

**WASHINGTON SUBURBAN SANITARY COMMISSION**

**MINUTES OF THE COMMISSION MEETING**

**Wednesday, December 19, 2012  
Laurel, Maryland**

Chair Chris Lawson called the meeting to order at 8:48 a.m. in the Auditorium of the Richard G. Hocevar Building, 14501 Sweitzer Lane, Laurel, MD 20707, with due notice having been given to all members of the Commission and the public. Vice Chair Gene Counihan, Commissioners Adrienne A. Mandel, Antonio L. Jones, Melanie Hartwig-Davis, and Roscoe M. Moore, Jr. were present at the meeting. Also, present were General Manager Jerry Johnson, General Counsel Jerry Blask, and Corporate Secretary Charlett Bundy.

**PLEDGE OF ALLEGIANCE**

Chair Lawson asked General Manager/CEO Jerry N. Johnson to lead the pledge of allegiance.

**AGENDA APPROVAL**

Commissioner Jones moved to approve the agenda for the WSSC Commission meeting for Wednesday December 19, 2012. Commissioner Hartwig-Davis seconded the motion. The motion carried with six affirmative votes.

**MINUTES**

Commissioner Hartwig-Davis moved to approve the open session minutes of the November 19, 2012 Commission meetings. Commissioner Moore seconded the motion. The motion carried with five affirmative votes. Commissioner Mandel abstained because she was absent from that meeting.

**WSSC RETIREES**

Ten employees retired this month with seven in attendance. James Harold Taylor, a Shop Meter Mechanic in the Customer Care Support Group/Anacostia retired with 36 years and 1 month; Kathryn A. Scullion, a Budget Analyst I retired with 33 years and 5 years of service; Harold D. Pendergraft retired as a Chief Water Plant Operator in the Potomac Group with 32 years and 9 months of service; David W. Wimbush retired as a Functional Implementer with 32 years of service; Kenneth H. Jackson, a Facilities Unit Coordinator in the Property Management Group retired with 30 years of service; Roland C. Steiner, Regional Water/Wastewater Manger in the Planning Group retired with 11 years and 9 months of service; Norman (Chico) D. Epkin, Jr. a Utility Technician III, retired with 30 years and 11 months of service.

Absent from the meeting were: Hanna S. Desai, a Principal Hydraulic Engineer in the Development Services Program Group who retired with 36 years and 5 months of service; Robert M. Youngquist, a Senior Plumbing Inspector in the Regulatory Services Group/Anacostia who retired with 28 years and 7 months of service; and Steven Pinault, a Project Manager in the Project Delivery Group who retired with 22 years and 9 months of service.

#### **COMMUNICATIONS**

Commissioners selected the schools to participate in the Annual Children's Water Festival to be held May 8-9, 2013 at Brighton Dam. Chair Lawson chose the three Montgomery County schools which were: Candlewood Elementary, Belmont Elementary, and Waters Landing Elementary. Olney Elementary was chosen as the alternate. Vice Chair Counihan chose the Prince George's County schools which were: Lewisdale Elementary, Indian Queen Elementary, and Rockledge Elementary. Valley View Elementary was chosen as the alternate.

The video this month featured some of the many WSSC employees describing their ethnic traditions for celebrating the holiday season. Employees who were featured were from Africa, Asia, Iran, Jamaica, Latin America, and Turkey.

#### **COMMISSIONER COMMENTS**

Commissioner Hartwig-Davis extended her gratitude to the WSSC employees who helped manage the tour and seminars for her Leadership Prince George's Class. She thanked Lyn Riggins, LaToya Harding, Marcia Tucker, Jim Neustadt, Charlett Bundy, and Bob Trimble. She mentioned that her driveway is being torn up and pipes on her property burst. This experience caused her to acknowledge that she finds it interesting to experience the working side of WSSC.

