

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, November 20, 2013
Laurel, Maryland**

Chair Gene W. Counihan called the meeting to order at 8:45 a.m., in the Auditorium of the Washington Suburban Sanitary Commission (hereinafter "WSSC") Richard G. Hocevar Building, 14501 Sweitzer Lane, Laurel, Maryland, 20707, with due notice having been given to all members of the Commission and the public. In addition to Chair Counihan, Commissioners Chris Lawson (Vice Chair), Omar M. Boulware, Adrienne A. Mandel, Roscoe M. Moore, Jr., and Mary Hopkins Navies, were present at the meeting. Also in attendance were WSSC General Manager and Chief Executive Officer Jerry N. Johnson, General Counsel Jerome K. Blask, and Corporate Secretary Sheila R. Finlayson, Esq., who recorded the minutes of the meeting. Other members of WSSC management were also called upon, during certain portions of the meeting, to provide information to the Commission.

PLEDGE OF ALLEGIANCE

Chair Counihan opened the meeting by asking Commissioner Moore to lead the pledge of allegiance.

WELCOME NEW COMMISSIONER

The Chair then recognized the Vice Chair to welcome and introduce Commissioner Omar M. Boulware, who was appointed to the Commission last month by Prince George's County Executive Rushern L. Baker and confirmed on yesterday [November 19, 2013] by the Prince George's County Council, to serve as the Commission's newest member, replacing former WSSC Commissioner Antonio L. Jones.

AGENDA APPROVAL

After consultation with Vice Chair Lawson and representatives from Prince George's County, the General Manager requested that the Virginia Manor Road item on the Agenda under the Commission Office be removed from the Agenda. WSSC is still conferring with the County on this matter; the item should be ready for further consideration by the Commission at its December Meeting.

Whereupon, Commissioner Mandel moved to adopt the Commission's November 20, 2013 Public Meeting Agenda, as amended, to which Commissioner Navies seconded the motion. The motion carried unanimously with six affirmative votes.

APPROVAL OF MINUTES

Commissioner Lawson moved to approve the open session minutes of the October 16, 2013 Commission Meeting, as drafted. Commissioner Navies seconded the motion. The motion carried unanimously with six affirmative votes.

WSSC RETIREES

Richard Baker, Executive Director of the WSSC Employees' Retirement Plan, recognized the following WSSC Retirees for the month of November 2013: Narciso D. Orozco, Senior Instrumentation & Electronics Technician, Industrial Assets Management Group/Anacostia, retired with 35 years and 3 months of service; James C. Lamb, Field Service Representative, Customer Care North Group/Gaithersburg, retired with 32 years and 5 months of service; and, Lisa R. Faircloth (present at meeting), Permit Specialist, Development Services Program Group/COB, retired with 33 years and 3 months of service.

COMMUNICATIONS VIDEO

Communications and Community Relations Director Jim Neustadt presented a video on "Flushable Wipes." The video will be used as a public service announcement to address the pervasive problem affecting WSSC and other water utilities and wastewater systems locally and across the country, stressing customers to "keep the wipes out of the pipes."

PUBLIC COMMENTS

Barbara Sollner-Webb was present to again seek the Commission's reconsideration of its ban on winter riding and hiking at the Rocky Gorge Reservoir, citing that she is looking forward to the General Manager's report and determination.

COMMISSIONER/MEDIA COMMENTS

There were no comments from Commissioners or the media.

GENERAL MANAGER'S REPORT

General Manager and Chief Executive Officer Jerry Johnson began his report by indicating that the budget is on target. With respect to the call center, the answer rate was at 87% for the month; management continues to work on addressing the challenges in this area. There was an increase in residential delinquencies

for the month of October, which the General Manager attributed to the Federal Government shutdown. All plants are well within the permit parameters for the month. The Patuxent Water Filtration Plant received a new water appropriation and use permit from the Maryland Department of the Environment (MDE) which is valid through October 1, 2025. In addition to the sanitary sewer overflow (SSO) that transpired on October 11th at the Broad Creek Pumping Station where an estimated 105,000 gallons of sewage was released, WSSC experienced a SSO at its Piscataway Wastewater Treatment Plant with approximately 631,000 gallons of overflow spilling onto the grounds. Also, a force main ruptured at Reddy Branch Wastewater Pumping Station on October 29, 2013 with SSO estimated at 270,000 gallons.

Rate study is complete; first interim briefing has been conducted with rate consultants; however, some minor additional information needs to be provided prior to bringing to closure.

