

**WASHINGTON SUBURBAN SANITARY COMMISSION**

**MINUTES OF THE COMMISSION MEETING**

**Wednesday, December 18, 2013  
Laurel, Maryland**

Chair Gene W. Counihan called the meeting to order at 8:47 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 Vice Chair Lawson to lead the pledge of allegiance.

**AGENDA APPROVAL**

**Commissioner Mandel moved to adopt the Commission's December 18, 2013 Public Meeting Agenda, as drafted, to which Commissioner Lawson seconded the motion. The motion carried unanimously with six affirmative votes.**

**APPROVAL OF MINUTES**

Approval of the Commission's November 20, 2013 Open Session Meeting Minutes was special ordered by the Chair to take place later in the meeting as some of the Commissioners had not yet reviewed the minutes due to the Corporate Secretary's distribution of the draft late the prior evening. Such minutes were unanimously adopted by the Commission following Closed Session.

**WSSC RETIREES**

Richard Baker, Executive Director of the WSSC Employees' Retirement Plan, recognized the following WSSC Retirees for the month of December 2013: Sandra M. Broadwater, Administrative Assistant, Parkway Group/Parkway, retired with 15 years and 7 months of service; Allen Clark, Technician, Material & Services

Group/Anacostia, retired with 29 years and 7 months of service; Wayne C. Black, Project Manager, Development Services Program Group/COB, retired with 33 years and 11 months of service; David M. Goad, Technician, Customer Care West Group/Lyttonsville, retired with 32 years and 11 months of service; and, Frank J. Hartz (present at meeting), Unit Coordinator, Project Delivery Group/COB, retired with 27 years and 8 months of service.

#### **COMMUNICATIONS VIDEO**

Communications and Community Relations Director Jim Neustadt presented a video on one of the Commission's key strategic initiatives, Procurement - and the new "Supply Chain Management Transformation," currently taking place at WSSC.

#### **PUBLIC COMMENTS**

Seven members from the public were recognized to speak before the Commission. Maria Schwartz, Rhona Lawrence, Terry Ledley, Patty Sobel, Lucy Ertter, Denis Webb and Barbara Sollner-Webb were present to seek the Commission's reconsideration of its ban on winter riding and hiking at the Rocky Gorge Reservoir; all noting the following: 1) the equestrian community is a very responsible community who respect the trails and would not ride under adverse conditions (riders always use hotline number and avoid riding when ground is wet) - horse community has a true partnership with WSSC in protecting the watershed and ensuring its upkeep and vitality; 2) the winter months are the driest months of the year and the least likely time to cause damage to the trails (ground is dry and hard); 3) the trails are beautiful during the winter months and reopening them would allow for exercise of the horses throughout the year and enjoyment of the trails without the hassles of bugs, humidity and extremely hot weather; 4) the recent EA study supports year-round use; found the trails to be in excellent condition after 50 years of continuous use; and, 5) the industry standard in Maryland provides for year-round use; the reservoirs managed by the Maryland Department of Natural Resources are open during the winter months. Written statements expressing similar sentiments were also submitted by Debby Poole, Becky Carter, Leighton Davenport, Brenda Harrison, Tracy Scagliarini, David W. Armstrong, III, Dana Grabiner, and John Railey.

#### **COMMISSIONER COMMENTS**

Commissioner Moore took an opportunity to recognize and pay tribute to former South African President Nelson Mandela, who died

earlier this month on December 5, 2013, sharing that he had the distinct privilege of meeting Mr. Mandela when he served as a representative for the United States government responsible for leading the first U.S. Delegation to the new South Africa in 1994 following the ending of apartheid.

Commissioner Boulware thanked the General Manager and his incredible staff for the excellent orientation they provided to him last week, which covered in great detail the various functions and business operations of WSSC.

Lastly, the Chair extended seasonal greetings and best wishes for a happy holiday season to all WSSC employees and guests.

#### **MEDIA COMMENTS**

There were no comments from the media.

#### **GENERAL MANAGER'S REPORT**

General Manager and Chief Executive Officer Jerry Johnson began his report by providing an update on the call center, noting that management continues to struggle in this area and is exploring various means for improvement; answer rate at 85% for the month of November. Water production is consistent with prior years; WSSC continues to learn from others around the country that water production is declining or remaining consistent. All plants and facilities are well within permit parameters for the month. With respect to the budget, revenues and expenditures are on target to date.

