

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, April 15, 2020
Laurel, Maryland**

Chair Chris Lawson called the virtual¹ meeting of the Washington Suburban Sanitary Commission (hereinafter "WSSC Water"), 14501 Sweitzer Lane, Laurel, Maryland, 20707, to order at 10:05 a.m., with due notice having been given to all members of the Commission and the public. In addition to Chair Lawson, Commissioners Fausto R. Bayonet, Keith E. Bell, Howard A. Denis, T. Eloise Foster and Sandra L. Thompson, were present virtually, reflecting a quorum. Also, in attendance were WSSC Water General Manager and Chief Executive Officer ("GM") Carla A. Reid, General Counsel Amanda Stakem Conn and Corporate Secretary Sheila R. Finlayson, Esq., who recorded the minutes of the meeting. Other members of WSSC Water management were called upon, during certain portions of the meeting, to provide information to the Commission.

PLEDGE OF ALLEGIANCE

Chair Lawson opened the meeting by welcoming everyone and asking Commissioner Bell to lead the pledge of allegiance.

Following the pledge, the Chair asked GM Carla Reid to lead the Commission in the recitation of its mission and vision statements.

AGENDA APPROVAL

Commissioner Foster moved to adopt the Commission's Public Meeting Agenda of April 15, 2020, as amended, to which Commissioner Bayonet seconded the motion. The motion carried unanimously with six affirmative votes.

¹ Virtual meeting conducted due to the global COVID-19 pandemic and public health emergency. Stay-at-Home Orders in place in Maryland as well as all other parts of the region and country.

MOMENT OF SILENCE

The Chair took a moment to pay tribute to the many victims and families affected by the COVID-19 pandemic.

He also asked for a moment of silence to recognize the passing of former IRO Government Affairs Manager Eugene Williams who passed away on March 31, 2020.

COMMISSIONER COMMENTS

Commissioner Comments. None.

GENERAL MANAGER'S REPORT

Monthly Report. GM Carla Reid provided her monthly report, reporting from a power point presentation displayed at the meeting and incorporated herein by reference. The GM's full report can be found in the presentation handout and corresponding segment of the archived meeting video and both are referred to for this purpose.

Following Commissioner questions/comments, the GM's Report was received as information.

COVID-19 Emergency Update. Emergency Manager David McDonough provided an update on the Commission's emergency planning during the pandemic. Mr. McDonough's full report can be found in the presentation handout and corresponding segment of the archived meeting video and both are referred to for this purpose.

The Commission received the Emergency Planning Update, as information.

Ratification of Emergency Action Declaring Emergency. On motion made by Commissioner Bell and seconded by Commissioner Denis, the Commission voted unanimously six-to-zero, to ratify the emergency action of the Commission Chair, Vice Chair and General Manager of March 6, 2020, declaring an emergency in response to the Coronavirus (COVID-19) pandemic, to ensure continuity of WSSC Water critical operations during this serious public health

threat. The COVID-19 pandemic presents a serious, imminent and unforeseen threat to the safety of the public, the WSSC Water system, WSSC Water personnel, and WSSC structures and equipment. Such emergency action by the Commission was triggered by Maryland Governor Lawrence Hogan's State of Emergency Declaration of March 5, 2020 for the entire State of Maryland.

INSPECTOR GENERAL REPORT

Monthly Activity Report. Inspector General ("IG") Arthur Elkins reported on the monthly activities of the Office of the Inspector General (OIG), for the months of February and March 2020. Mr. Elkins presented from a power point presentation displayed at the meeting and incorporated herein by reference. The full report can be found in the presentation handout and corresponding segment of the archived meeting video and both are referred to for this purpose.

Following the report, the Commission received the IG's report of OIG operations, as information.