Commissioner Mandel extended congratulations to Jim Neustadt and all the leadership team. She stated Commissioners enjoyed the holiday greetings and on behalf of all Commissioners extended greetings to all employees for a great holiday season and a peaceful 2013.

Commissioner Jones asked employees to keep the families in prayer who are still recovering from Hurricane Sandy and who are related to the victims of the mass shootings at Sandy Hook Elementary in Newtown, CN.

#### **MEDIA/PUBLIC COMMENTS**

There were no comments from the media.

**GENERAL MANAGER'S OFFICE**

**Monthly Report.** Mr. Johnson began with the call center statistics. He advised that 46,600 calls were received in the past month with a 90% answer rate. Despite system issues that caused the rate to be lower than the previous month, improvements continue.

WSSC's budget is on target with no problems to note. All plants are operating within their permit parameters. Extreme temperature swings during the month contributed to an increase in the number of water main breaks with 316 occurring in the last month. On Thanksgiving Day a 6" water main pipe broke in the Largo area causing 600 customers to go without water and to be subject to a boil-water alert for 1-1/2 days. On December 5<sup>th</sup> 750 customers were without water in the evening/early morning hours as the line that was broken on Thanksgiving Day needed depressurizing which was followed by a boil water alert.

Water main replacement is slightly behind schedule but it is expected that the annual replacement goal will be exceeded. Reconstruction of the sewer lines and laterals is slightly ahead of schedule.

The SLMBE Office had a very active month with outreach activities. The Legislative Report for 2013 has been submitted to the required elected officials but no feedback has as yet been received.

Corporate outreach activities and the Communications Office had a busy month with a number of activities. A winter media event at the Anacostia Depot was covered by most of the local area television stations. WSSC demonstrated its preparedness for the winter months. WSSC received extended coverage from Channel 4 on the "Can the Grease" program to help promote this message on environmental stewardship to the region.

Employees were very generous with benevolent activities: adopting families during the Christmas holidays and supporting the canned food drive with 1520 cans of food which were shared between the Fort Washington Food Pantry at St. John's Episcopal Church and the Shepherd's Table in Silver Spring.

The Third Annual Calendar Poster Contest received 526 entries from students in the second to fifth grade. Twelve students received \$100 each at a ceremony at RGH for their winning artwork which will be produced in the 2013 Calendar. The calendars will be sold with proceeds to go to the WSSC water fund.

A holiday reception on the lake level from 2 to 4 pm gave the Commissioners an opportunity to thank the employees who do so much for the customers on a continuing basis.

Mujib Lodhi was selected by IDG Computer World as a 2013 Premiere 100 IT Leader. This is a prestigious, lifetime achievement leader award that spotlights leaders from around the world for their exceptional technology leadership and innovative approaches to business. The class includes business executives from Hertz, IBM, Fed Ex, MasterCard Worldwide, Hyatt Hotels and Johns Hopkins University.

On November 13, 2012, WSSC diverted flow away from the Marlboro Meadows Wastewater Treatment Plant. On December 15, 2012 the plant was taken out of operation. All flow for that area is now diverted to WSSC's treatment plant.

#### **ADDITIONAL COMMISSIONER COMMENTS**

##### **Internal Audit Office**

**Monthly Activity Report.** Ms. Maxene Bardwell provided an update on the activities in the Internal Audit Office. The report covered the period November 5, 2012 to December 7, 2012. System Development Charge savings for the period were unchanged from last month, at approximately \$407,000. She reviewed the status of FY 2013 audit plan items: audit memos were issued in two audits; for FY 2012 carryover, three audits were in process and a final report issued on the procurement card audit. For FY 2011 carryover the final audit report has been issued. Of the eleven System Development Charge audits, three are active and three inactive. She described the aging audit issues noting one item escalated to the GM/CEO.

**Board of Ethics.** The Ethics Officer visited several WSSC sites and met with employees there. The Board of Ethics held its regularly-scheduled meeting on November 8, 2012. Several closed and open items were reviewed. Code of Ethics training was provided to 19 new hires by the Internal Audit Office as the Ethics Officer was attending a conference. The fulltime, shared administrative assistant position that will report to the Ethics Officer is still in the hiring phase.