Water main breaks have increased due to the changes in temperature. Sewer work, particularly in the environmentally-sensitive areas (ESA), continues to lag the target due to continuing issues with DNR.

Negotiations have begun with the labor union; Commissioners will be briefed at the December meeting. WSSC has received a formal notice of intent to sue from an environmental group, the Potomac River Keeper; the Commission will be briefed further on this matter by the General Counsel in Closed Session.

WSSC hosted its first Legislative Breakfast at RGH Headquarters on November 18th; the event was well-received with six members from the Maryland General Assembly in attendance. WSSC will follow-up with the attendees on questions raised during the legislative briefing.

The two Solar Power projects held November 6th at the Seneca and Western Branches were a success with elected officials from the two Counties, including the County Executive of Montgomery County, on hand for the unveiling.

WSSC's "Can the Grease" promos will begin on November 22nd and run through December 23rd in compliance with the Consent Decree. WSSC participated in the local community's drug disposal day held on

October 26th, which has collected over 2.8 million pounds of prescription medication to date. WSSC encourages its customers to dispose of these drugs properly and to refrain from flushing them down the commode.

Lastly, WSSC closed out its United Way/Water Fund Campaign just shy of its \$65,000 goal with \$61,639 in funds raised. The Water Fund received approximately \$7,833. WSSC employees also plan to conduct a food drive prior to year end.

Following discussion, the General Manager and Chief Executive Officer's Report was received as information.

INTERNAL AUDIT REPORT

Monthly Activity Report. Internal Audit Manager Maxene Bardwell reported on the monthly activities of the Internal Audit Office (IAO) for the period of October 7, 2013 through November 1, 2013. Fiscal year-to-date savings for the System Development Charge (SDC) Audits total approximately \$2,600. For Fiscal Year 2014 Audits, IAO has commenced Blue Plains Audit and auditors have been assigned to two additional audits (Customer Relations Group Operational Audit and Construction Contracts Change Orders Special Audit). With regard to system development charges, 12 audit requests are pending with 8 active and 3 inactive. Under internal audit follow-up activities, there are 32 pending or started management action items with six delinquencies in the implementation of management's action plan including one over 120 days delinquent.

Board of Ethics. The Board held its regularly-scheduled meeting on October 10, 2013 and reviewed several open and closed items.

Code of Ethics Training. The Ethics Officer provided training to 4 new hires on October 28, 2013. A final Commission-wide annual ethics training session was held on October 15, 2013, with 98.5% of the WSSC workforce trained.

External Auditors. The external auditing firm of Bazilio Cobb Associates (BCA) is present at this meeting and will report its audit findings for the year ended June 30, 2013 WSSC financials.

Report of External Auditors - Annual Financial Report for Year Ended June 30, 2013. Messrs. Marshall Blair, CPA (Engagement Partner); Al Lucas, CPA (Quality Control Partner); and, Genes Malasy, CPA (Engagement Manager) of Bazilio Cobb Associates (BCA) provided a summary of the firm's independent audit results of WSSC's financial statements for the year ended June 30, 2013 (Fiscal Years 2012/2013). Specific details can be found in the independent auditors' "Annual Financial Report for the Year Ended June 30, 2013," contained in the board materials and incorporated herein by reference. BCA also circulated a presentation to Commissioners which it reported from at the meeting ("2013 Independent Audit Results") which is also incorporated herein by reference.

In summary, with respect to the WSSC financial statements for the year ended June 30, 2013, BCA issued an unqualified opinion. With regard to the Office of Management and Budget (OMB) Circular A-133 Audit, BCA issued an unqualified opinion as to the report on internal control over financial reporting and other matters and an unqualified opinion regarding WSSC's compliance with requirements that could have a direct and material effect on each major program and on internal control over compliance in accordance with OMB Circular A-133. BCA explained that unqualified opinions constitute a good report. BCA reviewed WSSC's annual financial reports and management's discussion and analysis (MD&A) for consistency with financial statements and no significant deficiencies or material weaknesses in internal controls were found. BCA also audited WSSC's Employees' Retirement Plan and Retiree Other Post-Employment Benefits Trust Fund (OPEB) financial statements as of December 31, 2012 and issued unqualified opinions with no significant deficiencies or material weaknesses in internal controls to report. Lastly, BCA pointed out financial statement highlights and discussed its required communications with the Commission.

The Chair thanked the external auditors and expressed his pleasure with receiving such a positive report, to which other Commissioners acknowledged.

