

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

Wednesday, March 21, 2012
Laurel, Maryland

Chair Roscoe M. Moore, Jr. called the meeting to order at 8:54 a.m. in the Auditorium of the Richard G. Hoyer Building, 14501 Sweitzer Lane, Laurel, MD 20707, with due notice having been given to all members of the Commission and the public. Vice Chair Chris Lawson, Commissioners Adrienne A. Mandel, Antonio L. Jones, Gene W. Counihan and Melanie Hartwig-Davis were present at the meeting. Also, present were General Manager Jerry Johnson, General Counsel Jerry Blask, and Corporate Secretary Charlett Bundy.

PLEDGE OF ALLEGIANCE

In honor of Women's History Month, Chair Moore asked both female commissioners, Commissioners Mandel and Hartwig-Davis to lead the pledge of allegiance.

AGENDA APPROVAL

Commissioner Mandel moved to approve the agenda for the WSSC Commission meeting for Wednesday February 15, 2012 with the addition of a closed session item: legal advice on the recommendations from the 120-day audit delinquencies pursuant to Section 10-508(a)(7). Commissioner Hartwig-Davis seconded the motion. The vote was called by Chair Moore and the motion carried with six affirmative votes.

MINUTES

Vice Chair Lawson moved to approve the open session minutes of the February 15, 2012 Commission meeting. Commissioner Jones seconded the motion. The motion carried with six affirmative votes. Later in the meeting, Vice Chair Lawson recalled his affirmative vote as he was absent from the February 18, 2012 meeting and had to abstain from voting on approval of the minutes. As Robert's Rules of Order (Chapter 16, Section 49, Paragraph "Procedure in Small Boards") does not require motions to be made for boards and commissions comprised of less than 12 persons, the motion was not required and thus, the vote to approve the minutes stands as it meets the WSSC Bylaw definition of majority vote and constitutes official action.

WSSC RETIREES

Three employees retired this month and none were present to be recognized. They were: Timothy F. Duvall, a Customer Care Maintenance Unit Coordinator in Customer Care Central/Anacostia retired with 31 years of service; John Wayne Swann, a Sr. Collection Systems Operator at Piscataway retired with 32 years and 8 months of service; and Elmore Wilson, a Utility Technician I in the Customer Care North Group/Gaithersburg retired with 32 years and 5 months of service.

COMMUNICATIONS

This month Commissioners viewed a consumer education video on detecting a toilet leak. Also, there was a presentation by Kim Knox that provided an update on some of the community activities sponsored by WSSC Communications Office.

MEDIA COMMENTS

There were no comments from the media.

COMMISSIONER COMMENTS

Commissioner Mandel read remarks commemorating International Women's History Month. First she commended the staff for the activities highlighting this annual month-long recognition of women and their achievements. Then she noted that in the 94-year history of WSSC only 14 women have been appointed Commissioners. It was not until 1971 that the first woman Commissioner, Johanna Norris was appointed from Prince George's County. While women comprise 51% of the population nationally, their representation in congress and state legislatures, in the engineering and science fields, and even here at WSSC is not commensurate with this representation in the population or their abilities. Only 30% of the WSSC work force is female. Last year's completed Disparity Study demonstrated that women contractors and vendors as well as other under-utilized groups were continuing to face barriers in doing business with WSSC. Commissioner Mandel said, "I say were because we've turned a corner and we hope those numbers will increase." She encouraged all women to consider that women have come a long way but continue to have a long way to go. Women are available but

underutilized in too many walks of life other than mothering of course. She encouraged mothers, sisters, daughters, aunts, and girlfriends to be all they can be to pursue their dreams limited only by their own interests and abilities not by their gender. She encouraged women to continue building history or "her-story" by mentoring other women who are their juniors who are struggling with the demands of motherhood and trying to balance their role as mother with the desire to be in the work force. Women must continue to be change agents Commissioner Mandel counseled adding that women must be heroines, "she-roes" as they have the ability to do so. She closed by reminding that Ginger Rogers, a 1940s film star famous for dancing had to do everything her male co-star did only backwards and in high heels. "Happy Women's History Month everyone let's keep celebrating the past but more importantly improving the future" Commissioner Mandel noted as she closed her remarks.

