

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, January 20, 2010
Laurel, Maryland**

Chair Gene W. Counihan called the meeting to order at 8:40 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 Joyce Starks, Commissioners Prem P. Agarwal, Adrienne A. Mandel, Antonio L. Jones, and Roscoe M. Moore, Jr. were present at the meeting. Also, present were General Manager Jerry Johnson, Corporate Secretary Charlett Bundy and General Counsel, Jerry Blask.

AGENDA APPROVAL

Commissioner Jones moved to approve the agenda as written for Wednesday, January 20, 2010. Commissioner Agarwal seconded the motion. The motion carried with five affirmative votes. Vice Chair Starks had not arrived when the vote was taken. Chair Counihan asked Commissioner Jones to lead the pledge of allegiance.

MINUTES

Commissioner Agarwal moved to approve the open session minutes from the December 16, 2009 Commission meeting. Commissioner Jones seconded the motion. The motion carried with five affirmative votes. Vice Chair Starks had not arrived when the vote was taken.

WSSC RETIREES

There were no retirees this month.

EMPLOYEE EXCELLENCE

WSSC Employees who participate in the WSSC mentoring program were recognized. The WSSC Mentor Program began in 1989. Participating employees are given one hour a week matched with their lunch hour so that they can travel to meet with their mentees. General Manager Johnson noted that the students benefit from having an adult role models that impact and care about their success in life. He also noted that WSSC benefits too, from the positive image mentoring generates in the community and that this activity is an important part of the company's corporate responsibility in the community.

The following employee mentors were recognized: Sylvia Anderson; Heidi Aragon; John Arrington; Angela Ballard-Landers;

Maxene Bardwell; Mark Bracket; Amy Brown; Steven Brown; Christy Gibbs; Debra Johnson; LaQuatia Josey; Kira Lewis; Michael Lewis; Sarita Milliner; Valentino Owens; Ann Sanders; Roland Steiner; Barbara Templeman Gregory Whitley; Danielle Young; Laurie Young; not present were Michael Miller and Vern Turner.

PUBLIC COMMENTS

There were no public comments.

COMMISSIONERS' COMMENTS

Commissioner Jones welcomed Commissioner Starks back as she missed the last meeting due to the passing of her father.

Vice Chair Starks thanked all of the employees and commissioners for their support during her bereavement. She then wished everyone a happy, safe, and prosperous New Year. Vice Chair Starks suggested that the Commission send volunteers to Haiti. Commissioner Jones noted a change from February 2009 to 2010.

Chair Counihan also welcomed her back and noted that the New Year is an opportunity to renew their commitment to their job, family and personal goals. He noted the Commissioners are so grateful for the service of all of the employees at WSSC.

Commissioner Moore commended WSSC for stepping up and helping the people of Haiti.

Chair Counihan thanked Mr. Johnson, Ms. Daniell, Mr. Chow and his customer care team, and Mr. Neustadt for their efforts over the holiday period when water main breaks escalated during very cold weather. He noted their outstanding leadership and expressed the Commissioners' appreciation for their efforts. Next, he addressed questions raised by Vice Chair Starks about the Oracle Contract which will be discussed at the end of the day as they were not addressed during the General Manager's report.

GENERAL MANAGER'S OFFICE

Monthly Report. Mr. Johnson highlighted several items. He noted all plants are within their permit requirements. WSSC is up to date on all of its obligations under the consent decree with the U.S. Department of Justice.

The Bi-County Committee received communication from Mr. Johnson regarding reconstituting the committee and establishing a tentative meeting date in February 2010.

A boil water alert was issued from December 26 to December 29, 2009 as a result of a water main that was situated along the banks of a creek in the Fort Washington, MD area. Fewer pipe

inspections because of budget reductions impeded the early discovery that the water main needed attention to avoid rupture.

Mr. Johnson referenced a letter he drafted to be sent to the Director of the Environmental Working Group noting his concerns with data in the report and asked for a meeting with EWG to discuss items EWG did not report in an objective, scientific manner.