The Maryland Department of Agriculture (MDA) withdrew its proposed changes to the phosphorus regulations as a result of concerns expressed by the public and other wastewater operators. Management will continue to keep abreast of any new developments.

Water main breaks are on the rise, which is expected during this time of year; 338 in November as compared to 170 in October. Sewer work, particularly in the environmentally-sensitive areas (ESA), continues to lag; however, management expects progress as a result of the recently signed MOU with DNR.

WSSC employees remain active in helping the community; food and clothing drives are wrapping up and a toy drive has also been held

in addition to several families being adopted by employees who are assisting these families with their holiday and winter needs.

The Bi-County Infrastructure Funding Working Group will resume meeting in January to continue its review and deliberations on the rate structure and study recently completed.

WSSC continues to promote its "Can the Grease" program; coverage has been picked up by various local media outlets. The Commission also just completed its annual Calendar Art Contest; twelve students from various elementary schools in the two counties were honored last evening for their submitted artwork selected for the calendar, which captured, "the importance of canning the grease."

#### **EPA Rule on Monitoring Unregulated Contaminants**

Bob Buglass of the Environmental Group provided an update on the U. S. Environmental Protection Agency's (EPA) Unregulated Contaminants Monitoring Rule (UCMR).

In summary, EPA is responsible for developing regulations to ensure safety of the public water supply and currently has drinking water regulations for more than 90 contaminants. The 1996 Safe Drinking Water Act (SDWA) amendments require that once every five years the EPA issue a new list of no more than 30 unregulated contaminants to be monitored by public water systems. This is accomplished through the UCMR; two rounds of the UCMR have been completed in the past, and EPA has now initiated the third round (i.e., UCMR3). UCMR3 requires approximately 6,000 water utilities nationwide, including WSSC, to collect quarterly occurrence data for one year and for up to 28 unregulated contaminants as identified by the UCMR3. The monitoring of unregulated contaminants provides a basis for future regulatory actions and the EPA uses the occurrence data as well as health information to determine if the listed contaminants pose a health risk at the levels detected and if regulation of these contaminants is therefore warranted for the protection of public health. WSSC is collecting and analyzing four sets of quarterly drinking water samples for the reporting period of July 2013 through April 2014. Only 5 of the 28 tested contaminants were detected in WSSC's drinking water over the first two quarterly sampling events and all detections were at very low levels (in the parts per billion range). EPA has compiled and published the first set of results from water utilities across the country on its website and the results indicate that the majority of

utilities across the country have tested similarly to WSSC with respect to the 5 contaminants detected in WSSC's drinking water. The EPA requires utilities to report the UCMR3 results yearly in their annual water quality reports; however, a new Maryland law (effective as of October 1, 2013) now requires WSSC to also report any detected contaminants to the public and to the county executives of both counties within 30 days of receiving test results. WSSC will continue to monitor the contaminants in two more sampling events to be conducted in January and April of 2014.

The General Manager circulated a handout to Commissioners (incorporated herein by reference) which outlined WSSC's monitoring process and the results from WSSC's first two quarterly sampling events between the period of July 2013 and April 2014.

**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 November 4, 2013 through December 6, 2013. Fiscal year-to-date savings for the System Development Charge (SDC) Audits total approximately \$471,101. For Fiscal Year 2014 Audits, IAO has commenced preliminary work on the Blue Plains Audit and the Customer Relations Group Operational Audit. All of the Fiscal Year 2013 Carryover Audit projects are in the exit conference phase with the exception of the Industrial Asset Management Group Inventory Audit which has been postponed until January 2014. An Exit Conference was also held for the Consent Decree Compliance Audit. Under internal audit follow-up activities, the HR office closed two management action items since the IAO last status report of November 1, 2013. The implementation of management action plans for 19 issues is delinquent with one over 120 days delinquent (sick leave bank policy).

**Hotline.** As of December 1, 2013, the top five case types for the latest 12 months reside under fraud, employee relations, safety issues and sanitation, policy issues and discrimination.

**Board of Ethics.** The Board held its regularly-scheduled meeting on November 14, 2013 and reviewed several open and closed items.

**Code of Ethics Training.** The Ethics Officer provided training to 9 new hires on November 12, 2013.

**After discussion, the report of the Internal Audit Office was received as information.**

#### **DEPARTMENT BRIEFINGS**

##### **FINANCE**

###### *Action Items*

**Approval of Front Foot Benefit Rates and House Connection Charges.**

Front Foot Benefit rates are charged by the Commission to recover the costs of construction for smaller water and sewer lines for single family or health hazard applicants. House Connection charges are charged by the Commission to recover the costs of construction for lines built from WSSC's water and sewer system to the applicant's property.