After discussion, the reports of the Internal Audit Manager and External (Independent) Auditors were received as information.

OTHER REPORTS

Customer Advisory Board (CAB) 2013 Annual Report. Vince Berg, Past Chair and current Vice-Chair of the WSSC Customer Advisory Board (CAB) delivered the CAB's Annual Report for 2013. The CAB was originally created in 1989 to review WSSC's new rate structure; 22 members overall (11 from each county) and currently comprised of 17 (9 - Montgomery and 8 - Prince George's). The CAB has since evolved and serves as a liaison between ratepayers and the Commission to review customer concerns and work with the Commission to address and resolve those concerns and other identified agency issues.

The CAB Vice-Chair shared the following issues/concerns of the CAB and WSSC ratepayers: 1) Call Center; CAB believes customer service in need of vast improvement; huge disappointment with current 84% answer rate and average speed of answer/wait time; 2) current rate structure; requires comprehensive review - CAB would like to provide input and be involved in rate revisions; believes unfairly penalizes high-density households; 3) rate increase for FY 2015 Budget - CAB does not support; 4) infrastructure challenges; focus needs to center on maintaining and improving infrastructure efficiency; 5) sewer backups - too many occurrences; needs to be improved; and, 6) proposed WSSC legislation - CAB was not consulted and would like opportunity to provide comments in future.

Dispute Resolving Board (DRB) 2013 Annual Report. Construction Manager Daniel Hamilton of the Systems Inspection Group, Engineering and Construction, provided an update of the DRB's activities for the past year. Mr. Hamilton serves on the Dispute Resolving Board (DRB), along with other designated staff members and volunteers from the two Counties. The DRB is a courtesy process allowing WSSC customers to dispute their unpaid charges. In Fiscal Year 2013, the DRB reviewed 157 customer disputes and \$43,060 in adjustments were awarded to 23 customers (which is 21.35% of the total adjustment amounts requested).

The Chair thanked the representatives and commended them and their fellow members for their service on the two advisory boards.

The Commission received the annual reports of the CAB and DRB as information.

DEPARTMENT BRIEFINGS**FINANCE**

Front Foot Benefit Rates and House Connection Charges. Acting Chief Financial Officer Chris Cullinan and Kim Luquette, Group Leader, Accounting Group, presented the preliminary rate calculations for the 2014 Front Foot Benefit and House Connection Rates for the Commission's consideration. A power point presentation relating to this briefing was provided in the advance board materials and is thereby incorporated herein by reference. In summary, Ms. Luquette walked through the proposed front foot benefit rates and house connection charges, providing background information and recommending that WSSC establish maximum Front Foot Benefit rates per foot of \$4.80 for water and \$7.18 for sewer to be paid annually over a period of twenty years. For the House Connection Charges, the proposed rates were included on a chart provided in the aforementioned presentation. A public hearing on the proposed rates is scheduled for November 20, 2013 [today] at 2:30 p.m. and the record will be open for public comments through December 17, 2013. The proposed 2014 rates will be presented to the Commissioners for approval at the December Commission Meeting and the rates would then become effective on January 1, 2014.

Following discussion, the Commission received the briefing on the preliminary rate calculations for the 2014 Front Foot Benefit Rates and House Connection Charges, as information.

ACTION ITEMS**ENGINEERING AND CONSTRUCTION***Contracts for Commission Approval*

Chief Engineer Gary Gumm of Engineering & Construction presented one architect/engineer contract; three construction contracts; and one professional services contract, for Commission approval. [Such contracts were approved as part of the November Meeting Consent Calendar].

CONSENT CALENDAR

Chair Coughlin then called for a vote of the contracts listed on the Consent Calendar for the November 20, 2013 Commission Meeting.

Whereupon, Commissioner Lawson moved that the Commission adopt Resolution 2014-2029, approving the items on the Consent Calendar for the November 20, 2013 Commission Meeting, as follows:

A. Engineering and Construction**Architect/Engineer Contracts**

1. PM0001A12, Construction Management Services Basic Ordering Agreement, to O'Brien and Gere Engineers, Inc., in an amount not to exceed \$6,000,000.00.

Construction Contracts

1. BR5473A12, Riverdale Park I Water Main Replacement/Relocation, to Taylor Utilities, Inc., in the amount of \$1,652,268.00.
2. BT5437A12, Piney Branch Road Water Transmission Main Replacement and Relocation, to Sagres Construction Corporation, in the amount of \$1,665,230.00.
3. BT/CR5424A12, Summit Avenue and Cedar Lane Transmission Water Main Relocation, to Metra Industries, Inc., in the amount of \$4,947,243.00.