Chair Moore commented about his attendance at a reception hosted by the Metropolitan Area of Water Agencies held at the U.S. Botanical Gardens. While WSSC is the 8th largest water utility, Chair Moore noted how distinguished WSSC is from the less capable water utilities and how well WSSC is respected by its peers. He noted that WSSC is doing an excellent job compared to water utilities in other areas. Chair Moore said all U.S. residents deserve water quality as good as the quality delivered by the WSSC.

Later in the meeting Commissioner Counihan noted that he had attended the Montgomery Chamber of Commerce Transportation and Land Use Committee. The speaker for the meeting was Jerry Johnson who did an outstanding job speaking before developers and developers' attorneys. His presentation was received very positively and Mr. Counihan extended his compliments to Mr. Johnson for his performance.

PUBLIC COMMENTS

There were no comments from the public.

GENERAL MANAGER'S OFFICE

Monthly Report. Mr. Johnson began by providing a report on the company's financial situation. The budget projections at the

beginning of the budget are based on water consumption and the estimate of water to be sold. A caveat caused by the 16-step rate structure which requires using historical data resulted in a projection that water production which was at 167.8 million gallons a day, is now 2% below a 5-year average and 6% below last year's calculation at the same time. Water and sewer projections were down and the revenue associated with that is decreased as well. Usage is down and the budget has been adjusted from \$8.02 per thousand gallons to \$7.88 per thousand gallons based on the average consumption in that 16-step scale. Revenue projections are down a total of \$30 million from budgeted as a result of the adjustments. Expense projections were also monitored to include chemicals and electric use and other primary drivers of the budgets. This projection resulted in \$31.7 million under-spending in the budget to date.

Call Center challenges continue. A technical issue with Verizon impacted the call answering rate. New hires, changes in operation times and out-bound calls sought to ameliorate some of the impact and number of the in-coming calls.

The delinquency report demonstrates a more thorough analysis of the delinquencies WSSC has been experiencing on a monthly basis. Instead of reporting the total dollars owed, the focus is on delinquencies defined as dollars owed at the time the shut-off notice goes to the customer. It can be calculated by county, customer class, etc. Mr. Johnson invited feedback from the Commissioners on the new format of the delinquency dashboard.

WSSC senior staff worked for three days with the Metropolitan Council of Government and other jurisdictions within the region on an emergency preparedness exercise. Internal training was conducted for all of the senior managers within the organization with assistance from Prince George's County on emergency preparedness and the roles of various individuals within the organization.

All plants are working well within their permit parameters. Water main breaks are well below average in large measure due to weather conditions. WSSC has completed 33 miles in water main replacement but the sewer main work is not caught up. It is

expected to be caught up before the fiscal year expires: WSSC is at 18.3 miles against a 23-mile target.

The SLMBE report provides a great deal of information undertaken by that office and a revision in the dashboard associated with the data report for the progress WSSC is making on contractor activities. This month, as part of Woman's History Month, there is a Woman's Business Expo scheduled at WSSC March 30th. This is the 4th year of the Expo and registrations are up and it has become an event people look forward to on an annual basis.

Mr. Johnson advised that as General Manager he was asked to testify on February 28th before the Senate Energy and Public Works Sub-Committee on Water and Wildlife before Chair, Senator (MD) Ben Cardin. He discussed the need to increase federal funding for water infrastructure.

On March 21st Mr. Johnson introduced Mr. Cardin at the Association of Metropolitan Water Agencies meeting in Washington, D.C.

A number of senior members of the Botswana Water purveyor visited WSSC this month. The visit was sponsored by the World Bank and others who consulted with them from this area.

The staff and others who participated in the Volunteer clean up were thanked for their help. An employee showcase was held this month and 16 employees and some retirees shared their talent that varied from singing, poetry reading, to a zumba demonstration.