OIG New and Proposed Provisions and Amendments to WSSC Code of Regulations to Reflect IG Act Requirements. OIG Associate Counsel Tamika Taylor walked through the proposed new regulations and amendments that will be presented for Commission consideration in May. Such regulations will align and incorporate the requirements mandated under the IG Act. In addition to these changes, other technical clean up changes are being made to certain provisions of the Code. Specific details can be found in the narrative report provided in the briefing materials and corresponding segment of the archived meeting video. In summary, the OIG was established in October 2018 under Chapter 130, of the Maryland Laws, now Title 17, Subtitle 6, of the Maryland Annotated Code. Proposed changes to the WSSC Regulations include: 1) removing all references to Internal Audit Office and Internal Auditor; 2) adding new regulations to define and outline the powers, duties and responsibilities of the OIG office; 3) revisions to SDC regulations to calculate administrative costs at 5% for qualified SDC project costs; 4) amendments to WSSC Water Bylaws to delete Internal Auditor

section and add section for IG in addition to removing section on SLMBE Director; 5) transferring Fraud, Waste and Abuse chapter to new IG section of Code and revising language to provide process for reporting of allegations involving IG's office and personnel to Commission office; 6) revising Whistleblower Protection regulations to remove oversight from General Manager to OIG and allegations involving OIG personnel to be handled by the Commission office; 7) revisions to Travel Regulation to allow for the Commission Chair to oversee travel requests of Commission direct reports; and 8) other minor technical changes to chapters on Purchase Card Program and Background Investigations.

The Commission received the OIG Briefing, as information.

OTHER REPORTS

General Counsel's Office (GCO)

Ethics Program Update. Ethics Program Activity Report for March 2020 was provided in advance materials. No questions were raised.

The Commission received the Ethics Program Update, as information.

Finance

Set Public Hearing Dates for Proposed FYs 2022-2027 Capital Improvements Program (CIP). Management reported from a memorandum contained in the advance materials, proposing two dates in September 2020, for CIP public hearings in each of the Counties.

Following management's recommendation, a motion was made by Commissioner Bayonet and seconded by Commissioner Thompson, to set the public hearing dates on the Proposed WSSC Water CIP for Fiscal Years 2022-2027, as follows:

Montgomery County

Wednesday, September 2, 2020, at 7:30 p.m.

**Stella B. Werner Office Building - 3rd Floor Hearing Room
100 Maryland Avenue, Rockville Maryland**

Prince George's County

Thursday, September 3, 2020, at 7:30p.m.

**Department of the Environment Building, Conference Room 120
1801 McCormick Drive, Largo Maryland**

The motion carried unanimously with six affirmative votes.

Resolution 2020-2247 - Authorization for Issuance of Revenue

Anticipation Notes. Next, the CFO presented a request for authorization of the issuance of up to \$200 million of revenue anticipation notes, to provide additional liquidity if necessary and in anticipation of potential water and sewer revenue losses due to the pandemic and public health emergency. Further details can be found in the memorandum contained in the advance meeting materials.

Following discussion, a motion was made by Commissioner Thompson and seconded by Commissioner Foster, to adopt Resolution 2020-2247, authorizing the issuance of up to \$200,000,000 in Revenue Anticipation Notes, to provide additional liquidity in anticipation of lost revenue due to COVID-19 pandemic, as recommended by management.

The motion carried unanimously with six affirmative votes.

Engineering & Construction (E/C)

E/C Contract 7168, Street Repair Services, Change Order No. 3 - Ratification of Emergency Action. At the request of management, the Chair and Vice Chair approved this change order by emergency action on March 27, 2020, to M.T. Laney Company, Inc., in the amount of \$5.2 million, to allow continuity of services through June 30, 2020 under the base term of contract. By operation of the Commission Bylaws, this action must be presented for ratification at the next meeting of the Commission following the emergency action.

Whereupon, a motion was made by Commissioner Bayonet and seconded by Commissioner Bell, to ratify the approval of Change Order No. 3 to E/C Contract 7168, Street Repair Services, to M.T. Laney Company, Inc., in the amount of \$5.2 million, to provide for

continuity of services during the contract's base term expiring on June 30, 2020.

The motion carried unanimously with six affirmative votes.

E/C Contract 7168, Street Repair Services, Option Term 1. Next, Chief Engineer Mike Harmer presented a request to exercise Option Term 1 of the Street Repair Services contract, for Commission approval.

