

Final: May 22, 2018

**MEETING OF THE BOARD OF DIRECTORS OF  
THE WATER AUTHORITY OF GREAT NECK NORTH  
HELD ON APRIL 16, 2018,  
AT 50 WATERMILL LANE, GREAT NECK, NEW YORK.**

**PRESENT:**

Michael C. Kalnick, Chairperson  
Jean Celender, Director  
Carol Frank, Director  
Susan Lopatkin, Director  
Michael Smiley, Director

Village of Kings Point  
Village of Great Neck Plaza  
Town of North Hempstead  
Village of Kensington  
Village of Great Neck Estates

**ALSO PRESENT:**

Ralph J. Kreitzman, Vice-Chairperson  
Robert Graziano, Deputy Chairperson  
Gregory Graziano, Superintendent  
Sue Huang, Civil Engineer  
Judith Flynn, Treasurer  
Lisa Schlichting, Secretary  
Benjamin Kaplan, Counsel  
Gary Stuart, Principal Engineer

Water Authority of Great Neck North  
Water Authority of Great Neck North  
Water Authority of Great Neck North  
Water Authority of Great Neck North  
Water Authority of Great Neck North  
Water Authority of Great Neck North  
McLaughlin and Stern, LLP  
CDM Smith, Consulting Engineers

**NOT PRESENT:**

Pedram Bral, Director  
Dan Levy, Director  
Steven Weinberg, Director  
Michael Rispoli, Assistant Superintendent

Village of Great Neck  
Village of Saddle Rock  
Village of Thomaston  
Water Authority of Great Neck North

The Board meeting was called to order at 6:00 p.m. Five members, who together are authorized to cast a majority of the weighted vote (Chairperson/Director Kalnick, Directors Celender, Frank, Lopatkin, and Smiley) were present, constituting a quorum.

On the motion of Director Celender, seconded by Director Smiley, by Resolution #18-04-01, the Minutes of the Board's March 19, 2018, meeting were reviewed by the Directors and were approved. The vote was 5 for, 0 against, 0 abstentions. A copy of the Minutes is on file with the Secretary.

On the motion of Director Celender, seconded by Director Smiley, by Resolution #18-04-02, the Board reviewed and approved the Abstract of Claims. The vote was 5 for, 0 against, 0 abstentions. A copy of the Abstract is on file with the Secretary.

On the motion of Director Celender, seconded by Director Smiley, by Resolution #18-04-03, the Board reviewed and approved the Treasurer's Monthly Report. The vote was 5 for, 0 against, 0 abstentions. A copy of the Report is on file with the Secretary.

On the motion of Director Lopatkin, seconded by Director Celender, by Resolution #18-04-04, the Board reviewed and accepted the Revenue and Expenses Quarterly Report for the period ended March 31, 2018. The vote was 5 for, 0 against, 0 abstentions. A copy of the Report is on file with the Secretary.

On the motion of Director Lopatkin, seconded by Director Celender, by Resolution #18-04-05, the Board reviewed and accepted the Capital Improvement Projects Report for the period ended March 31, 2018. The vote was 5 for, 0 against, 0 abstentions. A copy of the Report is on file with the Secretary.

The Treasurer distributed the Final Audited Financial Statements for the year ended December 31, 2017, and the Final Independent Accountants' Report on Investment Compliance, both of which had been approved, as Final, at the March meeting.

Gary Stuart presented the Engineer's Report:

