

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, May 16, 2012
Laurel, Maryland**

Chair Roscoe M. Moore, Jr. called the meeting to order at 9:02 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, and Gene W. Counihan 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 Moore asked Commissioner Counihan to lead the pledge of allegiance.

AGENDA APPROVAL

Commissioner Jones moved to approve the agenda for the WSSC Commission meeting for Wednesday May 16, 2012. Commissioner Mandel seconded the motion. The motion carried with five affirmative votes.

MINUTES

Commissioner Mandel moved to approve the open session minutes of the May 16, 2012 Commission meeting noting two changes: one on page 5 and one on page 13. Vice Chair Lawson seconded the motion. The motion carried with five affirmative votes.

WSSC RETIREES

This month four employees retired. Those attending the meeting were: Sheila S. Cohen, Budget Group Leader in the Budget Group/Central Office Building who retired with 31 years and 9 months of service; and Stephen A. Malady, Wastewater Plant Operator in the Human Resources Non-Department Western Branch who retired with 24 years and 10 months of service.

The following two retirees were absent from the meeting: Pandee A. Dodge, a Development Project Manager II in the Development Services Program Group, Central Office Building who retired with 33 years and 8 months of service and Renato O. Esposito, a Waste Plant Operator in the Potomac Group/Potomac who retired with 30 years and 6 months of service.

COMMUNICATIONS

Commissioners viewed an educational video on how to read water meters.

MEDIA COMMENTS

There were no comments from the media.

PUBLIC COMMENTS

Mr. Ted Nielsen presented a complaint alleging Metra Industries had sub-contracted for his firm, Concrete Technology, to do saw cutting work on a WSSC contract. He alleged that the work was completed but Metra failed to pay \$19,000 due for the work. He asked that the Commission not award any more contracts to Metra Industries until his situation was resolved.

COMMISSIONER COMMENTS

Commissioner Jones read from an article posted on <http://www.voanews.com/articleprintview/1205352> that quotes a conservation group, American Rivers, as classifying the Potomac River as the most endangered river in the U.S.

Commissioner Counihan acknowledged a letter sent to Commissioners about the professionalism of WSSC employee John Hoffman, a contract manager in Customer Care.

Commissioner Mandel spoke about a community outreach event, the 37th Annual Montgomery County NAACP gala. She noted it was very well attended and was delighted that WSSC continues to support activities of area non-profits.

Chair Moore gave accolades to Commissioner Counihan who will receive an award as the Distinguished Alumni of Frostburg State University in June.

GENERAL MANAGER'S OFFICE

Monthly Report. Commissioners learned that they do not see all of the letters complementing employees even though they often see complaint letters. Mr. Johnson started with the challenges of the Call Center. This month's answer rate was only 73% but the number of calls was up to 50,800. New customer care agents will start next month and the call center hours will be extended as well as work shifts staggered to improve call wait time and the call answer rate.

Mr. Johnson noted from this month's report that: Delinquencies that are 17 days beyond the cut-off date are down. Additional strategies for managing delinquent accounts continue.

Permit requirements for water and wastewater treatment plants were met.

The biosolids study was presented to both Montgomery and Prince George's county to consider newly-emerging options from the City of Baltimore and Blue Plains. A great deal of concern has arisen about a new biosolids regulation which will have an initial rule-making as early as June 2012. It is similar to legislation to which WSSC objected in the previous legislative season that restricts application of biosolids to the fall and winter seasons. Mr. Johnson opined this legislation would change the way WSSC does business and expressed the intent to follow the legislation as it develops.

As the end of the fiscal year nears, WSSC is ahead of schedule on water main construction and reconstruction. It is expected that fiscal year goals for the sewer repair and replacement work will be met or exceeded.

The SLMBE Office was very active since the last Commission meeting with a number of outreach activities, including radio talk show interviews. WSSC will be a regular guest on a Radio One program called "Minority Business Exchange."