Following discussion, a motion was made by Commissioner Bayonet and seconded by Commissioner Bell, to approve management's request to exercise Option Term 1, for E/C Contract 7168, Street Repair Services, in the amount of \$50.6 million, to M.T. Laney Company, Inc. and Fort Myer Construction Corporation, for an additional one-year term, beginning July 1, 2020 and continuing through June 30, 2021.

The motion carried with five affirmative votes and one abstention. Commissioner Thompson abstained, noting contract should have been put out to bid since there was adequate time to recompile.

E/C Contract CD5901B15, Piscataway BioEnergy Design Build, Phase 2, Amendment No. 1. Mr. Harmer, along with Facilities Design and Construction Division Manager Theon Grojean, presented this contract for Commission approval.

Significant discussion ensued around minority participation and why contractor is not meeting requirement that was established at outset. Requirement was changed to 13% under management waiver that was granted, instead of 25% included in bid. Full discussion can be found in corresponding segment of archived meeting video.

The Commission agreed to table requested action until later in the meeting. The item was special ordered to the afternoon open session following Closed.

IC2018A18, Consultant Inspection Services, Option Term 1 and Option Term 2. Management provided correction to contract language concerning scope of contract, clarifying that scope includes, provision of 46 full time inspectors, 4 administrative professionals, 5 contract managers, 2 IT professionals and 3 CADD technicians.

The Commission received the corrections as information. Contract approval will be considered later in the meeting as part of the consent calendar.

Production

Resolution 2020-2245 - Ending Declared Biosolids Emergency.

Production Director James "JC" Langley reported the conditions which led to the Commission declaring an emergency in February of 2019 had subsided, thereby recommending the Commission officially end the declared emergency. Specific details can be found in the submitted board materials, incorporated herein by reference.

Whereby, a motion was made by Commissioner Bayonet and seconded by Commissioner Bell, to adopt Resolution 2020-2245, declaring the end to the biosolids accumulation emergency, as requested by management, to be effective as of this date of adoption. Such Commission action officially rescinds the prior emergency action taken by the Commission on February 6, 2019.

The motion carried unanimously with six affirmative votes.

Communications/IT

Website Redesign Status Report. Website Redesign Project Manager Scott Wray provided a briefing on the website redesign project currently underway, reporting from a power point presentation contained in the advance materials and incorporated herein by reference. New website launch targeted for Fall 2020. Specific details can be found in the corresponding segment of the archived meeting video.

The Commission received the website redesign briefing as information.

IRO

2020 Legislative Session Summary. IRO Director Karyn Riley delivered the final Legislative Report for the 2020 session. Specific details can be found in the meeting materials and corresponding segment of the archived meeting video.

The Commission received the final Legislative Report, as information.

CONSENT CALENDAR

Contracts for Approval

A motion was made by Commissioner Foster and seconded by Commissioner Bell, to adopt Resolution 2020-2246, approving the nine contracts on the Consent Calendar for the April 15, 2020 Commission meeting, as follows:

A. Engineering and Construction

Architectural/Engineering Contracts:

1. IC2018A18, Consultant Inspection Services, Option Terms 1 and 2, to WSP USA Solutions, Inc., in the amount of \$13,000,000.00 for Option Term One, and in the not to exceed amount of \$13,000,000.00 for Option Term Two, for a cumulative contract amount of \$39,000,000.00.
2. PM0004A19, Staff Augmentation Services for Pipeline Design Division, to Tech International Corp. and WSP USA Solutions, Inc., in the not to exceed amount of \$4,100,000.00, for two-year base term with three (3) one-year options, if exercised by the Commission, in a cumulative not to exceed amount of \$6,150,000.00.
3. PM0001.2A13, Corrosion Engineering Services, Option Term 2, to Dacco Sci, Inc. and EN Engineering, LLC, in the amount of \$2,000,000.00 each, for a total amount of \$4,000,000.00. Cumulative contract amount totals \$12,000,000.00.
4. PM0009A18, Potomac Water Filtration Plant Design Services BOA,

Change Order No. 1, to O'Brien and Gere Engineers, Inc., in the amount of \$3,000,000.00, for total contract amount of \$7,000,000.00.