1. SMLP Project – Improvements at several well sites to address flooding issues including the raising of well houses above flood elevations. The EFC granted an extension until September 2021.
  - Well 2A – Demolition of existing building and construction of new well house that will be approximately 8 feet higher than existing. Reusing existing well, but replacing the existing pump with new. New chemical feed system. Well 2A, booster station modifications, and new generator building will be bid as one construction package. Anticipated bid date is late May / early June.
  - Well 5 – Due to salt water modeling results only SCADA work will be completed under EFC SMLP financing.
  - Well 6 – Demolition of portion of existing building and construction of new well pump portion of building so that the new pump and associated equipment is above flood elevation. CDM Smith is working on design.
  - Well 8 – Demolition of existing building and construction of new well house (existing building is below grade). CDM Smith will perform an isolation test on the well to determine if the well casing is leaking as well as a cement bond log to evaluate the integrity of the cement seal within the annulus between the well casing and the surrounding formation. Waiting for the DEC's response to the Superintendent's letter to determine whether a new well will be drilled or the existing well will be rehabilitated. Field activities began on 2/20/18 with removal of motor, pump and column pipe. The well was disinfected, reassembled, and placed back into service. The contractor was complete on 3/22/18. A memorandum summarizing the findings from the analysis was submitted for Authority review on April 13, 2018.
2. Weybridge Road Tank Catwalk Structural Review – Review of design plans submitted by Verizon for new antenna to be installed on tank. The Authority's comments to 90 percent design have been addressed and CDM is awaiting revised structural analysis from AT&T consultant based on changes AT&T is making to their equipment. If there is no load impact, the drawings will be issued for bidding. If there is a load impact, revisions will be made to the structural improvements and then the drawings will be issued for bidding.

3. SCADA Upgrade – Installation of new control panels, communications equipment, and associated work at all sites so that all SCADA equipment is consistent and up-to-date. Work at some sites is being funded through SMLP program.
  - The Witnessed Factory Test for Phase 1 of the SCADA project was completed on Tuesday, April 3<sup>rd</sup>.
  - The new SCADA servers were installed at both WAGNN's Watermill Lane and Kings Point Police Station. The new FactoryTalk SCADA system is now operating in parallel with the old Iconics system.
  - Functional Demonstration Testing for Phase 1 of the new SCADA system is scheduled for 4/17/18.
4. Salt Water Intrusion Modeling for Wells 5, 6, 7, and 8 – Development of a dual-density groundwater flow model to evaluate the potential for salt-water intrusion in both the Lloyd and Magothy Aquifers. The modeling is complete. Waiting for Dec's response to the Superintendent's letter.
5. 2018 Water Main Improvements – Replacement of approximately 13,000 feet of water main including valves, hydrants, and services in Great Neck Estates & Saddle Rock Estates. Bancker Construction Corp. will begin work on April 12, 2018.
6. Greenway Terrace Water Main – Installation of approximately 800 feet of water main for new development. Notice of award of contract was issued to Bancker Construction. The Developer's contractor is behind schedule.
7. Well 7 Electrical and Instrumentation Upgrades – Various upgrades to improve reliability including new electrical service, motor control center, transformer, wiring, and chemical safety panel. CDM Smith submitted the 90 percent drawings and is incorporating the Authority's comments into the contract documents and will issue 100 percent documents for contractor pricing in April.

Gregory Graziano presented the Superintendent's Report:

Based upon the lowest bids received for each category of material, Superintendent Graziano recommended splitting the Hydrants, Valves, and Fittings contract among the three lowest bidders: Ferguson Waterworks, T. Mina Supply, Inc., and Blackman Plumbing. Ferguson Waterworks was the lowest bidder for 16 categories, T. Mina Supply, Inc., was the lowest bidder for 5 categories, and Blackman Plumbing was the lowest bidder for 1 category. The Authority's reservation of its right to award different items to different bidders, based upon the lowest unit prices bid for such items, was set forth in the bid package. The bid amount is based on estimated quantities. Actual quantities may be more or less than the estimate. If additional quantities are needed, they may be purchased at the existing bid price. On the motion of Director Smiley, seconded by Director Celender, by Resolution #18-04-06, the Board approved splitting the 2018/2019 contract for Hydrants, Valves, and Fittings among Ferguson Waterworks, T. Mina Supply, Inc., and Blackman Plumbing as the respective lowest responsible bidders for such items, as outlined in the Superintendent's memo of April 5, 2018. The vote was 5 for, 0 against, 0 abstentions. Copies of the bids and Superintendent's memo are on file with the Secretary.