Mr. Johnson gave kudos to Dr. Habibian who had an article in the winter issue of The Bridge, a juried publication of the National Academy of Engineering. It was titled, "Critical Issues and Sustainability Challenges for a Large Metropolitan Water-Wastewater Facility."

WSSC received recognition as a corporate partner from the Women's' Presidents Association in saluting Towanda Livingston for efforts in the SLMBE office and she was highlighted as one of the 25 most distinguished women for her activities associated with the SLMBE program.

The organizational change in the IT Department is making progress with senior-level appointments. The appointments are

employees who have been with WSSC but have been promoted based on their contributions to the organization: Nicholas Del Grasso is now the Senior Manager of Network Infrastructure and Data Center Operations; Dr. Paul Coverstone (former Interim CIO), is now the Senior Manager, Innovations and Advanced Analytics; Minchy Shaw has been appointed as Chief Information Technology Implementation Officer.

Consent Decree Update. Mr. Gary Gumm reported on the meeting with the Maryland Department of the Environment regarding the status of consent decree projects at WSSC. All of the design contracts are let. The bulk of the construction is in three types: residential neighborhoods in public rights of way, environmentally sensitive work, and sewer laterals. By the end of this month 55 miles will be designed; 23 of those will be under construction by the end of March and by the end of the year that 55 will grow to 74 miles designed and moving into construction. Mr. Johnson does not expect any substantive issues to delay the projects.

There was some work completed before entering into the Consent Decree and those had work to be done before 2015. It is virtually all done except for 10 manholes - 9 begin next Monday and finish by April 18th. The remaining manhole requires a right of entry from a homeowners' association before the work can begin. A meeting is scheduled with that association to work out the details of obtaining the right of way. All manholes must be completed by December 2012.

The environmentally sensitive areas require getting the permits in place first. A joint permit needs to be issued by the state, MDE, Corps of Engineers - Baltimore District. WSSC has been having difficulty getting that process started and has initiated discussions with the Chief of Operations in the Baltimore Water agency. A public notice has been issued and 30,000 letters sent to properties expected to be associated with the actions. The permit should get to WSSC by the beginning of May 2012. This is several months behind our schedule. Task orders can then be issued to contractors for work in Broad Creek basin regarding the environmentally sensitive issues. In trying to minimize the impact to the environmentally sensitive issues

WSSC is trying to find processes to expedite access while minimizing impact. This could include condemning property in some cases. The pool of contractors remains limited but some additional contractors have been identified. Mr. Johnson added that discussions have been initiated around resolving the issue of multiple jurisdictions seeking the contractors for work in the various jurisdictions from the limited pool of contractors who do the work.

Process for Resolving Unusually High Bills. Mr. Derrick Phillips provided an explanation of how Customer Care Team deals with a complaint of unusually high bill. The reading is checked first. If the reading was defective an adjustment is made if the reading is accurate the representatives attempt to discover what could have contributed to an increase in the bill by reviewing with the customer usage, mechanical issues, etc. Payment arrangements are offered if the bill cannot be paid at once. If the customer continues to dispute the bill they can appear before the Dispute Resolving Board. Mr. Phillips then noted that a \$5000 bill in Bethesda was an anomaly and he summarized the ways bills are analyzed to avoid this type of error. A systems check should have caught the error and the department is reviewing why the system failed to detect this error.

Internal Audit Office

Monthly Activity Report. Ms. Bardwell was away at training so Mr. Dana Whiting, Internal Auditor IV presented the activity of the Internal Audit office for the period February 3rd through March 2nd 2012. Lead auditors conducted two field audits for FY 2012. For the Fiscal 2011 carryover item, the Blue Plains Audit, items related to WSSC adjustments to the Blue Plains audit were discussed during February with representatives from the D.C. Water Authority (a.k.a. DC Water).

There are 18 System Development Charge (SC) audits: 12 of the requests for reimbursements are actively being audited; and 6 have been classified as inactive. Internal follow-up: implementation phase for one management action plan is delinquent however significant process has been made and a recommendation is expected to be implemented by June 2012.

