

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, February 20, 2013
Laurel, Maryland**

Chair Chris Lawson called the meeting to order at 8:43 a.m. in the Auditorium of the Richard G. Hocevar Building, 14501 Sweitzer Lane, Laurel, MD 20707, with due notice having been given to all members of the Commission and the public. Vice Chair Gene Counihan, Commissioners Adrienne A. Mandel, Antonio L. Jones, Melanie Hartwig-Davis, and Roscoe M. Moore, Jr. were present at the meeting. Also, present were General Manager Jerry Johnson, General Counsel Jerry Blask, and Corporate Secretary Charlett Bundy.

PLEDGE OF ALLEGIANCE

Chair Lawson asked Commissioner Mandel to lead the pledge of allegiance.

AGENDA APPROVAL

Commissioner Mandel moved to approve the agenda for the WSSC Commission meeting for Wednesday February 20, 2013. Vice Chair Counihan seconded the motion. The motion carried with six affirmative votes.

MINUTES

Commissioner Jones moved to approve the open session minutes of the January 16, 22, 24, and February 1, 2013 Commission meetings. Commissioner Hartwig-Davis seconded the motion. The motion carried with six affirmative votes for all dates except for February 1, 2013 which passed with five affirmative votes as Commissioner Moore was absent from that meeting and abstained from voting on minutes for that meeting.

WSSC RETIREES

Three employees retired this month but none were present. Larry Jackson, Fleet Technician in Fleet Services Group, Temple Hills retired with 23 years and 9 months of service; George W. Shambley, Senior Telecom Support Engineer in the Network Infrastructure & Data Center retired with 19 years and 11 months of service; and Stanley Polite, a Utility Technician II, in the Customer Care Central Group Anacostia who retired with 18 years and 4 months of service.

COMMUNICATIONS

Mr. Neustadt, Director of Communications presented Commissioners information on EPlan, software that allows for the electronic submission and review of project documents sent to the WSSC permitting department.

COMMISSIONER COMMENTS

Commissioner Moore explained the creation of the Presidents' Day holiday in the U.S. Dr. Moore recounted the history of the development of February as Black History Month. He noted there was controversy using February to commemorate this event because it is the shortest month in the year. Moreover, Black History Month started out as Black History Week, being observed the second week of February which also honored the birthdays of Presidents Lincoln and Frederick Douglas. According to Dr. Moore, Carter G. Woodson, a Ph.D. from Harvard University established the concept of Black History Week. Dr. Woodson was also Dean of the College of Arts & Sciences at Howard University. He was born in New Canton, Virginia in 1875 and then buried in Suitland, MD 72 years later.

Next Dr. Moore shared a calendar produced by the North Carolina Alumni of Tuskegee Institute (now Tuskegee University) in which he is featured as one of the African American Alumni of note.

Commissioner Mandel on behalf of all of the Commissioners acknowledged the absence of Internal Audit Manager Maxene Bardwell and sent well wishes from all Commissioners.

Commissioner Hartwig-Davis advised that she along with Chair Lawson and Vice Chair Counihan attended the memorial for Mr. Charles Duckett, a WSSC employee who was found drowned in the reservoir December 2012. The ceremony was held the evening of the January Commission meeting where WSSC employees expressed sincere, heartfelt thanks for Mr. Duckett's service. Commissioner Hartwig-Davis also noted that all Commissioners attended the Legislative Breakfast in Annapolis. She also attended the public hearing on the Watershed Regulations held in the evening that same day. Commissioner Hartwig-Davis said she spent her Valentine's Day evening with WSSC staff at a Cheverly Town Meeting and she thanked the staff especially Tom Traber, Chief Finance Officer, Jim Neustadt, Director of Communications and Lyn Barry, Customer Care Relations Group Leader, for attending on that holiday eve. Staff heard the concerns of the Cheverly residents about the extensive construction related to infrastructure rehabilitation in that community and their concerns about water rates, and bills.

Lastly, Commissioner Hartwig-Davis said:

You will not be hearing a good-bye speech from me for awhile. I don't really know how much longer I will be here, but I am sure you all have read that I have submitted my resignation from the Commission. I've warned my colleagues here at the table, don't expect me to slack off. In fact, I might become really annoying as I try to get a few things done before my departure. They are searching for my replacement, but it could be two months, it could be eight months. We don't really know how that process will go.

She then read a written statement regarding her status:

The County Executive and I have been in constant communications regarding my family's need to expand beyond the county borders. He has been extremely supportive and understands the sacrifices my family made to maintain my residency in Prince George's County. As long as my home office is in Cheverly I am in Cheverly on a regular basis, I stay overnight in Cheverly, and my family is still very active on the weekends in Cheverly activities. That being said, external factors weighed in that could not be controlled so indeed, the search for my successor has begun.