Professional Services

1. IC2013A13, Construction Management and Inspection Services, to Louis Berger Water Services, Inc., in an amount not to exceed \$3,500,000.00.

Commissioner Moore seconded the motion. The motion carried unanimously with six affirmative votes.

ADDITIONAL BRIEFINGS**FEE-IN-LIEU PROPOSAL**

Chief Engineer Gary Gumm provided an overview of the proposal being presented to Commissioners relating to Consent Decree work and a fee-in-lieu arrangement/agreement with the Department of Natural Resources (DNR) which would authorize management to spend up to \$3,500,000 to satisfy State Forest Conservation Act long-term protection requirements in support of the required Consent Decree sewer pipe repair work. During the discussion, the General Manager advised of some new developments which he and the General Counsel plan to brief Commissioners on during Closed Session, whereby Commissioners agreed unanimously to special order this item for Commission consideration later in the meeting following the closed session briefing.

LEGISLATIVE AGENDA UPDATE

Intergovernmental Relations Director Kirk Wineland provided an update on the WSSC 2014 Legislative Agenda, indicating that the Commission's first legislative breakfast held on Monday, November 18th at the Commission was a huge success with several members of the Maryland Legislature in attendance. Mr. Wineland reported that the WSSC Legislative package has been submitted to Legislative Services with local public hearings on the Bi-County bills to be conducted in each County in December. The Annual Legislative Breakfast in Annapolis has been scheduled for Thursday, January 23, 2014.

The Commission received the Update on the 2014 Legislative Agenda, as information.

COMMISSION OFFICE

Corporate Secretary Report. Corporate Secretary Sheila Finlayson provided an overview of her activities for the month which included, among other things, her appointment as the corporate representative for WSSC in a pending litigation matter. She also shared that all went well with the onboarding of the Commission's newest member and close-out of the departing Commissioner.

The Commission received the Corporate Secretary's report as information.

New Committee Assignments. The Chair announced, with the appointment of Commissioner Boulware to the Commission, that he would reorganize the current Committee appointments to assign Commissioner Boulware to serve on the WSSC Employees' Retirement Plan Board of Trustees Committee, with Dr. Moore; and, that he would continue to serve on the Bi-County Infrastructure Working Group Committee, along with Commissioner Navies. No changes would be made to the Personnel, Governance and Legislation Committee; Vice Chair Lawson and Commissioner Mandel will continue to serve on that Committee.

WSSC Employees' Retirement Plan Board of Trustees. Commissioner Moore reported on the activities of the WSSC Employees' Retirement Plan Board of Trustees for the latest reporting period. At September 30, 2013, the Plan's assets were \$718.9 million, which

represents a year-to-date investment gain of \$72.3 million or an increase of 10.9% (from December to September). Commissioner Moore directed Commissioners to the full summary report contained in the board materials for further details. The next meeting of the Employees' Retirement Plan Board of Trustees will be held on December 4, 2013.

The Commission received the report of the WSSC Employees' Retirement Plan Board Sub-Committee, as information.

Personnel, Governance & Legislation. Commissioner Mandel provided an update of the activities of the Committee, noting that the Committee will wrap up the annual performance evaluation process for two of its direct reports later today with recommendations to the full Board to be provided in Closed Session. Commissioner Mandel also requested the Corporate Secretary to add consideration of proposed legislation on the closed session agenda as earlier advised by the General Counsel, to which the Corporate Secretary acquiesced. Lastly, Commissioner Mandel recommended that Commissioners conduct a Commissioner orientation for its two newest members during the December Commission Meeting so that these Commissioners can get a sense of the role and duties of Commissioners from a peer perspective, to which all agreed.

The Commission received the Personnel, Governance and Legislation Committee report, as information.

Bi-County Infrastructure Funding Working Group - Unserved and Underserved Areas Subgroup Briefing. Acting Chief Financial Officer Chris Cullinan, along with members from the two counties who serve on this subgroup of the full working group, presented their findings and recommendations regarding financing alternatives for unserved and underserved areas in the two counties (which are classified as properties not connected to WSSC water and sewer systems; i.e., those properties served by wells and/or septic systems). The members presented from a slide presentation that was circulated to the Commission (incorporated by reference). Following extensive discussion, Commissioners deferred action, requesting that additional research be conducted to identify the exact areas, primarily in Prince George's County, that are affected.

The Commission received the report of the Subgroup of the Bi-County Infrastructure Funding Working Group, as information.