The Board of Ethics held its regularly-scheduled meeting on March 8, 2012. Two auditors provided Code of Ethics training for 12 new hires on February 12, 2012. The Code of Ethics booklet was converted to an electronic flip book and is now available for employees and customers. The Code of Conduct pamphlet was distributed to all WSSC employees through administrative personnel. A press release announcing the Code's issuance and one announcing the hotline were distributed during February. Mr. Whiting thanked the Communications Office for its support with these activities.

The Ethics Officer vacancy was advertised in December with interviews conducted during February. The top candidate was interviewed by the Board of Ethics by telephone and an offer was made to one candidate. The WSSC Hotline Executive Summary Reports will be issued quarterly commencing April 9, 2012. With the assistance of the IT team, the hotline vendor case management software was implemented March 9, 2012.

DEPARTMENT BRIEFINGS

Finance

Setting Front Foot Benefit Appeal Hearing FY 2012. Mr. Traber presented a request to set the hearing date for appeals of reclassifications and assessments. Walk-in at 3:00 p.m. for the May 2012 Commission meeting and an appointment for those needing a different time or day.

2017 Capital Improvements Program Amendment, Ms. Cohen asked for an amendment after Montgomery County approved an amendment to include a project in Montgomery County. Since no rate-payer funds will be used for this project, there was no requirement for approval from Prince George's County.

Engineering and Construction

Architect and Engineering Contract

Change Order 1 to Contract PM0006A10. Mr. Gary Gumm provided Commissioners with information on this change order to Contract PM0006A10 that will increase the upset limit from \$300,000 to \$500,000 but will not change the end date of the

contract. The addition of evaluating properties associated with the two Patuxent reservoirs necessitates the change order.

Construction Contracts

Contract BR5130A10. Mr. Gumm briefed Commissioners on this contract for Bladensburg II distribution main replacement.

Contract BR5099B10. This contract covers the Redland Estates II area and replaces a distribution main.

Contract BT5141A10. As explained by Mr. Gumm, a transmission main will be replaced in Silver Hill under this contract.

Goods and Services/Professional Services

Contract IC2011A11. This contract is for inspection Services for pipeline construction, street repair and landscape restoration.

Logistics

Contract 5827 Change Order. Mr. Roscoe Wade described the necessity to institute a change order for purchasing underground brass service fittings.

Contract 6109. Mr. Wade identified the pertinent aspects of this contract for hauling and disposal of debris.

CONSENT CALENDAR

Commissioner Jones moved that the Commission approve Resolution 2012-1954 that adopts the Consent Calendar for the March 21, 2012 containing the following items:

A. Finance

1. Setting Front Foot Benefit Appeal Hearing for May 12, 2012 at 3:00 pm.
2. FY 2012 - 2017 Capital Improvements Program Amendment, S-25.04, adding service to the Montgomery County Mid-Pike Plaza Sewer Main, Phase 1.

B. Engineering and Construction

Architect and Engineering Contracts

PM0006A10, Change Order 1 Pollution Assessment and Control Basic Ordering Agreement (BOA) to EA Engineering Science & Technology, Inc, to increase the contract by \$300,000.00 for a total new upset limit of \$500,000.00.

Construction Contracts

1. BR5130A10, Distribution Main Replacement, Bladensburg II to Rustler Construction, Inc. for a total of \$1,515,820.75.
 2. BR5099B10, Distribution Main Replacement, Redland Estates II to Mid-Atlantic Utilities, Inc. for a total of \$1,696,026.00.
 3. BT5141A10, Transmission Main Replacement, Silver Hill to Metra Industries, Inc. for a total of \$3,837,279.00.
- Goods and Services/Professional Services
- IC2011A11, Inspection Services to Development Facilitators, Inc. for a total of \$4,321,144.00.

C. Logistics

1. Change Order - Underground Brass Service Fittings, Contract No. 5827 to Construction Management and Technology, Inc. for an additional \$420,000.00, increasing the contract to \$1,020,000.00.
2. 6109, Hauling and Disposal of Debris to L.E. Blue & Associates, Inc. for a total of \$2,085,550.00.