Acting Chief Financial Officer Chris Cullinan (along with Accounting Group Leader Kim Luquette) presented the rate calculations for the Proposed 2014 Front Foot Benefit Rates and House Connection Charges at last month's Commission meeting and Mr. Cullinan is now before the Commission at this respective meeting to request approval of such rates. The public hearing on the proposed rates was held on November 20, 2013 and no public comments have been received to date.

**Whereupon, a motion was duly made by Commissioner Lawson and properly seconded by Commissioner Mandel, to approve the 2014 Front Foot Benefit Rates and House Connection Charges, as proposed by management, to be effective January 1, 2014. The motion carried unanimously with six affirmative votes.**

**Approval of Fiscal Year 2015 Preliminary Proposed Operating and Capital Budget for Publication and Public Hearing Purposes.** The Acting CFO and Letitia Carolina-Powell, Acting Budget Group Leader, next presented WSSC's preliminary proposed operating budget for Fiscal Year 2015 for the Commission's approval for public hearing purposes. State law requires that the Commission publish, before January 15<sup>th</sup>, a proposed operating and capital budget for the upcoming fiscal year. Public hearings on the budget must be held prior to February 15<sup>th</sup> with transmittal to the Counties to take place by March 1<sup>st</sup>.

Public hearings on WSSC's FY 2015 Preliminary Proposed Budget have been scheduled as follows:

**Montgomery County - Wednesday, February 5, 2014 - 7:30 p.m.**

Stella B. Werner Office Building, 7<sup>th</sup> Floor Hearing Room  
100 Maryland Avenue, Rockville, Maryland 20850

**Prince George's County - Thursday, February 6, 2014 - 7:30 p.m.**

RMS Building, Room 308  
1400 McCormick Drive, Largo, Maryland 20774

Alternate Date: Wednesday, February 12, 2014 at 7:30 p.m.  
Commission Hearing Room, WSSC, RGH Building (if necessary due to inclement weather on either of the above dates)

The preliminary proposed budget for Fiscal Year 2015, totaling \$1.3 billion with operating expenses of \$700.7 million and capital budget of \$625 million, provides for a combined 6.0% average increase in water and sewer rates which meets the Spending Affordability Guidelines approved by both counties (Prince George's County and Montgomery County both recommended 6.0%).

**Following discussion, on motion made by Commissioner Lawson and seconded by Commissioner Moore, the Commission voted unanimously by a vote of six-to-zero to approve the Commission's Preliminary Proposed Operating and Capital Budget for Fiscal Year 2015 for publication and public hearing purposes, as recommended by management.**

**ENGINEERING AND CONSTRUCTION**

*Contracts for Commission Approval*

Chief Engineer Gary Gumm of Engineering & Construction presented three construction contracts; and Materials Management Group Leader Jamie Garcia, along with Fleet Services Group Leader Jon Simms presented two Logistics contracts, for Commission approval. [Such contracts were approved as part of the December Meeting Consent Calendar].

**CONSENT CALENDAR**

Chair Counihan then called for a vote of the contracts listed on the Consent Calendar for the December 18, 2013 Commission Meeting.

Whereupon, Commissioner Lawson moved that the Commission adopt Resolution 2014-2030, approving the items on the Consent Calendar for the December 18, 2013 Commission Meeting, as follows:

**A. Engineering and Construction**

**Construction Contracts**

1. BR5453A12, Riverdale Heights Water Main Replacement/Relocation, to A & M Concrete Corporation, in the amount of \$2,043,195.00.
2. BR5564A13, Camp Springs Forest II Water Main Replacement, to Rustler Construction, Inc., in the amount of \$1,223,226.50.
3. PM0011A11, IDIQ for Water and Sewer Main Replacement at Joint Bolling Air Force Base and other locations to: Ross Contracting, Inc.; Mid Atlantic Utilities, Inc.; A & M Concrete Corporation; J. Fletcher Creamer & Son, Inc.; and, Sagres Construction Corporation, for a total upset limit of \$7,000,000.00.