Superintendent Graziano proposed that the Board adopt a Resolution to join the Long Island Water Conference's purchasing cooperative for Long Island's water districts and authorities and purchase supplies through an Intermunicipal Purchasing Agreement that may allow the Authority to realize additional savings on some of the items that the Authority purchases through the greater buying power of the co-op. On the motion of Director Smiley, seconded by Director Celender, by Resolution #18-04-07, the Board adopted the below resolution:

RESOLUTION TO MAKE PURCHASES OF SUPPLIES THROUGH THE USE OF AN INTERMUNICIPAL  
PURCHASING AGREEMENT LET BY POLITICAL DISTRICTS OF THE STATE

WHEREAS, § 119-m of Article 5-G of the General Municipal Law ("GML") provides authorization for "performance by municipal corporations or districts of their functions, powers or duties on a cooperative, joint or contract basis" ("IMA"); and

WHEREAS, Article 13 of the Town Law, Commissioner Elected Districts ("Commissioner Elected Districts") are encompassed within this statutory authority under GML § 119-n(b) where the term 'District' means a County or Town Improvement District"; and

WHEREAS, GML § 119-o(d) authorizes Commissioner Elected Districts to enter into IMAs regarding the “purchasing” of supplies “subject to general laws applicable to municipal corporations and districts” and

WHEREAS, the Long Island Water Conference (“LIWC”) is a Not-For-Profit Corporation dedicated to promoting and facilitating cooperation between all municipal water purveyors on Long Island; and

WHEREAS, the LIWC is willing and able to offer its organizational skills toward the goal of implementing a purchasing cooperative for all of Long Island’s Commissioner Elected Water District, the Suffolk County Water Authority, and the Water Authority of Great Neck North (“WAGNN”); and

WHEREAS, Public Authorities Law (“PAL”) §2881 authorizes the board of a local authority to make purchases of supplies through the use of a contract let by any political district of the state; and

WHEREAS, it is the desire of the WAGNN to realize fully the rights and benefits conferred by state law upon local authorities, as has been enumerated above, by purchasing supplies through the use of the IMA implemented by the LIWC, known as the Long Island Water Conference Purchasing Cooperative (the “Cooperative IMA”);

NOW THEREFORE, upon the above referenced preambles, be it

RESOLVED, that the Chairperson of the WAGNN is hereby authorized, empowered, and directed to enter into an agreement to purchases of supplies through the Cooperative IMA pursuant to PAL § 2881; and be it further

RESOLVED, that the execution of the Cooperative IMA by and in the name of the WAGNN, and its delivery to the Cooperative IMA, shall be conclusive evidence of approval by the governing board of the WAGNN to join the Cooperative and to abide by the terms and conditions of the Cooperative IMA.

The vote was 5 for, 0 against, 0 abstentions.

Superintendent Graziano proposed the following change in the Rules and Regulations, Item V, to clarify the Authority’s Rules for the Abandonment of Existing Service:

Following the written application from a premises owner or premises owner’s authorized representative, the Authority shall abandon the existing water service to a premises. The cost of abandonment of a water service to a premises is \$500 per service line at each premises plus the cost of restoration of the premises, roadway, and/or nearby areas that were disturbed during the abandonment, if appropriate. Examples that would require abandonment of an existing water service, include, but are not limited to: demolition of a dwelling, an increase in the square footage of the premises, an addition of water use fixtures, and any construction that is deemed by the Authority to create a potential risk to the service line or to the public it serves. Once abandoned, the water service will be physically disconnected from the Authority’s water distribution system. An abandoned water service will no longer be considered an existing water service and cannot thereafter be used to supply water to a premises. Any future water service to a premises that previously had been utilizing an abandoned water service will require an application for a new water service as provided in Section III.

On the motion of Director Lopatkin, seconded by Director Celender, by Resolution #18-04-08, the Board approved revising Item V of the Rules and Regulations. The vote was 5 for, 0 against, 0 abstentions. Copies of the Rules and Regulations are on file with the Secretary and are posted on the website.