Commissioner Hartwig-Davis seconded the motion. The motion carried with six affirmative votes.

BRIEFING AND POLICY ITEMS

Intermunicipal Agreement

Mr. Johnson reported to Commissioners that the Intermunicipal Agreement (IMA) had been approved by Montgomery and Prince George's County Councils since last month's meeting. Also Fairfax County had approved it and the first step for approval by the District of Columbia had been completed. A second step with the D.C. Council had not taken place by this meeting. Commissioner Hartwig-Davis moved that the Commission approve Resolution 2012-1953 that approves the Blue Plains Intermunicipal Agreement of 2012. Commissioner Mandel seconded the motion. The motion carried with six affirmative votes. Mr. Johnson stated this represents a major, major accomplishment for the entire region and firms up the working agreement with the Blue Plains plant and the other partners. He saluted the staff, Craig Fricke; Roland Steiner, Gary Gumm and the General Counsel who worked with the other general counsels. Commissioner Mandel

commended Dave Lake of Montgomery County who assisted throughout the many years of this project and stayed with the program until it came to fruition. Vice Chair Lawson commended the Prince George's member of the IMA work group, Lavinia Baxter for her participation in helping to finalize this document.

Intergovernmental Affairs

Mr. Wineland provided an update of the bills in a new dashboard format.

PG/MC 102-12 for the 5-year extension of the MBE program was voted favorably by the House Committee and will go to the House Floor quickly and is anticipated to pass and be moved to the Senate.

House Bill 889 (PG/MC 103-12). This WSSC Human Resources Bill was treated favorably. It passed the House and moved on to the Senate. The Montgomery Senate Delegation has voted favorably and awaiting a decision by the Prince George's County Senate.

House Bill 890 (PG/MC 104-12). Design Build passed the House. The Montgomery Senate Delegation has voted favorably and awaiting a decision by the Prince George's County Senate.

House Bill 888 (PG/MC 105-12). Delinquency Receiver Bill did not get the support and would not come out of committee so on behalf of WSSC it was withdrawn.

House Bill 894 (PG/MC 106-12). WSSC Unpaid Water and Sewer Charges Collections and Liens. This was withdrawn also because even though there was some support from the Montgomery County Bi-County Committee who recommended this bill be brought back from last year, five out of eight votes could not be obtained. It was agreed it would be reviewed to try to come up with a way to collect on the large amount of money WSSC is not now able to collect without any authority to assess a lien.

House Bill 896 (PG/MC 107-12). Transparency and Rate Relief Act. Commission opposed this bill and it was then amended significantly by the sponsor and with the amendments it has passed through the committees and House and is expected to be approved by the Senate.

House Bill 901 (PG/MC 110-12). Requires WSSC to undergo new construction of office space or non-industrial/non-warehouse

renovations or buildings like other state agencies and requires WSSC to achieve Landscape Energy and Environmental Design (LEED) certification. It was voted favorably by the environmental matters. It is expected to pass favorably through the House and Senate.

Senate Bill 727. Human oversight committee and MBE Utilization Extension. This bill was withdrawn by the sponsor.

House Bill 446. Bay Restoration Fund (Flush Tax). House version passed in environmental committee. It doubles the fee from \$2.50 to \$5 per month and removes the sliding scale. Completes the ENR upgrades at the water treatment plants. Supports the minor plants for ENR in areas where specific growth is to occur and current facilities aren't capable of meeting the demand. After the priority ENR upgrades are completed the funds can be used for storm water management. The fee stops in 2030. Mr. Wineland commended Mr. James Price, Chief of Production for his testimony regarding the Bay Restoration Fund.

Commission Office

1. Sub-Committee Reports

I. Governance Policy - Commissioner Hartwig-Davis advised Commissioners that the review would be resumed in April because the electronic file needs to be restored.

b. Bi-County Infrastructure Funding Working Group - Commissioner Jones advised Commissioners that the draft report has been reviewed by staff in Prince George's and Montgomery Counties and will be revised and then the group will determine how to present the revised information when it next meets.

c. Pension Board of Trustees - There was no report from this committee this month as last month was the annual meeting.