It wasn't too long ago that I took part in the annual review of our very own Jerry Johnson. In that review I asked what his favorite aspect of the job was and he said, "The people and the relationships." Indeed, I couldn't agree with him more -- at least not on that subject. Several of you have taken the time to email me and voice your appreciation for my service and your disappointment that I will be leaving. I cannot tell you how much these comments mean to me. It really does touch me to know that I've made a difference and that I've been able to contribute in my short time here. I've enjoyed learning what each of you do and how you believe the Commission could improve. Please know that you have made a positive impact on me as I hope and hear that I have made on you here at the Commission. I said this was not going to be a good-bye speech but politics is politics and I felt I needed to acknowledge the newspaper articles recently published.

The last comment is that as every woman, every wife and every mother knows we must do what is best for our family. Sometimes this means a professional detour. As much as I will regret not being here with you for as long as we had all anticipated, I know that in my heart purchasing a second home in Edgewater was the right thing to do for my boys and for my family. So, I thank you for your continued support and continued collaboration as we work through the last several months that we have here together.

Chair Lawson said this is not good-bye for the time that Commissioners expect Ms. Hartwig-Davis will continue to follow her passion for public service here at WSSC. He thanked her for being a solid colleague and noted she would be leaned on for her contributions for the remainder of the time she is there.

MEDIA/PUBLIC COMMENTS

There were no comments from the media. Four members of the public spoke.

Ms. Terry Ledley spoke on the "equestrian Trails, one of the jewels of the recreational system of the WSSC." She is a 35-year

user of the trails and commented on the work she has done to maintain the trails. She urged for an official volunteer mounted patrol to assist with the maintenance of the watershed.

Ms. Pat Oliva spoke next. She is the Trail Riders of Tomorrow (TROT) coordinator for Howard County. The Howard County Park System is purchasing land next to the WSSC watershed and she asked if WSSC would be charging for access to the watershed from the Howard County parkland. She also commented on the need to allow trail users to be engaged in trail maintenance.

Ms. Barbara Sollner-Webb thanked Commissioner Hartwig-Davis for her service and Vice Chair Counihan for last month's question about picking up horse droppings which is not required she said, anywhere in the world. She then complained that the proposed Watershed Regulations do not follow legislative intent. She also complained about the new fees in the proposed Watershed Regulations. She noted that her barn is the only private barn adjacent to the water district and "the rule requiring a high access fee appears to be harassment against her than a revenue-generating activity for WSSC." She also requested that the congenial relationship between the area equestrians and WSSC be restored instead of an adversarial one.

Ms. Barbara Sollner-Webb then read a statement from Dennis Webb, a co-owner of a barn that abuts the watershed. That statement noted suggestions to resolve the disputes between WSSC and the equestrians, e.g. remove the prohibition that trail riders cannot clear branches; WSSC should partner with experts in trail layouts and nutrient management; remove the restrictions on winter riding; reconsider the regulation that WSSC will determine daily whether the trails are usable on any given day; and enlist the help of volunteer mounted equestrian patrols to help with the management of the watershed.

Chair Lawson stated that the Commissioners continue to read the reports and regulations and consider the issues raised by the speakers.

GENERAL MANAGER'S OFFICE

Monthly Report. Mr. Johnson stated that the Eplan is the first step in revolutionizing how business will be conducted at WSSC. He thanked the leadership of Mujib Lodhi and Mike Harmer for not just improving the permitting process with electronic access but for considering the entire permitting business system and how it could be improved. He characterized this as a "major step forward" in how WSSC does business. He referenced a handout, a printed booklet, containing the IT five-year strategic plan that

details the highlights presented to Commissioners at a previous meeting.

The Call Center was the next topic of Mr. Johnson's report. He advised that the call volume was slightly increased. Issuing information on the e-billing process issued increased the number of calls and this caused the answer-rate to decrease. Delinquencies are consistent with the December figures. A payment from the federal government began a series of on-time payments from that entity.

All plants operated well within their respective permit limits during the month. On January 30-31 a major rain storm dumped close to 6" of rain in Montgomery County causing the tributaries to the reservoir to swell. This necessitated releases from Duckett Dam to relieve the excess water. WSSC met with the City of Laurel prior to the release. Other meetings with elected officials on the county level will be held.

Breaks and leaks are slightly up over last year's numbers. WSSC is ahead of goals for water main replacement for in-house staff and outside contractors. Weather conditions have cooperated to allow this. Sewer main and laterals are also ahead of schedule and it is expected those goals will be met as well.