The Superintendent presented a draft outline to the Board for the next Newsletter:

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| Page 1: | Plastic Water Bottles – Cost of Bottles and Impact on Environment<br>Smart Sprinkler System Lottery for Free Smart Irrigation Controllers   |
| Page 2: | Conservation Tips – Lawn Watering - Backflow Devices and Testing Required   |
| Page 3: | 2017 Water Quality Report Available-Emphasize WAGNN’s Water Testing   |
| Page 4: | Water Main Projects Update:<br>Replacement of approximately 14,000 feet of water main including valves, hydrants, and services in Great Neck Estates & Saddle Rock Estates and the replacement of approximately 800 feet of water main for new development in Greenway Terrace. |

CDM Smith submitted its proposal, dated April 10, 2018, to provide Engineering Services for the East Shore Road Water Main Improvements Project. Approximately 8,000 linear feet of new 12-inch to 16-inch diameter water mains in

East Shore Road will be replaced. The not-to-exceed fee is \$294,930.00. Per CDM Smith's revised proposal dated April 13, 2018, there is an additional cost of \$8,100.00 for the Grant Application, which would bring the total not-to-exceed fee to \$303,030.00. The additional cost for the Grant Application was originally \$12,200.00 per road, but CDM Smith was able to reduce it to \$8,100.00 per road, (for a total of \$16,200.00 vs. \$24,400.00) by combining both the East Shore Road and Middle Neck Road Water Main Improvements Projects into a single grant application package to the New York State Department of Health. On the motion of Director Smiley, seconded by Director Celender, by Resolution #18-04-09, the Board awarded the Middle Neck Road Water Main Improvements Project to CDM Smith for the not-to-exceed fee of \$303,030.00. The vote was 5 for, 0 against, 0 abstentions. Copies of the proposal are on file with the Secretary.

CDM Smith submitted its proposal, dated April 10, 2018, to provide Engineering Services for the Middle Neck Road Water Main Improvements Project. Approximately 10,000 linear feet of new 12-inch to 16-inch diameter water mains in Middle Neck Road and approximately 500 feet of 8-inch water mains in Appletree Lane will be replaced. The not-to-exceed fee is \$373,830.00, plus \$8,100.00 for the Grant Application per CDM Smith's revised proposal dated April 13, 2018. On the motion of Director Smiley, seconded by Director Celender, by Resolution #18-04-10, the Board awarded the Middle Neck Road Water Main Improvements Project to CDM Smith for the not-to-exceed fee of \$381,930.00. The vote was 5 for, 0 against, 0 abstentions. Copies of the proposal are on file with the Secretary.

Pursuant to the Authorities Budget Office Policy Guidance No. 18-01, "Preferred Source Procurement", the Authority is obligated by New York State Finance Law to buy from Preferred Source Vendors. On the motion of Director Smiley, seconded by Director Celender, by Resolution #18-04-11, the Board approved the following new paragraph 7 to the Authority's Procurement Policy and renumbered the existing paragraphs 7 and 8 as paragraphs 8 and 9.

7. Notwithstanding anything to the contrary in this Procurement Policy, pursuant to Section 162(4) of the State Finance Law, priority shall be accorded to preferred sources.

a. When commodities are available, in the form, function and utility required by the Authority, said commodities must be purchased first from the correctional industries program of the department of corrections and community supervision.

b. If there comes a time when the Authority has its own purchasing agency, then and in that event this policy shall be revised to implement the additional provision of said Section 162(4) with regard to authorities that have their own purchasing agency.

The vote was 4 for, 1 against (Director Lopatkin), 0 abstentions. A copy of the Procurement Policy is on file with the Secretary and will be posted on the website.

On the motion of Director Smiley seconded by Director Celender, by Resolution #18-04-12, the Board went into Executive Session at 6:45 p.m. to discuss possible litigation with regard to 1-4 dioxane. The Board emerged at 7:05 p.m. The Chairperson announced that no action had been taken and no minutes would be produced.