**Hotline Quarterly Report.** Ms. Bardwell described the hotline cases handled this quarter. The top five cases were customer care-related; eight involved safety/sanitation matters; six raised fraud issues, five constituted policy issues, and four were conflicts of interest matters. She then reviewed the case status of these items. Average time from commencement to closure

of a hotline complaint is 45 days even though one case with a unique set of facts required extra time.

**Overview of the Audit Process.** Ms. Bardwell provided an overview of the audit follow-up process as tracked by the software, "Team Central." She was aided by Auditor Jane Lewis.

#### **DEPARTMENT BRIEFINGS**

##### **Finance Office**

###### **2013 Front Foot Benefit Rates and House Connection Charges.**

Ms. Kim Luquette provided an update on the hearings on the front foot rates and house connection charges stated in the December 4, 2012 memorandum.

**FY 2014 Preliminary Proposed Operating and Capital Budget Approval for Public Hearings.** Mr. Chris Cullinan briefed Commissioners on the Fiscal Year 2014 budget to be used at public hearings for public comment. It contained a proposed rate increase of 7.25%, less than the spending affordability rate recommended by the counties.

##### **Engineering and Construction**

**Construction Contracts.** Mr. Gumm presented four contracts for Commissioners' consideration. Two of the items were for Consent Decree work in environmentally sensitive areas for an indefinite delivery/indefinite quantity. Those two contracts were: C16000A11, sewer main, sewer house connection and manhole replacement and renewals of sewers for the Paint Branch Basin; and Contract C15385A12 for sewer main, sewer house connection, and manhole repair, replacement, and renewals of sewers in environmentally sensitive areas for the Cabin John Basin. The other two contracts briefed were: Contract BR/CR/LR 4960A09 for water main replacement on Queensbury Road; and Contract BR5350A12 for water main replacement in Hillandale.

**Goods and Services Contract P5986.** Mr. Gumm provided information describing the necessity for Change Order 1 for street repairs under this contract.

##### **Production**

**Contract 1073.** Mr. Jay Price and Mr. Rob Taylor advised Commissioners of the details of this agreement for the purchase and installation of equipment for capturing solar power.

##### **CONSENT CALENDAR**

Commissioner Jones moved that the Commission approve Resolution 2013-1988 that adopts the Consent Calendar for the

December 19, 2012 Commission meeting containing the following items:

A. Finance

1. 2013 Front Foot Benefit Rates and House Connection Charges
2. Preliminary Proposed Operating and Capital budget Approval for Public Hearings

B. Engineering and Construction

Construction Contracts

1. C16000A11, IDIQ, Sewer Main, Sewer House Connection and Manhole Repair, Replacement and Renewals of Sewers in Environmentally Sensitive Areas for Paint Branch Basin to Anchor Construction Corp. (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$17,500,000.00); Layne Inliner, LLC (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$17,500,000.00); Ross Contracting, Inc. (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$17,500,000.00); and SAK Construction, LLC (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$17,500,000.00) with a total upset limit of \$70,000,000.00 for the four contractors.
2. C15385A12, IDIQ, Sewer Main and House Connection and Manhole Repair, Replacement and Renewals of Sewers in Environmentally Sensitive Areas for Cabin John Basin in Montgomery County to Layne Inliner, LLC (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$15,000,000.00); Ross Contracting, Inc. (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$15,000,000.00); Anchor Construction Corp. (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$15,000,000.00) and Pleasants Construction, Inc. (Guaranteed minimum amount of \$1,000,000.00 and Upset Limit of \$15,000,000.00) for a total upset limit of \$60,000,000.00 for the four contracts.
3. BR/CR/LR 4960A09, Water Main Replacement for Queensbury Water and Sewer Replacement to Sagres Construction Corp in the amount of \$2,960,085.00.
4. BR5350A12, Water Main Replacement, Hillandale II Water Main Replacement to Mainlining Service, Inc., in the amount of \$2,162,158.00.