**B. Logistics**

1. Contract 6428, Ductile Iron Pipe and Accessories to: Atlantic States Cast Iron Pipe Co.; Griffin Pipe Products Co.; HD Supply Waterworks, LTD; and, The Daytner Group, in the amount of \$10,000,000.00.
2. Contract 6354, Multiple Heavy Duty Chassis with Extended M & O Cab Trucks, to K. Neal International Trucks, Inc., in the amount of \$1,938,090.00.

Commissioner Boulware seconded the motion. The motion carried with five affirmative votes and one abstention (Commissioner Moore abstained as he was temporarily out of the room for part of the discussion and vote).

**ADDITIONAL BRIEFINGS**

**Ad Hoc Committee on Large Diameter Water Mains Update.** Ellen Kagan of Indiggo Associates provided a status report on the work of this special ad hoc committee on large diameter water mains, which is comprised of various key community stakeholders brought together to explore and address, along with WSSC, the potential risks posed when large diameter PCCP (pre-stressed concrete cylinder pipes) and cast iron pipes break in light of WSSC's



existing underground infrastructure and the current growth patterns of the two counties it supports (with respect to existing communities and new development and redevelopment projects). The Committee is charged with developing recommendations on how to prevent and mitigate any current and future risks associated with the failure of these pipes. Ms. Kagan provided background information on the institution of this committee, its charter, mission, vision, timeline and approach. She then outlined the issues identified by the committee, the workgroups created within the committee to address the identified issues and the committee's current state of progress in assessing the problem(s) and identifying potential solutions. Lastly, Ms. Kagan shared the remaining work to be completed by the Committee, including a draft outline of what the Commission could expect to see in the Committee's final report to be distributed in March 2014. Specific details of the presentation can be found in the corresponding segment of the archived meeting video.

Following significant discussion, the Chair expressed his appreciation on behalf of the Commission Board to Indiggo Associates (as facilitator) and members of the Committee for its fine work and accomplishments to date.

**The Commission received the Status Briefing of the Ad Hoc Committee on Large Diameter Water Mains, as information.**

**2014 Legislative Agenda Update.** Intergovernmental Relations Director Kirk Wineland reported on a late-filed bill affecting WSSC, and being sponsored by Delegate Marvin Holmes, which management is recommending that WSSC oppose.

PG/MC 101-14 - WSSC - Budget Approval, Rates and Front Foot Benefit Charges, addresses the WSSC budget process and would affect how WSSC sets its rates; budget, etc. In summary, the proposed legislation would limit increases in the WSSC operating and capital budgets by a written legal formula; eliminate the Commission's current position relating to the default budget; prohibit the portion of rates for certain charges used for funding of items in the operating and capital budget by a certain percentage; require the Commission to give written notice of a proposed modification of an existing rate, charge or assessment; and would mandate a 10% reduction for "early payoff" of Front Foot Benefit Charges, among other things. All of these proposals would

affect WSSC adversely and management is recommending that WSSC take a negative position.

**Whereby, a motion was made by Commissioner Mandel, and seconded by Commissioner Boulware, to oppose the proposed legislation PG/MC 101-14, as recommended by management. The motion carried unanimously with six affirmative votes.**

The Intergovernmental Relations Director advised that no position or action needed to be taken at this time with respect to a local bill provided by management in the Commission board materials - PG 413-14 - Prince George's County - Deferred Water and Sewer Charges Homeowner Disclosure Act of 2014 (sponsored by Senator Doug Peters). He opined, however, that this bill could be amended as a bi-county bill at some later point.

Mr. Wineland reminded Commissioners that the Annual Legislative Breakfast, to be held in Annapolis, Maryland, has been scheduled for Thursday, January 23, 2014 at 8:00 a.m., Room 170, Lowe House Office Building.

**The Commission received the 2014 Legislative Agenda Update, as presented by the Intergovernmental Relations Director, as information.**

**Health Care Reform Update.** Carole Silberhorn, Human Resources Benefits Manager and Acting Director of Human Resources Carolyn White, along with WSSC consultants from AON Hewitt Health & Benefits Consulting (who have been assisting WSSC in review of the federal healthcare legislation), provided an update on the new health care reform law now in effect, its applicability and impact on WSSC and its employees; and, any changes being implemented by WSSC to ensure compliance with the new regulations.

Ms. Silberhorn presented from a slide presentation circulated to the Commission and incorporated herein by reference. Specific details can be found in the presentation handout and related segment of the meeting archived video and are referred to for that purpose.

