the Lakeville WWTP disinfection project.

E. Wies circulated copies of the engineering proposal (on file with Secretary) to the Board for review and approval. The proposed scope includes the preparation of the necessary Engineering Report evaluating various treatment technologies and submittal of the grant application by end of July 2019, as part of the Consolidated Funding Application (CFA) process. The proposed fee is \$3,500. M. Baines recommended that the Board consider establishing this as a 2019 capital project with a preliminary budget of \$5,000.

Motion: M. McKeown moved and S. Beardsley seconded to approve the CPL proposal for engineering services for the Groveland Station WWTP Disinfection Study and Grant Application, for a lump sum fee of \$3,500.00. Carried Unanimously.

Motion: E. Gott moved and J. Deming seconded to create a Capital Project “Groveland Station WWTP Disinfection Study”, and establish a 2019 Budget of \$5,000.00. Carried unanimously.

Groveland Station Water Supply Study

As a follow-up to the discussion at the March 27, 2019 Board meeting regarding Total Trihalomethane (TTHM) levels in the hamlet of Groveland Station, LCWSA staff requested that CPL prepare a proposal to evaluate the option of supplying water to this area from Groveland Hill Road. This connection has several potential advantages including optimized pump station operation, redundancy, and improved disinfection by-product levels. E. Wies reviewed the proposed scope and fee (\$3,900) with the Board. M. Baines recommended that the Board consider establishing this as a 2019 capital project with a preliminary budget of \$5,000.

Motion: E. Gott moved and J. Deming seconded to approve the CPL proposal for engineering services for the Groveland Station Water Supply Study, for a lump sum fee of \$3,900.00. Carried Unanimously.

Motion: E. Gott moved and J. Deming seconded to create a Capital Project “Groveland Station Water Supply Study”, and establish a 2019 Budget of \$5,000.00. Carried unanimously.

Water System Improvements: Pine Tree Mobile Home Park – Engineering Services Amendment No. 1, and Lake Forest Mobile Home Park – Engineering Services Amendment No. 1

M. Baines reminded the Board that the water system improvement project was bid out back in August 2017 and bids were formally rejected by the Board in November 2017 as they exceeded the original budgeted project amounts. At the time, the Board discussed the need to acquire the necessary easements (temporary and permanent), before agreeing to proceed with any water system improvements in either of the parks. CPL has prepared amendments to its existing engineering agreements to cover the additional survey effort that will be required in order to develop the necessary easements. The Board had an extensive discussion regarding the survey effort, and the consensus was that the additional work is warranted and will facilitate future negotiations with both park owners regarding potential water system upgrades.

Motion: J. Deming moved and P. Brooks seconded to approve Engineering Amendment No. 1 to CPL’s existing agreement for the Pine Tree Mobile Home Park – Water Main Improvements Project, which increases the lump sum fee from \$15,965 to \$24,325 (an increase of \$8,360). Carried Unanimously.

Motion: J. Deming moved and P. Brooks seconded to approve Engineering Amendment No. 1 to CPL’s existing agreement for the Lake Forest Mobile Home Park – Water Main Improvements Project, which increases the lump sum fee from \$12,665 to \$19,425 (an increase of \$6,760). Carried Unanimously.

Jason LaFountain – LCWSA Acct 11639 (6059 Boller Ave, Town of Livonia) – Continued Discussion

The Board briefly reviewed again the correspondence related to the emergency call out charge. The Board consensus continues to be that LCWSA staff responded appropriately and billed the account in accordance with the “Customer Service Call Policy” (C05-200), and therefore there would be no adjustments to the charge on the account. The Board directed J. Campbell to prepare a letter to J. LaFountain re-iterating LCWSA’s position.

Executive Session

Motion: E. Gott moved and T. Anderson seconded that the Board adjourn and reconvene in Executive Session at 10:15 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: P. Brooks moved and T. Saunders seconded to end the Executive Session at 10:33 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 April 24, 2019
T. Anderson
M. Baines, Secretary

Executive Session

Motion: S. Beardsley moved and P. Brooks seconded that the Board adjourn and reconvene in Executive Session at 10:35 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. McKeown act as Secretary. Carried unanimously.

Motion: J. Deming moved and E. Gott seconded to end the Executive Session at 10:54 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 April 24, 2019
T. Anderson
M. McKeown, Secretary

Motion: P. Brooks moved and J. Deming seconded that based on the Executive Director’s annual performance evaluation conducted by the Board and in accordance with Paragraph 3 of the employment agreement between LCWSA and Michelle Baines, the annual salary of the Executive Director be increased to \$100,000.00, effective April 17, 2019 (anniversary date). Carried unanimously.

Communications

The following item(s) were provided to Board members for informational purposes. No action taken.

- “Town of Queensbury, Water System Cybersecurity” Audit Report by Office of NYS Comptroller (March 2019)

Adjourn: Motion: J. Deming moved and S. Beardsley seconded to adjourn the Board meeting at 11:00 am. Carried unanimously.