Goods and Services

5. Contract P5986, Change Order 1, Street Repairs to M.T. Laney Company, Inc. Increased by \$8,000,000.00 to create a new upset limit of \$39,489,771.72.

C. Production

Contract 1073, Solar Photovoltaic Purchase Agreement to Standard Solar, Inc., and enter into a three party agreement with Standard Solar, Inc. (SSI), and Washington Gas Energy Systems, Inc. (WGES), to design, build, own, operate and finance a photovoltaic system at Seneca and Western Branch Waste Water Treatment Plants in the amount of \$13,008,575.00.

Commissioner Counihan seconded the motion. The motion carried with six affirmative votes.

**DEPARTMENT BRIEFINGS**

Montgomery County Delegate Carr of District 18 and Montgomery County Delegate Hucker of District 20 and Chair of the Bi-county Committee were introduced by Vice Chair Counihan. It was agreed that the next order of business would be the Intergovernmental Relations Office to allow these elected officials an opportunity to speak on the pending legislative items.

**Intergovernmental Relations Office**

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

**MC/PG 103-13, System Development Charge Exemptions.** Mr. Wineland noted that this bill had a sunset date of December 31, 2010 when it was approved in 2009. It expands the authority of the counties and WSSC to exempt 501(c)(3) organizations that provide primarily services to youth from paying SDC charges up to a maximum exemption of \$80,000.00. Mr. Johnson recommends support of this bill. This was a late-filed bill and neither county executive had taken a position at the time of the Commission meeting. Mr. Wineland was asked to obtain more information and Commissioners tabled the discussion on supporting the bill until a later time.

**MC/PG 104-13. Water Conservation On-Bill Financing Program.** Mr. Wineland noted that this is enabling legislation to allow WSSC to create a program to finance the cost of water conservation upgrades through the issuance of bonds. The customer would repay the financial assistance and constitute a lien on the property. Other details of the program were reviewed. Delegate Carr sponsored this bill. Montgomery County Executive took no position and the Montgomery County Council is holding the bill pending WSSC's position.

**MC/PG 106-13. Commissioners' Supplemental Salary Bill.** Mr. Wineland stated that after a meeting with Montgomery County staff, an amendment had been drafted to address issues raised by that staff. Vice Chair Counihan moved to adopt the Amendment to the Supplemental Salary Bill. Commissioner Hartwig-Davis seconded the motion. The motion carried with six affirmative votes.

**MC/PG 107-13. WSSC Minority Business Program Legislative Report.** Montgomery Council indicated support for this legislation that changes the due date for this report from September 15 each year to October 30 each year.

**MC/PG 108-13. Agricultural Nutrient Management Exemption.** Neither of the counties has taken a position on this legislation.

**MC/PG 112-13. WSSC Prevailing Wage.** WSSC would have to pay prevailing wages on all projects that exceed \$2,000. Chair Lawson asked Delegate Hucker if he had a comment. Delegate Hucker then explained how Montgomery County addresses prevailing wage. He provided background on the intent of the bill. Mr. Jerry Blask, WSSC General Counsel, gave an explanation of the history of prevailing wage indicating that the Bacon-Davis Act was racially motivated and goes against the WSSC's business philosophy to make business accessible. Commissioner Mandel requested that the Minority Contractors' Association be contacted to determine their position on prevailing wage. Montgomery County Executive supports this bill and the Montgomery County Council asked to hold the

bill. Mr. Wineland advised he had received no notice of Prince George's County's position on this issue.