Mr. Johnson was presented the "2012 National Environmental Achievement Award by the National Association of Clean Water Agencies for Outstanding Contribution in Environmental Protection and Wastewater Management." WSSC also won two platinum awards for the videos produced by the Communications Department featuring the Commission's mobile app and WSSC mobile; two gold awards for public service promoting the "Can the Grease" video and two honorable awards for educational videos showing customers

how to detect toilet leaks and for instructing food establishments on how to clean outdoor grease interceptors. This was an international competition with several hundred entrants.

SLMBE Director, Towanda Livingston was named Best Leader by the Maryland Washington Minority Contractors Inc. for providing opportunities to minority-owned firms. The award was presented at the 9th annual breakfast.

The Seneca Plant's annual open house drew 190 attendees. Staff from the Montgomery County Department Environmental Protection Soils and Waste Division and Montgomery County Master Gardeners provided information to the attendees.

Nearly 500 students from six schools in the bi-county area participated in the children's Water Festival at Brighton Dam. The 4th graders took part in 13 activities about source water and water treatment.

WSSC was one of the sponsors of the Montgomery Serves Award attended by Commissioners Counihan and Mandel. The event recognized individuals and businesses who strive to make a difference in Montgomery County. Similarly, WSSC was one of the sponsors of The Prince George's County Civic Leadership Awards, an event hosted by the Community Foundation. Prince George's County Commissioners attended this event that recognizes civic leadership and service of ten community leaders and organizations.

Mr. Johnson then referred Commissioners to the first WSSC Biannual Report since 2003 "Proof in the Performance." It captures WSSC's progress in 2010-2011. The report illustrates and measures progress in the strategic priorities established by

Commissioners and incorporated into the strategic plan. Progress in several important areas was notable; WSSC retained its Triple A bond Rating from the three credit rating agencies - a rare rating for utilities; the WSSC teams steadily increased the number of miles of water main replacement and continue to add technology to inspect more miles of pipe; WSSC finished installation of the largest ultraviolet disinfectant systems in the United States (at the Potomac Plant) - a tribute to WSSC's commitment to water quality, public health and innovation. Also notable in the report is the fact WSSC implemented its new SLMBE and MBE Programs a further demonstration of its commitment to diversity. Included in WSSC's first strategic performance report is the Biannual Report which highlights performance measures aligned with WSSC's strategic priorities for FY 2011. These reports will be shared with the customers and stakeholders. Mr. Johnson advised that these types of reports are necessary to keep WSSC employees, customers, and stakeholders informed of the challenges we face with ratepayers dollars. Mr. Johnson congratulated the Communications Office and the Strategic Systems Office for completing the two reports.

The Annual Water Quality Report has been published and will be mailed to every household in the service area as required by law.

Design Manual Changes. WSSC formed a work group of stakeholders to review the proposed changes regarding the required minimum horizontal/setback distance between large water mains and structures. Following the meeting, the manual changes were revised substantially from the previous submission of

changes shared with Commissioners. Ms. Laura Swisher provided information on the three substantive changes which result in exemptions from the 80-foot setback.

Firstly, an exemption to the 80-foot setback will be allowed when engineering studies are provided to support a different set-back distance (WSSC would review the proposal and determine if it agreed); secondly, regarding redevelopment of an existing area (e.g. a line of buildings on a street already developed), an exemption allows new structures to follow the setback of existing buildings on a street or development; and thirdly, an exemption for in-fill development which is 40 acres or less within a high-density, urban area. It is intended to address the smart growth areas although there was no uniform definition of "smart growth area."

Internal Audit Office

Monthly Activity Report. Ms. Bardwell's report covered April 9, through May 4, 2012. For the report period, System Financial Development audit savings totaled \$25,000. The FY 2011 carryover projects for the HR Phase II, field work were completed and a discussion draft was under review. The exit conference for the Blue Plains Audit was held at DC Water on May 3rd where it was determined that the Commission will benefit from \$1.3 million in adjustments. As for follow-up items, by May 4th there were 26 pending or started issues; 21 pending internal audit verification issues and 86 closed issues. As of the report, six management action plans were delinquent.