A number of community outreach activities were held including a "How to Do Business with WSSC" event that brought over 120 participants to RGH. Overall more than 500 participants have attended this outreach event. The semi-annual Employee service award program for persons employed from 10 to 35 years was attended by Vice Chair Counihan.

At mid-year, WSSC's budget is on-target. A detailed briefing on the budget will be held at the March Commission meeting.

Lastly, Mr. Johnson recognized Ms. Yvonne McKinney, [Human Resources Director] who has been with the Commission for seven years and who will leave at the end of February. She made a number of very significant changes in how personnel matters are handled at WSSC: she has introduced a more structured and robust benefits operation, promoted closer ties to some of the elements of the finance department, worked to improve the recruitment efforts, and she has brought a sense of professionalism to the office that Mr. Johnson characterized as "unparalleled." Mr. Johnson asked for a round of applause for Ms. McKinney for all she has done for WSSC and its 1.8 million customers.

Internal Audit Office

Monthly Activity Report. Mr. Dana Whiting gave the report as Ms. Maxene Bardwell was absent. He provided an update on the activities in the Internal Audit Office. The report covered the period January 7, 2013 to January 21, 2013. System Development Charge savings for the period were unchanged from last month, at approximately \$864,000. He reviewed the status of FY 2013 audit plan action items. He also identified three delinquent items.

Board of Ethics. The Ethics Officer visited Anacostia, Patuxent and Parkway Wastewater Treatment Plants. The Board of Ethics held its regularly-scheduled meeting on January 10, 2013. Several closed and open items were reviewed. Code of Ethics training was provided to 10 new hires by the Ethics Officer on January 22, 2013.

Hotline Summary. Next Mr. Whiting summarized the number and types of calls received by that service on an industry comparison chart contained in the meeting packet.

DEPARTMENT BRIEFINGS

Finance Office

Bond Refunding Plan. Mr. J.D. Noel briefed the Commissioners on a refunding plan based on market conditions. Debt service savings of \$10.2 million will be realized by this refunding plan. Vice Chair Counihan moved that the Commission approve the bond refunding plan. Commissioner Jones seconded the motion. The motion carried with six affirmative votes.

Resolution 2013-1998. Appointment of Employee Trustee to WSSC Employees' Retirement Plan Board of Trustees. Mr. Rick Baker advised that the vacancy occurred as a result of the retirement of Dr. Roland Steiner in January 2013. Commissioner Mandel moved that the Commission adopt Resolution 2013-1998 that appoints Brian Davis to the Employee position on the WSSC Employees' Retirement Plan Board of Trustees. Commissioner Hartwig-Davis seconded the motion. A discussion ensued about the public members of the Board of Trustees. Chair Lawson asked be tabled until the afternoon session under unfinished business. The motion carried with six affirmative votes.

Transmittal of Proposed FY 2014 Budgets. Mr. Chris Cullinan, budget Group Leader, requested authorization to submit the Proposed 2014 Operating and Capital Budgets to Montgomery and Prince George's Counties. He also noted how his department ameliorated the confusion about the location of the public

hearings, an error due to a publication error. He noted no one showed up at the wrong venue. Nevertheless a third hearing was held to ensure that all ratepayers had an opportunity to testify. Mr. Cullinan advised that the written transcript of the hearings would be provided to the counties. Commissioner Jones moved that the Commission transmit the Proposed FY 2014 Operating and Capital Budgets to Prince George's and Montgomery Counties. Vice Chair Counihan seconded the motion. The motion carried with six affirmative votes.

Engineering and Construction

Architect/Engineer Contract

Contract 23102492A. Mr. Gumm, Chief Engineer presented this contract from the Development Services Group for a Basic Ordering Agreement to provide staff augmentation on an as-needed basis to the Development Services Group.

Construction Contract

Contract BR5227A11. Next Mr. Gumm described Contract BR5227A11 for the Camp Springs Forest I water main replacement/relocation.

CONSENT CALENDAR

Commissioner Hartwig-Davis moved that the Commission approve Resolution 2013-1999 that adopts the Consent Calendar for the February 20, 2013 Commission meeting containing the following items:

Architect/Engineer Contract

23102492A, Development Services Group Basic Ordering Agreement to Johnson, Mirmiran & Thompson, Inc., for an upset limit not to exceed \$5,000,000.

Construction Contract

BR5227A11, Camp Springs Forest I Water Main Replacement/Relocation to Schummer, Inc., in the amount of \$1,488,646.00.

Vice Chair Counihan seconded the motion. The motion carried with six affirmative votes.