5. 1145, Wastewater Engineering Services BOA, Change Order No. 1, to Greeley and Hansen, LLC, in the amount of \$2,000,000.00, for cumulative contract amount of \$6,000,000.00.
6. PM0013A13, Pre-stressed Concrete Cylinder Pipe (PCCP) Design Services BOA, Option Term 2, to Simpson, Gumpertz and Heger, Inc., in the amount of \$2,000,000.00, for cumulative contract amount of \$5,000,000.00.

B. Production

1. Contract 7057, Original Equipment Manufacturer (OEM) Repair and Replacement Parts, Change Order No. 2, to North East Technical Sales, in the amount of \$100,000.00, for cumulative contract amount of \$993,636.40.

C. General Services

1. Contract 7134, Small Foundry Items, Option Term 1, to Bingham and Taylor Corp., in the amount of \$3,000,000.00, for a cumulative contract amount of \$8,700,000.00.

D. Utility Services

1. Contract 1126, Pipe Armoring Construction Services, Option Term 1, to HGS, LLC dba Angler Environmental, in the amount of \$7,500,000.00, for cumulative contract amount of \$15,000,000.00.

The motion carried unanimously with six affirmative votes.

The Chair announced that the Open Session business had concluded and called for a motion to go into Closed. After noting his approval of the written closing statement, Chair Lawson called for a vote.

CLOSED SESSION

Whereby, at 1:06 p.m., Commissioner Bell moved and Commissioner Denis seconded, that the Commission go into Closed, pursuant to

Maryland Code Annotated, General Provisions Article, Title 3, Open Meetings Act, Subtitle 3, Open Meetings Requirements - Closed Sessions: Sections 3-305(b) (7) and 3-305(b) (8), to consult with counsel to obtain legal advice and discuss pending or potential litigation for attorney/client privileged legal matters; and, Section 3-305(b) (9), to conduct collective bargaining negotiations or consider matters that relate to the negotiations.

The motion carried unanimously with six affirmative votes.

The Chair declared the meeting was closed at 1:06 p.m. The Chair then called for a short recess.

The Commission reconvened in Closed Session by conference call at 1:25 p.m.

ATTENDEES: Chair Chris Lawson, Vice Chair Eloise Foster, Commissioners Fausto Bayonet, Keith Bell, Howard Denis and Sandra Thompson. Staff present: Corporate Secretary Sheila Finlayson, General Manager Carla Reid, General Counsel Amanda Conn, Deputy General Counsel Russel Beers, Associate Counsel Danny O'Connor, Associate Counsel Stephanie Kinder-Epps, Deputy General Manager (DGM) Jay Price, DGM Joe Beach, DGM Monica Johnson, and HR Director Todd Allen.

Collective Bargaining Update. The Commission received an update on the collective bargaining negotiations taking place between the Union representatives and WSSC Water management.

Pending Litigation/Legal Advice. General Counsel and members of her team reported on the status of a pending attorney/client privileged legal matter.

At 2:35 p.m., Commissioner Foster moved to end the Closed Session. Commissioner Thompson seconded the motion. The motion carried unanimously with six affirmative votes.

OPEN SESSION RESUMED

The afternoon open session business resumed at 2:40 p.m., with all Commissioners in attendance by virtual participation.

Contract CD5901B15 - Piscataway BioEnergy Design Build Project.

Commissioners and management continued discussions on this contract and the MBE requirements, with Commissioners directing management to ensure contractor meets 25% MBE participation.

After discussion, and on motion made by Commissioner Bell and seconded by Commissioner Bayonet, the Commission voted unanimously 6-0, to approve the Definitive Contract Amendment to E/C Contract CD5901B15, Piscataway BioEnergy Project, to PC Construction Company, in the guaranteed maximum price amount of \$227,907,084.00, for initiation of construction portion (Phase 2) of the design-build services, as requested by management. Management to report back monthly on contractor status in reaching 25% minority participation.

ADJOURNMENT

There being no additional business, the Chair called for a motion to adjourn, to which Commissioner Foster moved to adjourn the meeting. Commissioner Thompson seconded the motion. The motion carried with six affirmative votes.

At 3:39 p.m., the meeting was declared, adjourned.

Respectfully submitted,

//signed//

Sheila R. Finlayson, Esq.
Corporate Secretary