Board of Ethics. The Board of Ethics held its regularly-scheduled meeting on April 12, 2012. Several closed and open

items were reviewed. Ms. Bardwell advised that the Board's open meeting minutes are available on the WSSC internet site. Internal Auditors provided Code of Ethics training for 27 new hires on April 30th. Presently 69% of the WSSC work face has completed the Annual Code of Ethics Training with a deadline of May 31, 2012. The Code of Conduct has been distributed to 90% of the employees: The remaining employees are on some form of extended leave.

External Auditors. An entrance conference for the FY 2012 audit occurred on May 2nd.

Annual Ethics Report. Commissioners were asked to approve the transmittal of the Ethics Report to the Counties. The vote was postponed to allow for the drafting of a Resolution to effectuate the transmittal.

COMMISSIONERS

Infrastructure Funding Work Group. Commissioner Jones hosted the discussion of recommendations for funding infrastructure renewal projects that include options other than Ratepayer increases. Representatives from Raftelis Consultants and SOA Financial provided an overview of their work and recommendations. Their work focused on: Financial policies and procedures; WSSC's capital funding program; different ways of generating revenue through rates and other charges; and reviewing economically disadvantaged customers and how to address that class of customers. Raftelis provided a detailed report that includes recommendations for short-, immediate-, and long-term planning. At the conclusion of their discussion Commissioner Jones summarized several recommendations that came from the Bi-

County Infrastructure Funding Work Group: 1) Have WSSC focus on a 30-year debt service approach to finance future debt; 2) suggest WSSC consider restructuring existing debt using the 30-year approach; 3) continued review and benchmarking of WSSC's financial operations and performance; 4) identify and evaluate alternatives WSSC could use for revenue generation; 5) evaluate the WSSC's volumetric charge to fund infrastructure renewal; and 6) encourage the development of a customer affordability program. The working group recommended no action on these items at this month's meeting so as to give management time to develop a schedule of implementation.

Resolution 2012-1966. Commissioner Jones moved that the Commission approve Resolution 2012-1966 that authorizes transmittal of the 2012 Annual Ethics Report. Commissioner Counihan seconded the motion. The motion carried with five affirmative votes.

DEPARTMENT BRIEFINGS

A. Engineering and Construction:

Architect and Engineering Contract. Mr. Gumm presented this first amendment to contract BF50247A09 for design services during construction for this the design of the Potomac Plant's Stage 2 disinfection byproduct rule.

Construction Contracts. Several construction contracts were presented to Commissioners for approval. Mr. Gumm began with Contract CD6008A11 for Western Branch Waste Water Treatment Plant air scour improvements. Next he discussed BR/CR5100A10 for water/sewer main replacement in Bradley Hills; BR5213A11 for water main replacement at Camp Spring, I; BR5214A11 for water

main replacement at Camp Spring II; and BT5138A10 for transmission main replacement along Indian Highway. Next Mr. Gumm presented contracts C15192A11 an indefinite delivery/indefinite quantity (IDIQ) contract for sewer main/sewer house connection and manhole repair, replacement and renewals for the Oxon Run Basin Environmentally Sensitive Areas; and contract C16003A11, IDIQ sewer main sewer house connection and manhole repair, replacement and renewals for the Rock Creek Basin Environmentally Sensitive Areas. These construction contracts constitute the last items for sewer remediation under the Consent Decree.

Lastly, Mr. Gum presented contract BP2938B00 for the Laytonsville Water Pumping Station and Appurtenances.

CUSTOMER CARE

Ms. Jacqueline Barry, Group Leader of Customer Care briefed Commissioners on the WSSC program that exempts certain ratepayers from the Bay Restoration Fee that was approved by the Maryland Legislature and takes effect July 1, 2012. Ms. Barry sought approval of a program and indicating outsourcing management of the program is still under consideration. Commissioner Mandel moved to approve Resolution 2012-1962 that establishes the Chesapeake Bay Restoration Fee Financial Hardship Program for Residential Customers. Commissioner Jones seconded the motion. The motion carried with five affirmative votes.