The Chairperson announced that Sher Edling LLP, a law firm that handles pollution litigation made a presentation to the Authority and representatives of various municipalities that supply potable water within Nassau and Suffolk Counties on March 28, 2017, regarding its plans to institute a product liability action against Dow Chemical for the cost of treatment of 1-4 dioxane in the wells. Superintendent Graziano, Deputy Chairperson Graziano, and Counsel Limmer attended the presentation. On the motion of Director Smiley, seconded by Director Celender, by Resolution #18-04-13, the following resolution was adopted:

WHEREAS, the Water Authority of Great Neck North (the "Authority") requires legal representation in connection with contamination of its potable water wells from 1-4 dioxane allegedly generated by products manufactured by Dow Chemical Corporation ("Dow"); and

WHEREAS, the law firm of Sher Edling LLP (sometimes hereinafter "Sher") made a presentation to the Nassau Suffolk Water Commissioners Association's regular meeting in November 2017 setting forth its experience prosecuting environmental tort actions in New York and elsewhere, its experience litigating and settling large, complex cases, and its particular knowledge of the Long Island aquifer system and the effects of 1-4 dioxane and other chemical contaminants on municipal water supplies; and

WHEREAS, Suffolk County Water Authority ("SCWA") conducted a Request for Proposal ("RFP") to assist them in their 1-4 dioxane claim against Dow Chemical ("Dow"); and

WHEREAS, after conducting its RFP, SCWA selected Sher over Weitz & Luxenberg, the Napoli Law Firm, and Barron & Budd, among others, as the firm to represent it in its 1-4 dioxane claims against Dow and any other entities deemed appropriate; and

WHEREAS, Sher made a subsequent presentation to the Superintendent, Deputy Chairperson, and General Counsel of the Authority and representatives of various municipalities that supply potable water within Nassau and Suffolk Counties on March 28, 2018, setting forth its experience prosecuting environmental tort actions in New York and elsewhere, its experience litigating and settling large, complex cases, and its particular knowledge of the Long Island aquifer system and the effects of 1-4 dioxane and other chemical contaminants on municipal water supplies; and

WHEREAS, Sher demonstrated to the Superintendent, Deputy Chairperson, and General Counsel its abilities and readiness to negotiate with and/or to sue Dow and any other entities deemed appropriate for damages caused by 1-4 dioxane contamination of the groundwater within the certain wells of the Authority; and

WHEREAS, Sher has proposed a Legal Services Agreement and attorneys' fee structure acceptable to the Board; and

WHEREAS, Sher, in coordination with local counsel, have developed a Cost Sharing and Attorney Work Product Common Interest Agreement for participating municipalities which will maximize the efforts in achieving a group settlement; and

WHEREAS, the 1-4 dioxane matrix and equitable cost allocation protocol will be developed by the unanimous agreement of the engineers of each of the plaintiffs. In the event that the engineers cannot reach unanimity, the dispute shall be resolved by arbitration through a single arbitrator under the rules of the American Arbitration Association. Each plaintiff shall bear the cost of its own engineers and, in the event of arbitration, the plaintiffs shall share the cost of the arbitrators in proportion to the number of plaintiffs (for example, if there are 15 plaintiffs, each plaintiff will pay 1/15<sup>th</sup>), unless otherwise directed by the arbitrators; now therefore

BE IT RESOLVED that, upon the recommendation of the Superintendent, Deputy Chairperson, and General Counsel, the Authority hereby authorizes the retention of Sher Edling LLP to prosecute action(s) arising from the 1-4 dioxane contamination against Dow and any other entities deemed appropriate; and


BE IT FURTHER RESOLVED that the services of Sher Edling LLP are to be performed pursuant to the terms of the Legal Services Agreement, as fully set forth therein, and the Authority authorizes its Chairperson, Michael C. Kalnick, to sign and execute the Legal Services Agreement on the Authority's behalf; and

BE IT FURTHER RESOLVED, Chairperson Michael C. Kalnick is also authorized to execute the Cost Sharing and Common Interest Agreement on the Authority's behalf; and

BE IT FURTHER RESOLVED that Stephen G. Limmer, Esq., of the firm of McLaughlin & Stern, LLP, be appointed to assist Sher Edling LLP locally in the prosecution of the claims arising from the 1-4 dioxane contamination.

The vote was 5 for, 0 against, 0 abstentions. Copies of the Legal Services Agreement and the Cost Sharing and Common Interest Agreement are on file with the Secretary.

The meeting was adjourned at 7:15 p.m.

Approved by Secretary:  Date: May 22, 2018