Corporate Secretary

Ms. Bundy provided an overview of her participation in a focus group for evaluating a training class for members of Maryland boards and commissions. She also reported on her attendance at a continuing legal education conference in Miami as

well as other general matters handled since the previous Commission meeting.

LUNCH RECESS

Commissioner Counihan asked that the closed session agenda include an item on succession planning for the General Manager. Commissioner Jones seconded the motion. The motion carried with six affirmative votes.

Chair Moore recessed the meeting at 11:53 a.m. so Commissioners could take lunch.

CLOSED SESSION

At 12:55 p.m. Commissioner Jones moved that the Commission go into closed session pursuant to Maryland State Government Article 10, Subtitle 5, Section 10-508(a)(13) to approve the February 15, 2012 Closed Session minutes; and Section 10-508(a)(7) to receive legal advice on various matters in litigation and proposed changes to the design manual; Section 10(508)(a)(1) to discuss a personnel matter regarding the General Manager's Succession Plan and a direct report's employment contract. Commissioner Mandel seconded the motion. The motion carried with six affirmative votes.

At 12:56 p.m. Chair Moore declared the meeting was closed.

CLOSED SESSION

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

Closed Session Minutes. Commissioner Hartwig-Davis moved to adopt the Closed Session Minutes for the February 15, 2012. Commissioner Counihan seconded the motion. The motion carried with five affirmative votes. Vice Chair Lawson abstained because he was absent from the February 15, 2012 meeting.

ATTENDEES: Attorney Laura Swisher of the General Counsel's Office, Johnnie Hemphill, and Gary Gumm joined for the next discussion.

Design Manual Changes. Commissioners requested legal opinion on WSSC's authority to propose and enact changes to the design manual that impacts anyone wishing to design, install, or modify a system connected to WSSC's system. Ms. Swisher provided legal advice that included citation of legal authority on WSSC's legal authority to change and enforce the changes to the Design Manual. At the conclusion of this discussion, at approximately 2:10 p.m. Ms. Swisher and Mr. Gumm left the closed session.

ATTENDEES: Mr. Dana Whiting and Mr. Tom Traber joined the Closed Session at approximately 2:15 p.m.

Delinquent Audit Items: Mr. Whiting presented information on the 12-day delinquent items and it was agreed that the General Manager/CEO would manage the process of follow-through with any management items that fall delinquent after an audit. Mr. Whiting left the meeting at 2:48 p.m.

ATTENDEES: Mr. Russell Beers joined the closed session.

Mr. Beers of the General Counsel's Office presented Commissioner with an update on certain litigation.

ATTENDEES: Mr. Rick Baker, Mr. Tom Traber, Ms. Heather Ashbury.

Personnel Matter. At 3:05 p.m. Attorney Ashbury presented Commissioners with information regarding options for maintaining continuity after the employment status of the corporate secretary changes from active to retired. Mr. Traber, Ms. Ashbury and Mr. Baker left the meeting.

Succession Planning. Next Commissioners discussed with the General Manager/CEO the need to develop a succession plan and include it as part of the Delegation of Authority. Commissioner Hartwig-Davis left the meeting at 4:45 p.m.

At 5:00 p.m. Commissioner Jones moved to end the closed session. Vice Chair Lawson seconded the motion. The motion carried with five affirmative votes. At 5:04 p.m. Chair Moore declared the meeting was re-opened.

OPEN SESSION RESUMED**Adjournment**

At 5:05 p.m. Vice Chair Lawson moved to adjourn the Commission meeting for March 21, 2012. Commissioner Mandel seconded the motion. The motion carried with five affirmative votes. At 5:05 p.m. Chair Moore declared the meeting was adjourned.

Respectfully submitted,

__//signed//__
Charlett Bundy, Esq.
Corporate Secretary