CONSENT CALENDAR

Commissioner Jones moved that the Commission approve Resolution 2012-1958 that adopts the Consent Calendar for the May 16, 2012 Commission meeting containing the following items:

Architect and Engineering Contracts

BF5024A09, Amendment 1, Potomac Stage 2 Disinfection Byproduct Rule Design Services During Construction to Hazen and Sawyer, PC in the amount of \$1,893,539.00.

Construction Contracts

CD6008A11, Western Branch Waste Water Treatment Plant Air Scour Improvements to Johnston Construction Company in the amount of \$1,278,153.00.

BR/CR5100A10, Water/Sewer Main Replacement, Bradley Hills to Metra Industries, Inc. in the amount of \$2,999,859.00.

BR5213A11, Water Main Replacement, Camp Spring, I to Sagres Construction in the amount of \$1,941,600.00.

BR5214A11, Water Main Replacement, Camp Spring, II to Taylor Utilities, Inc. in the amount of \$2,484,617.00.

BT5138A10, Transmission Main Replacement, Indian Highway to Metra Industries, Inc. in the amount of \$4,567,201.20.

C15192A11, IDIQ Sewer Main, Sewer House Connection and Manhole Repair, Replacement and Renewals for Oxon Run Basin Environmentally Sensitive Areas to Inland Waters Pollution Control, Inc. in the amount of \$50,000,000.00.

C16003A11, IDIQ Sewer Main Sewer House Connection and Manhole Repair, Replacement and Renewals for Rock Creek Basin Environmentally Sensitive Areas to Reynolds Inliner, LLC with an upset limit of \$70,000,000.00.

BP2938B00, Laytonsville Water Pumping Station and Appurtenances to Flippo Construction Co. in the amount of \$1,578,600.00.

Vice Chair Lawson seconded the motion. The motion carried with five affirmative votes.

BRIEFING AND POLICY ITEMS**General Counsel's Office****Proposed Order to Revoke Plumber License No. 124. Mr.**

Blask advised of the decision of the Plumbing and Gas Fuel Board to request that License No. 124 belonging to Mr. Wayne Garrity be revoked due to the fact over the course of a year, he had installed 47 gas water heaters in the water district without the

required permits. It was brought to WSSC's attention by the Montgomery County Office of Consumer Protection. Mr. Garrity stopped paying the attendant fine as of August 2011 and is behind by \$4800. The proposed revocation is for a period of six years. Commissioners have to wait until 30 days have passed since the proposed order was issued before taking any action as Mr. Garrity still has time to file exceptions to the Proposed Order.

Amendment to Bylaws to Section 6.03(D). Mr. Blask drafted an amendment to the Bylaws to conform to advice he had given at a previous Commission meeting. The amendment imposes on Commissioners the obligation upon the discovery of a conflict of interest to disclose any such conflict at the earliest time in the meeting. The rationale is the requirement in Public Utility Article, Section 19-103 which requires Commissioners to disclose any conflict of interest under the Maryland Public Ethics Law at a public meeting. Once the disclosure is made Mr. Blask noted the amendment prohibits the Commissioner from any further participation in the matter. Commissioner Coughlin asked to have "no later than" removed from the proposed draft and then moved to approve Resolution 2012-1962 amending section 6.03(d) of the WSSC Bylaws by removing the language "no later than" from the draft and adding "at." Commissioner Jones seconded the motion. With five aye votes, the motion carried.

Acquisition Office

WSSC Regulations for Acquisition of Goods, Services, and Supplies. Ms. Cathy Martin presented the most recent iteration of this publication containing WSSC purchasing regulations. She recognized the consulting firm and WSSC staff member who assisted

with the development of the regulations handbook. She distributed a revised document from the document sent on May 9th. Commissioners requested a closed session to receive a legal opinion on the legal sufficiency of the document and tabled their approval until after that session.