DEPARTMENT BRIEFINGS

GENERAL MANAGAER'S OFFICE

Engineering Waiver. Mr. Johnson Received a letter addressed to the chair requesting transfer of capacity in the Broad Creek sewer basin for the development of a facility to be used by Strayer University. Mr. Gumm explained that the standard procedure requires a waiver request be executed by a duly authorized officer of the applicant's firm and be delivered to the WSSC Corporate Secretary. Upon delivery to the Corporate Secretary it is published on the WSSC web site for public comment

for 30 days. It also requires a signed letter of support. The GM/CEO analyzes the request and then provides a recommendation as to the merits of the waiver. Twenty days later the Commission is to make a decision on the waiver.

Additional Public Comment

Dana Stebbins. Ms. Stebbins, development counsel to the Schwartz Foundation noted that the County Executive is supporting the request for a waiver and requests the matter be resolved within 60 days to allow the developer to meet an urgent time frame.

Steven Hankins, Developer for Strayer University. Mr. Hankins noted the project has been in progress for over a year and it was not brought to his attention that the sewer capacity was an issue until the site plan approval stage. Construction needs to be started in June 2013 to allow Strayer to occupy a new building and stay in Prince George's County. He asked for cooperation due to the tight time constraints.

Allen Arnold of Stantec. Mr. Arnold authored the letter requesting the sewer capacity and noted he could answer any questions and has already sought counsel from Mr. Gumm.

Thomas Halloran. Mr. Halloran is counsel to Mr. Hankins for obtaining land use approvals. Mr. Halloran described the status of the approval of the plans noting that construction must be commenced in June in order to meet the timeline Strayer has created to vacate its current site and move into a new one.

At the end of these public comments, Chair Lawson resumed the briefings from the General Manager's Office.

Resolution 2013-1997. Commissioner Mandel moved that the Commission approve Resolution 2013-1997 that approves the Blue Plains Intermunicipal Agreement as revised. Commissioner Hartwig-Davis seconded the motion. The motion carried with five affirmative votes as Dr. Moore was temporarily off the dais.

Watershed Regulations

Mr. Johnson summarized the series of meetings that enabled the public to comment on the Watershed Regulations. He noted the regulations were posted on the WSSC web site on February 12, 2013 and will take effect March 12, 2013. The Watershed will officially open on March 15, 2013. Mr. Johnson described the preparations underway for opening the Watershed. He commented that the equestrians are not the majority of the users of the Watershed even though they are the most vocal.

Ad Hoc Committee on the Design Manual. Vice Chair Counihan moved that the agenda be amended to include an update on the

Design Manual. Commissioner Hartwig-Davis seconded the motion. The motion carried with six affirmative votes. Mr. Johnson advised he had sent a letter to the County Executives in each county requesting a meeting to get consideration for a more reasonable approach to bring the matter to closure.

Intergovernmental Relations Office

2013 Legislative Agenda. Mr. Kirk Wineland presented an update on several bills.

House Bill 506 - Dental Mercury Disposal. Mr. Wineland noted that this bill will seek to prevent depositing dental amalgam into all water and sewer systems. He advised that this bill has no major impact on WSSC. Commissioner Mandel moved that the Commission take no position on this bill. Commissioner Jones seconded the motion. The motion carried with six affirmative votes.

House Bill 598 - Billing Periods. Mr. Wineland stated the Commission should take no position on this bill requiring billing periods every other month. Commissioner Mandel moved to take no position on House Bill 598. Commissioner Hartwig-Davis seconded the motion. The motion carried with six affirmative votes.

House Bill 331 - Violations and Penalties under the Open Meetings Act (OMA). Mr. Wineland advised that the Maryland Municipal League and the Maryland Association of Counties both support this legislation with amendments. He advised that the intent was to strip the financial penalties and shift the responsibility for violations from individuals to the governing bodies. Commissioners took no action on this bill.

Senate Bill 8 - Surcharge for Gas Companies. This bill will allow a \$2 surcharge to finance infrastructure improvements for gas companies.

Senator Peters' Task Force. Mr. Wineland informed Commissioners that the Task Force will hold a few meetings in May and some in the summer with tasks assigned to WSSC staff. It will address private sector contracts between buyers and sellers of residential properties, thus the activities are not regulated or a concern of WSSC.

Corporate Secretary's Report

Ms. Bundy reported her activities for the month. She reiterated that the personal effects of former Commissioner Johanna Norris had been catalogued by the Maryland Archives. Ms. Bundy informed Commissioners that the Commissioners' Engineering

Scholarship essay topic for 2013 had been published on the WSSC web site.