WSSC is establishing a Center for Water Quality. The idea began about a year ago and seeks to coordinate the activities of water quality issues with the intent to better respond to concerns and complaints about water quality.

An offer of employment to fill the vacancy of the Director of Acquisition had been extended and accepted. Mr. Johnson thanked Mr. Wade for having led the Acquisition Department in addition to his duties as Director of Logistics.

Referring to a massive earthquake in Port au Prince, Haiti that registered 7.0 on the Richter Scale, destroyed the city, and killed thousands, Mr. Johnson advised that an account that had been set up at the WSSC Federal Credit Union to receive donations from WSSC employees wishing to donate to relief efforts for this disaster.

Internal Audit Office

Monthly Activity Report. Commissioners were advised that the system development charge audits had saved WSSC \$1.6 million. Ms. Bardwell noted that several audits were underway including the federal stimulus funds oversight review; development services group operations; acquisition audit; human resource regulatory compliance audit; and several special audit requests. The enterprise risk management efforts include drafting a fraud, waste, and abuse hotline reporting policy.

The Board of Ethics' month's activities include consideration of several closed session items; current activities underway at the Commission including conflict of interest disclosures; annual online Code of Ethics disclosure training; standard procedure for surplus property; and the hotline that will be associated with the fraud waste and abuse policy. New hires received Code of Ethics training. The recent change to the Code of Ethics was advertised and thus far no comments had been received from the public. Rong Zhao and Ms. Bardwell earned the designation Certified Fraud Examiner.

ACTION ITEMS

Finance

Resolution 2010 - 1854, Check Signing Authority for the Claims Settlement Account. Commissioner Mandel moved that the Commission approve Resolution 2010-1854 that grants check signing authority for the claims settlement account for the Customer Care Team. Vice Chair Starks seconded the motion. The motion carried with five affirmative votes as Commissioner Moore was temporarily off the dais.

Engineering & Construction

Contract PM0001A08. Commissioner Mandel moved that the Commission award Contract No. PM0001A08, for staff augmentation services to include: project managers, construction contract managers, resident engineers, construction inspectors, and other technical and administrative staff as needed to Keville, Enterprises, Inc., Ross Technical Services, Inc., and Shah & Associates, Inc, in the amount of \$6,000,000.00 including two option periods. Commissioner Jones seconded the motion. The motion carried with five affirmative votes as Vice Chair Starks voted nay.

Final Change Order to Contract BR4702B07. Commissioner Mandel moved that the Commission award Contract No. BR4702B07, for Change Order No. 5, Water Main Relocation on Massachusetts Ave./Onondaga Rd. to Newport Ave., in Montgomery County to Sagres Construction Corp in the amount of \$227,802.16. Commissioner Moore seconded the motion. The motion carried with six affirmative votes.

Plumbing & Fuel Gas Code Amendment Approval. Commissioner Jones moved that the Commission approve Resolution 2010-1850 amendments to the Plumbing and Fuel Gas Code related to the revised local limits and minor clarification of the mercury monitoring requirements for dentists. Commissioner Mandel seconded the motion. The motion carried unanimously.

CONSENT CALENDAR

Commissioner Mandel moved that the Commission approve Resolution 2010-1855 that adopts the Consent Calendar for the January 20, 2010. Commissioner Jones seconded the motion. The motion carried with five affirmative votes. Vice Chair Starks abstained because she was absent from the December meeting and missed the briefings on the contracts.

COMMISSIONER ITEMS

Continued Business and

Sub-committee Reports

Personnel/Governance Committee - Bylaws. Proposed changes to the WSSC Bylaws defining what constitutes majority vote and a quorum were presented for Commissioners' consideration. Commissioner Agarwal moved that the Commission adopt the following definition of quorum for the WSSC Bylaws: A quorum consists of four members of the Commission. Vice Chair Starks seconded the motion. The motion carried unanimously. Vice Chair Starks discussed her opinion about the proposed definition of official action by majority vote.