**MC/PG 113-13. WSSC Drinking Water/Wastewater Effluent Testing.** Mr. Plato Chen of the Engineering Department was available to discuss this modification to require additional testing for contaminants. Mr. Chen explained that the testing is not applicable to WSSC because WSSC is a surface water system that already tests for the items listed in the bill. The General Manager/CEO recommends opposition to this bill. Delegate Hucker advised that the bill is modeled after a similar bill that is being considered in the District of Columbia and the intent was to ensure Maryland residents had no less protection than residents of the District of Columbia. Mr. Wineland noted that the Montgomery County Executive and County Council both support the legislation.

**MC/PG 114-13. Sewage Posting Requirements.** This legislation alters the manner of posting after a leak in the sewage system. The legislation as drafted duplicates current laws that regulate this topic as it relates specifically to WSSC. The General Manager/CEO recommends opposition. Delegate Hucker explained because the reporting to local governments/municipalities is not required by other laws this bill was intended to address this omission.

**MC/PG 115-13. Sewage Leaks Notice Requirements.** This bill specifies the amount of time the Commission has to notify the county and any municipality about a sewage leak and its intended action with required postings on the WSSC website. The General Manager/CEO recommends opposition. Maryland Code of Regulations (COMAR) already addresses the matters addressed in this bill. Commissioner Mandel suggested that MC/PG 115-13 be combined with MC/PG 114-13. Delegate Hucker agreed to work with Montgomery Council to seek to combine the bills. Montgomery County Executive voted to support the bill and the Montgomery County Council voted to hold the bill. The Prince George's County Executive and Council did not take any action on the bill.

Vice Chair Counihan thanked Delegate Hucker and Delegate Carr for coming to provide additional information on the bills.

At 12:23 p.m. Chair Lawson called for the lunch recess. The meeting resumed at 1:34 p.m.

**General Manager's Office  
Watershed Study Briefing**

Mr. Johnson described outreach activities designed to continue to collect feedback about the changes to the watershed following the publication of the consultant's study on the

watershed. He noted that all users want greater access to the watershed. Mr. Johnson advised that since the study has become available, the public's opinion on this issue is different from the opinions expressed earlier in the year.

#### **Design Manual Amendment Update**

As for the Ad Hoc Committee, Mr. Johnson noted that a follow-up meeting needs to be held with the counties to develop a meeting process. He indicated invitations are being extended to the additional groups added in the second amendment to the Resolution 2012-1972 that formed the Ad Hoc Committee.

#### **Information Technology**

**Resolution 2013-1987.** Mr. Mujib Lodhi requested approval of this resolution that adopts the 2013 IT Strategic Plan.

Commissioner Jones moved that the Commission adopt Resolution 2013-1987 that adopts the 2013 Information Technology Strategic Plan. Commissioner Moore seconded the motion. The motion carried with six affirmative votes.

#### **Engineering and Construction**

**Consent Decree Quarterly Update.** Mr. Gary Gumm provided Commissioners with the status of various projects necessary for compliance with the consent decree and the budgetary changes needed to complete the projects.

#### **Corporate Secretary's Report**

Ms. Bundy reported on a survey of boards similar in size to WSSC. She also provided a report on other of her month's activities.

#### **Committee Reports**

**Personnel & Governance.** Commissioner Hartwig-Davis stated the committee is finalizing the evaluation of direct reports. In January the evaluations will be completed as well as other matters under consideration by the Committee. Mr. Johnson indicated he would provide the committee by the end of the meeting, a date by when he would provide additional information.

**WSSC Employee Pension Board of Trustees.** There was no meeting in November.

**Bi-County Infrastructure Funding Working Group.** The group met November 28, 2012. No new ideas surfaced for the under-served and un-served populations. The committee reviewed data on what other jurisdictions are doing for these populations in terms of financing options. There was further discussion on federal and/or state funding that could be explored. A sub-group will continue the work. It consists of two persons from each county and two

persons from WSSC staff. By February 6, 2013 the sub-group will have met and will provide Commissioners with some recommendations.

**MISCELLANEOUS FOLLOW-UP**

Commissioners then reviewed a modified chart of the data on employee separations that was discussed in the morning session.