Committee Reports

Bi-County Infrastructure Funding Working Group. Commissioner Jones noted that a vendor has been selected for the rate study with a meeting planned for April 10th. Commissioners will receive the scope of work of the rate study with the March meeting packet.

WSSC Employee Pension Board of Trustees. There was no meeting of the Pension Board of Trustees this month.

Personnel & Governance. Commissioner Hartwig-Davis reported that the P & G Committee is reviewing the comments from General Counsel Blask on the Standard Procedure on evaluating Direct Reports. She acknowledged that the P & G Committee had received the GM/CEO's performance goals for the next Fiscal Year. The committee intends to finalize the details of the Internal Auditor's employment contract.

LUNCH RECESS

At 12:40 p.m. Chair Lawson called for the lunch recess. The meeting resumed at 1:20 p.m.

CLOSED SESSION

At 1:30 p.m. Commissioner Hartwig-Davis moved that the Commission go into Closed pursuant to Maryland State Government Article 10, Subtitle 5, Section 10-508(a)(13) to approve the January 16, 2013 Closed Session Minutes and Sections 10-508(a)(7) to obtain legal advice concerning litigation; and Section 10-508(a)(8) to consult with General Counsel and staff about pending/potential litigation. Commissioner Jones seconded the motion. The motion carried with six affirmative votes.

At 1:33 p.m. Chair Lawson declared the meeting was closed.

ATTENDEES: Chair Chris Lawson; Vice Chair Gene Counihan, Commissioners Roscoe M. Moore, Jr., Adrienne A. Mandel, Antonio Jones and Melanie Hartwig-Davis; General Manager Jerry Johnson, General Counsel Jerry Blask, Corporate Secretary Charlett Bundy.

Closed Session Minutes. Commissioner Hartwig-Davis moved to adopt the Closed Session Minutes for the January 16, 2013 Commission meeting. Commissioner Moore seconded the motion. The motion carried with six affirmative votes.

Legal Advice. Mr. Blask advised of the status of several matters currently in litigation and which required Commissioners' oversight.

Cathy Martin, Procurement Director joined the discussion on Potential/Pending Litigation at 2:20 p.m.

Potential/Pending Litigation. Commissioners were refreshed with information about a matter that may go into litigation. At the conclusion of the discussion, a motion was made and seconded authorizing how the General Counsel could review 12 months of closed session minutes. Commissioner Jones seconded the motion. The motion carried with six affirmative votes.

At 2:40 p.m., Ms. Martin left the closed session.

Personnel Matter. Commissioner Hartwig-Davis moved that the commission agenda be amended to allow for a personnel matter involving the corporate secretary to be discussed pursuant to Section 10-508(a)(1). Commissioner Moore seconded the motion. The motion carried with six affirmative votes. Commissioners thereafter had a discussion on a personnel matter related to the Corporate Secretary.

At 2:45 p.m. Mr. Johnson, Mr. Blask and Ms. Bundy left the closed session. At 3:05 p.m. the meeting was reopened.

The Corporate Secretary was advised that Commissioner Hartwig-Davis had moved to resume the open session with Commissioner Jones seconding the motion and the motion carried with six affirmative votes.

OPEN SESSION RESUMED

Commissioners' Item

Update on Human Resources Manager Transition and Corporate Secretary Search. Mr. Johnson noted that a timeline had been revised for the corporate secretary search and a batch of applications is expected by the next Commission meeting.

Mr. Johnson also noted that an acting Human Resources Director would be appointed a few days following the Commission meeting. Ayon Consulting had been contacted to help design the recruiting documents and identify who should be the Acting HR Director.

There was also a discussion about pending audit deficiencies and how to devise a plan to address them including the recommendations received from the Internal Audit department.

It was agreed that Chair Lawson and Vice Chair Counihan would review the applicants for the corporate secretary position and to conduct a paper screening to limit the number of candidates who would be interviewed for the Corporate Secretary position. It was agreed that the initial interviews would be in the conference room and final interviews conducted off-site in closed session so that all Commissioners could participate.

Commissioner Jones raised a question about the tenure of the public members of the WSSC Employees Retirement Board of Trustees and whether the tenure terms needed modification. It was agreed that Commissioners Moore and Jones, would meet with Mr. Tom Traber and Mr. Rick Baker to gather information about the tenure terms.

Chair Lawson asked if there was any additional business to consider. There being no further business, Chair Lawson requested a motion for adjournment.

Adjournment

Commissioner Mandel moved to adjourn the meeting. Commissioner Jones seconded the motion. The motion carried with six aye votes. At 5:02 p.m. the meeting was adjourned.

Respectfully submitted,

 //signed//
Charlett Bundy
Corporate Secretary