The Corporate Secretary advised the Chair that the Commission should entertain a motion to go into Closed while in Open Session, to which the Chair agreed. Following the vote, the Commission will recess for lunch and reconvene in Closed Session in the Commissioners' Conference Room following lunch. After the Closed Session has ended, the Commission will consider the items that were special ordered in Open Session.

CLOSED SESSION

Whereby at 12:43 p.m., Commissioner Mandel moved that the Commission go into Closed Session pursuant to Maryland Code Annotated, State Government Article: Section 10-508(a) (13) to approve the October 16, 2013 Closed Session Minutes; Section 10-508(a) (7) to consult with counsel to obtain legal advice on pending litigation and proposed legislation; and, Section 10-508(a) (1) to discuss personnel matters pertaining to performance evaluations of Commission Office direct reports. Commissioner Navies seconded the motion. The motion carried unanimously with six affirmative votes.

At 12:43 p.m., Chair Counihan declared the meeting was Closed. The Chair then called a lunch recess at 12:44 p.m. The meeting reconvened into Closed at 1:40 p.m.

ATTENDEES: Chair Gene Counihan; Vice Chair Chris Lawson; Commissioners Omar Boulware, Adrienne Mandel, Mary Hopkins Navies and Roscoe Moore, Jr. Staff present: General Manager Jerry Johnson, General Counsel Jerry Blask, Corporate Secretary Sheila Finlayson, and Intergovernmental Relations Director Kirk Wineland (only present during discussion on proposed legislation from 1:40 p.m. to 2:00 p.m.; re-joined meeting at 3:15 p.m. and was excused at 3:35 p.m.). Outside Counsel Tim Sullivan was also present during the legal report.

The Commission voted unanimously (6-0) to recess the closed session at 2:55 p.m. (Commissioner Mandel - mover; Commissioner Moore - seconder) in order to conduct the Public Hearing on the 2014 Proposed Front Foot Benefit Rates and House Connection Charges [No testimony received from the public].

The Public Hearing officially closed at 3:00 p.m. The Commission reconvened into Closed Session at 3:00 p.m. in the Commissioners' Conference Room to continue with the closed session business earlier announced (Commissioner Mandel - mover; Commissioner Moore - seconder; unanimous vote of 6-0).

The General Manager, General Counsel and Corporate Secretary were excused at 3:36 p.m. while the Commission met in executive session to discuss personnel matters relating to performance evaluations of Commission Office direct reports. The General Manager and Corporate Secretary rejoined the meeting at 4:28 p.m.

Closed Session Minutes. Commissioner Navies moved to adopt the Closed Session Minutes of October 16, 2013, as drafted. Commissioner Mandel seconded the motion. The motion carried with five affirmative votes (Commissioner Boulware abstained as he was not yet a member of the Commission Board).

Legal Advice/Pending Litigation - General Counsel Jerry Blask, along with Outside Counsel Tim Sullivan provided a legal update, which included advice on proposed legislation and pending litigation affecting the Commission.

Personnel Matters - Performance Evaluations - The Commission met in executive session to discuss the performance evaluations for the General Manager and Internal Audit Manager and the recommendations related thereto from the Personnel, Governance and Legislation Committee. The Personnel, Governance and Legislation Committee determined to review the Board's recommendations further and will provide final recommendations and proposed action to the Commission at its December meeting.

At 4:28 p.m., Commissioner Lawson moved to end the Closed Session. Commissioner Navies seconded the motion. The motion carried unanimously with six affirmative votes.

OPEN SESSION RESUMED

DNR Matter - Fee-In-Lieu Proposal

On motion made by Commissioner Moore and properly seconded by Commissioner Lawson, the Commission voted unanimously by a vote of

six-to-zero, to authorize the General Manager to enter into an MOU with DNR concerning State Forest Conservation Act implementation, and upon confirmation that the MOU is fully executed, to withdraw the WSSC legislation (specifically, PG/MC 104-14 and PG/MC 105-14) earlier proposed.

Proposed Legislation PG/MC 108-14 - System Development Charge - Upgrade of Facilities

On motion made by Commissioner Mandel and seconded by Commissioner Lawson, the Commission voted unanimously by a vote of six-to-zero, to take a negative (oppose) position on proposed legislation PG/MC 108-14.

ADJOURNMENT

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

At 4:35 p.m., the meeting was declared adjourned.

Respectfully submitted,

 //signed//

Sheila R. Finlayson, Esq.
Corporate Secretary