There was a discussion about the Intergovernmental Relations Office's legislative strategy and when Commissioners received the information and their level of involvement in the hearings on the legislative matters of interest to WSSC.

**AMENDMENT TO THE AGENDA**

Commissioner Mandel asked to have the agenda amended to address a personnel item related to a report of the GM/CEO in closed session. Commissioner Hartwig-Davis seconded the motion. Commissioner Jones made a motion to amend the agenda to add a matter of legal advice on a refund hearing. Commissioner Hartwig-Davis seconded the motion. The motion carried with six affirmative votes.

**CLOSED SESSION**

At 4:28 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 November 19, 2012 Closed Session Minutes and Sections 10-508(a)(7) to obtain legal advice concerning litigation and a refund hearing; and Section 10-508(a)(1) to finalize the performance evaluation of a direct report and to discuss staffing in the IRO office. Commissioner Moore seconded the motion. The motion carried with four affirmative votes as Commissioner Hartwig-Davis was temporarily out of the room and Commissioner Mandel was in the room but did not abstain and said she was going to her office.

At 3:26 p.m. Chair Lawson declared the meeting was closed.

**ATTENDEES:** Chair Chris Lawson; Vice Chair Gene Counihan, Commissioners Roscoe M. Moore, Jr., Adrienne A. Mandel (but not present for discussion on the refund hearing), Antonio Jones and Melanie Hartwig-Davis; General Manager Jerry Johnson, General Counsel Jerry Blask, Corporate Secretary Charlett Bundy. Derrick Phillips, Customer Care Team Chief and Heather Ashbury, Associate Counsel, appeared for the discussion on the refund hearing.

**Refund Hearing.** There was a decision that Commissioner Jones would preside over the refund hearing requested by a ratepayer who is also the daughter of Commissioner Mandel. At 3:32 p.m. Mr. Phillips and Ms. Ashbury left the closed session.

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

**IRO Staffing.** Commissioners had a discussion about staffing in the Intergovernmental Relations Office.

**At 3:50 p.m. Mr. Jones left the meeting.**

**At 4:22 p.m. Mr. Blask left the closed session.**

**Closed Session Minutes.** Commissioner Moore moved to adopt the Closed Session Minutes for the November 19, 2012 Commission meeting. Commissioner Melanie Hartwig-Davis seconded the motion. The motion carried with four affirmative votes. Commissioner Mandel abstained because she was absent. Commissioner Jones had left the meeting.

**Mr. Johnson and Ms. Bundy left the Closed Session at 4:25 p.m.**

**Performance Evaluation.** Commissioners discussed and voted on the performance evaluation of a direct report including voting on matters contained in the employment contract of that direct report. Commissioners drafted a proposed amendment to the GM/CEO's Employment contract describing the performance evaluation process. Commissioner Counihan moved that the Commission adopt the Amendment on Evaluating the GM/CEO to the Employment Contract of Mr. Jerry Johnson. Commissioner Mandel seconded the motion. The motion carried with five affirmative votes as Commissioner Jones had left the meeting.

**Mr. Johnson and Ms. Bundy returned to the Closed Session at 4:45 p.m.**

**END OF CLOSED SESSION**

Commissioner Hartwig-Davis moved to end the closed session. Commissioner Moore seconded the motion. The motion carried with four affirmative votes: Commissioner Jones had left the meeting and Chair Lawson was temporarily out of the room. Vice Chair Counihan declared the meeting was re-opened at 4:48 p.m.

**OPEN SESSION RESUMED**

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

**Adjournment**

Commissioner Hartwig-Davis moved to adjourn the meeting. Commissioner Moore seconded the motion. The motion carried with four aye votes as Commissioner Jones had left the meeting and Vice Chair Counihan was out of the room. At 4:49 p.m. the meeting was adjourned.

Respectfully submitted,

//signed//            
Charlett Bundy  
Corporate Secretary