LUNCH RECESS

Chair Moore recessed the meeting at 12:44 p.m. for lunch. The meeting resumed at 1:45 p.m. in the Commissioners' Conference Room.

AFTERNOON SESSION COMMISSIONERS' CONFERENCE ROOM

Intergovernmental Relations Office

Legislative Update. Mr. Wineland noted that the legislative session had ended but a special session had been called to approve the state's budget. He advised Commissioners that the time was ripe to receive legislative proposals for the next year's legislative session.

Commission Office

Corporate Secretary's Report. Ms. Bundy provided a synopsis of her monthly activities.

Committee Reports

Personnel & Governance. There was no report from this committee due to the absence of Commissioner Hartwig-Davis.

WSSC Employee Pension Fund Board of Trustees. Vice Chair Lawson advised Commissioners that as of April 30, 2012, the Plan's assets were \$647.9 million dollars. Since last month's report, this represents an investment loss of \$.7 million dollars or a decrease of 0.3%. Domestic and international equities

represented 56.4% of the Plan's invested assets; while the Plan's Domestic Fixed Income represented 25.8%, global tactical represented 14.6%, and real estate investments represented 3.2% of the Plan's total investment portfolio. As of April month-end, all asset classes were within the range limits for their respective asset allocation ranges.

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 April 18, 2012 Closed Session minutes; and Section 10-508(a)(7) to receive legal advice on various matters in litigation. Commissioner Mandel seconded the motion. The motion carried with five affirmative votes.

At 1:17 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, and Antonio Jones; General Manager Jerry Johnson, General Counsel Jerry Blask, Corporate Secretary Charlett Bundy, WSSC Counsel Russell Beers and Attorney Andrew H. Baida.

Litigation Update/Advice. Mr. Blask introduced Andy Baida of Rosenberg, Martin, and Greenberg, LLP. Mr. Baida is representing WSSC as outside counsel in two legal matters. A motion was made by Commissioner Jones and seconded by Commissioner Counihan regarding authorizing the General Manager/CEO to act on behalf of the Commission in matters represented by Mr. Baida.

At 3:00 p.m. Vice Chair Lawson left the meeting temporarily to preside over the Front Benefit Appeal Hearing. Mr. Beers and Mr. Baida left the Closed Session at 3:02 p.m.

Closed Session Minutes. Commissioner Jones moved to adopt the Closed Session Minutes for the April 18, 2012. Commissioner Mandel seconded the motion. The motion carried with four affirmative votes as Vice Chair Lawson had not yet returned to the meeting.

Mr. Kirk Wineland joined the meeting at 3:03 p.m.

Venue Change Legislation. Commissioners listened while Mr. Blask discussed the intricacies with proposing legislation to change how venue is selected when filing legal actions against WSSC.

At 3:06 p.m. Vice Chair Lawson returned to the meeting.

Procurement Manual. Mr. Johnson asked why Commissioners requested legal advice on the procurement manual.

At 4:05 p.m. Ms. Martin left the meeting and Ms. Laura Swisher of the General Counsel's Office and Mr. Gary Gumm, Chief Engineer joined the closed session.

80-Foot Setback/Design Manual. Commissioners were discussing the legal impact of implementation of the manual.

At 5:02 p.m. Commissioner Jones moved to end the closed session. Commissioner Counihan seconded the motion. The motion carried with five affirmative votes. At 5:13 p.m. Chair Moore declared the meeting was re-opened.

OPEN SESSION RESUMED

Chair Moore asked if there was any additional business. There being none he requested a motion for adjournment.

Adjournment

At 5:14 p.m. Commissioner Counihan moved to adjourn the Commission meeting for May 16, 2012. Commissioner Jones seconded the motion. The motion carried with five affirmative votes. At 5:14 p.m. Chair Moore declared the meeting was adjourned.

Respectfully submitted,

____//signed//_____
Charlett Bundy
Corporate Secretary