Commissioner Agarwal moved that the Commission adopt a definition of majority vote in the WSSC Bylaws that reads:

Section 3.01 Official Action by Majority Vote

Unless provided otherwise by statute, regulation, these Bylaws, or other applicable law, a) the Commission shall act by majority vote of the Commissioners present and voting at a meeting if at least one Commissioner from each County votes with the majority and b) such majority vote shall constitute official Commission action; and c) a Commissioner who abstains is present but not voting. [A vote to abstain is not counted in the vote tally.]

Commissioner Mandel seconded the motion. The motion carried with five affirmative votes. Vice Chair Starks voted nay.

Alternate Commissioners. Commissioners discussed the possibility of amending Article 29 of the Maryland Annotated Code to add an additional, alternate commissioner for each county. It was determined that if the proposal was not submitted by February 2009 the matter would have to wait a year for approval.

Bi-County Working Group Committee

Mr. Johnson noted that the committee was set to meet next month and would report on the activities at the February 17, 2010 Commission meeting.

Pension Committee

Commissioner Mandel summarized the financials reported at the January 6, 2010 meeting of the WSSC Employees' Retirement Board of Trustees.

Commissioners then recessed for lunch.

COMMISSIONERS' CONFERENCE ROOM**CORPORATE SECRETARY**

Ms. Bundy reviewed her non-routine activities for the month.

DEPARTMENT BRIEFINGS

SLMBE

Commissioners engaged in a discussion of the graduation requirements for the Minority Business Enterprise Program proposed by General Manager Jerry Johnson. Commissioner Mandel moved that the Commission adopt the MBE graduation proposal as specified [in Resolution 2010-1856] by the General Manager. Commissioner Moore seconded the motion. The motion carried with five affirmative votes. Vice Chair Starks voted nay.

New Chief of Staff

Mr. Johnson introduced Johnnie Hemphill the Chief of Staff who will be engaged in the organization's change activities as well as communications. Mr. Hemphill was welcomed by the Commissioners.

EXECUTIVE SESSION

Commissioner Agarwal moved to close the meeting for January 20, 2009 pursuant to Subtitle 5 of Title 10 of the State Government Article, Maryland Code Section 10-508(a)(13) to approve December 16, 2009 closed session minutes and Section 10-508(a)(7) to receive legal advice on the MBE Programs 96-01 and 10-01. Commissioner Jones seconded the motion. There were six aye votes on the motion so the motion carried. At 1:45 p.m. the meeting was declared closed.

ATTENDEES: Chair Gene Counihan, Commissioners Prem Agarwal, Adrienne Mandel, Roscoe Moore and Antonio Jones; General Manager Jerry Johnson, Deputy General Manager Teresa Daniell and Corporate Secretary Charlett Bundy were present. Also present during the discussion of the MBE Program was Towanda Livingston.

Commissioner Jones moved to approve the December 16, 2009 executive session minutes. Commissioner Mandel seconded the motion. The motion to approve the minutes carried with five affirmative votes. Vice Chair Starks abstained because she was absent from the December 16, 2009 meeting.

Commissioners discussed legal advice regarding the MBE program.

At 2:58 p.m. Commissioner Moore moved to end the executive session. Commissioner Jones seconded the motion. The motion to end the closed session carried with six affirmative votes.

OPEN SESSION RESUMED

At 2:59 p.m. Chair Counihan declared the meeting was open.

Intergovernmental Relations Office

Mr. Wineland provided Commissioners with summaries of pending legislation. Commissioners took the following actions on that legislation.

MC/PG109-10. This bill addresses a four-member commission to oversee compliance with procurement in Section 3-109 of Article 29 (the MBE Program) such that the counties can intervene and make awards. The General Manager recommended Commissioners oppose this bill. Commissioner Mandel moved that the Commissioner oppose MC/PB109-10. Commissioner Moore seconded the motion. The motion carried with five aye votes. Vice Chair Starks voted nay.