**Corporate Secretary Report.** Corporate Secretary Sheila Finlayson provided an overview of her activities for the month which included, among other things, her service as the corporate representative for WSSC in a litigation matter that concluded on Monday, December 16, 2013. The Corporate Secretary acknowledged and thanked her assistant, LaToya Harding, for her diligence in covering the office and ensuring that all went smoothly while the Corporate Secretary was away and primarily working remotely for this five-week period.

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

**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 October 31, 2013, the Plan's assets were \$735.3 million, which represents a year-to-date investment gain of \$92.9 million or an increase of 14.2% (from December to October). 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 conducted on February 26, 2014; no meeting will be held in January.

**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 wrapped up its annual performance evaluations for two of its direct reports and is currently reviewing FY 2014 goals.

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

**Bi-County Infrastructure Funding Working Group.** Chair Counihan reported that the working group will meet in January to review the rate study findings and the Commission should expect to receive the final report by the end of January. The Committee will also continue to monitor the progress of the underserved and unserved areas subgroup with respect to its final report and recommendations to ensure timely completion and proper follow-up of the data requested by Commissioners in November.

**The Commission received the report 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 1:02 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 November 20, 2013 Closed Session Minutes; Section 10-508(a)(7) to consult with counsel to obtain legal advice on pending litigation; Section 10-508(a)(9) to conduct collective bargaining negotiations or consider matters that relate to the negotiations; and, Section 10-508(a)(1) to discuss personnel matters pertaining to performance evaluations of Commission Office direct reports and roles/responsibilities and oversight duties of Commissioners. Commissioner Lawson seconded the motion. The motion carried unanimously with six affirmative votes.

At 1:02 p.m., Chair Counihan declared the meeting was Closed. The Chair then called a lunch recess at 1:02 p.m. The meeting reconvened into Closed at 2:06 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 Associate Counsel Laura Swisher (present during a portion of the legal report; joined meeting at 3:25 p.m. and excused at 3:46 p.m.). Outside Counsel Ken Thompson and Todd Horn of Venable LLP were also present during the legal report (joined meeting at 2:10 p.m. and were excused at 3:10 p.m.).

**Pending Litigation** - Commissioners met with the General Counsel and outside legal counsel to discuss certain privileged information relating to pending litigation matters. **Commissioners unanimously voted by a vote of 6-0 to approve legal fees related to legal representation of pending legal claims [Commissioner Moore - mover; Commissioner Navies - seconder].**

**Labor Union Negotiations** - Commissioners received a status report and update from legal counsel on the union negotiations currently underway.

The General Counsel departed the meeting at 3:50 p.m.

**Closed Session Minutes.** Commissioner Moore moved to adopt the Closed Session Minutes of November 20, 2013, as drafted. Commissioner Boulware seconded the motion. The motion carried with five affirmative votes (Commissioner Lawson left the room temporarily and was absent from the vote).

The General Manager and Corporate Secretary were excused at 4:11 p.m. while the Commission convened in executive session to discuss Commissioner roles and oversight duties.

**Commissioner Roles/Responsibilities** - Commissioners met in executive session without management from 4:11 p.m. to 4:40 p.m. to discuss roles/responsibilities and oversight duties of Commissioners.

The Corporate Secretary rejoined the meeting at 4:40 p.m.

**Personnel Matters - Performance Evaluations** - The Commission voted to approve the annual performance evaluation scores/results for two of its direct reports (i.e., the General Manager and Internal Audit Manager) for Fiscal Year 2013 and related personnel notification forms (PANs) were directed to be transmitted to the Human Resources office [Commissioner Mandel - mover; Commissioner Moore - seconder; the vote carried by a vote of 4-0 with two abstentions. Commissioners Boulware and Navies abstained as they were not Commission members during the performance evaluation period for the two direct reports].

At 4:44 p.m., Commissioner Mandel moved to end the Closed Session. Commissioner Lawson seconded the motion. The motion carried unanimously with six affirmative votes.

The General Manager rejoined the meeting at 4:45 p.m.

OPEN SESSION RESUMED

Approval of November 20, 2013 Open Session Minutes

On motion made by Commissioner Lawson and properly seconded by Commissioner Navies, the Commission voted unanimously by a vote of six-to-zero, to approve the open session minutes of its November 20, 2013 Commission Meeting, as drafted.

ADJOURNMENT

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

At 4:46 p.m., the meeting was declared adjourned.

Respectfully submitted,

          //signed//          

Sheila R. Finlayson, Esq.  
Corporate Secretary