MC/PG113-10. This bill provides for a six-member task force to bifurcate WSSC. The General Manager advised Commissioners to take no position on this bill. Commission Moore moved that the Commission take no position on MC/PG113-10. The motion failed for lack of a second. Commissioner Moore made a motion to oppose the bill. Commissioner Jones seconded the motion. The motion failed as the vote was three votes in favor of the motion (the Montgomery County Commissioners) and three votes against the motion (the Prince George's County Commissioners).

MC/PG114-10. This bill alters the eligibility requirement for a determination as a Small, Local, Business Enterprise by eliminating the employee residency eligibility requirement. The General Manager recommended Commissioners oppose the bill because it was his opinion the bill would result in lessening the pool of participants in WSSC's SLBE Program. Commissioner Mandel moved that the Commission oppose MC/PG114-10. Commissioner Moore seconded the motion. The motion failed as three votes were cast against the motion (Prince George's County Commissioners) and three votes were cast in favor of the motion (Montgomery County Commissioners). Vice Chair Starks then made a motion to take no position on the bill, MC/PG114-10. Commissioner Jones seconded the motion. The motion carried with four aye votes cast by Chair Counihan, Vice Chair Starks, and Commissioners Agarwal, and Jones; Commissioners Mandel and Moore voted nay.

MC/PG116-10. A bill introduced to preclude WSSC from modifying the WSSC Minority Business Program or creating a new one unless approved by the Maryland General Assembly. The General Manager recommended Commissioners oppose the bill. Commissioner Mandel moved to oppose MC/PG116-10. Commissioner Moore seconded the motion. The motion failed as the three Montgomery Commissioners voted for the motion and the three Prince George's County Commissioners voted against the motion. Vice Chair Starks then moved that the Commission take no position on MC/PG116-10.

Commissioner Jones seconded the motion. The motion failed as the three Prince George's County Commissioners voted for the motion and the three Montgomery Commissioners voted against the motion.

Mr. Wineland advised Commissioners that the non-substantive review of Article 29 was complete.

Chair Counihan moved to reconsider bill MC/PG114-10. Commissioner Mandel seconded the motion. The motion failed: the three Montgomery Commissioners voted for the motion and the three Prince George's County Commissioners voted against the motion.

SLMBE OFFICE

Revisions to MBE 96-01. Vice Chair Starks initiated the discussion about the WSSC Minority Business Enterprise Program. Commissioner Mandel moved that the Commission rescind the approval of an extension of MBE 96-01 to April 30, 2011 voted by a majority of Commissioners at the November 30, 2009 commission meeting and in its stead, adopt MBE 10-01 and Resolution 2010-1856 which sets forth MBE program graduation requirements. Commissioner Moore seconded the motion. The motion did not carry due to a tied vote. Chair Counihan called for a roll call vote: Chair Counihan voted aye; Commissioner Agarwal voted nay; Commissioner Jones voted nay; Commissioner Mandel voted aye; Commissioner Moore voted aye; and Vice Chair Starks voted nay.

Commissioner Mandel moved that the Commission change the expiration date of the action taken November 30, 2009 to extend Standard Procedure MBE 96-01 from April 30, 2011 to June 2010. Commissioner Moore seconded the motion. The motion failed: The three Prince George's County Commissioners voted against the motion and the three Montgomery Commissioners voted for the motion.

At 4:31 p.m. Commissioner Moore left the meeting.

PRODUCTION

CONTRACT 5679. Commissioners were briefed on the need to paint the Carroll Highlands Standpipe. Commissioner Mandel then moved to award Contract 5679 for the repairing and repainting of the interior and exterior of the Carroll Highlands Standpipe. Later in the meeting, Commissioner Jones seconded the motion. The motion carried with four affirmative votes. Vice Chair Starks abstained to balance the voting because of the absence of Commissioner Moore.

