

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, April 15, 2009
Laurel, Maryland**

Chair Joyce Starks called the meeting to order at 8:50 a.m. in the Commissioners' Conference Room at 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 Prem P. Agarwal, Adrienne Mandel, Juanita Miller, and Roscoe M. Moore, Jr. were present at the meeting. Also, present were Interim General Manager Teresa Daniell, Interim Deputy General Manager Rudy Chow, Corporate Secretary Charlett Bundy and General Counsel, Jerry Blask.

AGENDA APPROVAL

Vice Chair Counihan moved to approve the amended agenda. Commissioner Mandel seconded the motion. The motion carried with six affirmative votes.

Later in the meeting, Vice Chair Counihan moved to add the execution of the National Capital Region Water and Wastewater Mutual Aid Agreement as a voting item. Commissioner Mandel seconded the motion. The motion carried with six affirmative votes.

During the afternoon closed session a motion was made to make one of the agenda items a voting item but it failed as the vote was tied, three affirmative votes from the Prince George's County Commissioners and three nay votes from the Montgomery County Commissioners.

**MORNING CLOSED SESSION
COMMISSIONERS' CONFERENCE ROOM**

Commissioner Agarwal moved that the meeting be Closed pursuant to Section 10-508(a)(13) to approve closed session minutes for March 18, 2009 and May 20, 2008; and Section 10-508(a)(7) to discuss legal advice on: Settling an Employee's claim; status of an EEO claim of a former employee; and the WSSC response to a court action involving a former employee; Section 10-508(a)(13) to discuss the Transition Plan and the Internal Audit Manager's Authority in Investigations; Section 10-508(a)(1) to discuss two personnel matters regarding complaints made/received by Commissioners. Commissioner Moore seconded the motion. The motion carried with six affirmative votes. At 9:05 a.m. the meeting was closed.

ATTENDEES: Chair Joyce Starks, Vice Chair Gene Counihan, Commissioners Prem Agarwal, Adrienne Mandel, Juanita Miller, and Roscoe Moore, Jr. Laurie Young appeared to discuss two personnel matters regarding complaints made/received by Commissioners; she left and Jerry Blask appeared for the discussion on procedures for hiring outside counsel; after he left Maxene Bardwell appeared for the discussion on Internal Audit Manager's Authority in Investigations.

Commissioner Agarwal moved to resume the open session. Commissioner Miller seconded the motion. The motion carried with five affirmative votes. At 11:15 a.m. the open meeting resumed.

Engineering and Construction

Commissioners were briefed on four items: 1. Bi-county Tunnel; 2. The 2006 ICC Code Adoption; 3. Contract CI4688A07, Change Order 3 - Prince George's County Lateral Lining Contract; and 4. Contract CI4687A07, Change Order 3 - Sewer Main Lining and Other Rehabilitation, in Prince George's and Montgomery County.

Production

Four contracts were briefed that needed approval at the afternoon session of the meeting: 1. Contract 5571 for Blue Plains Biosolids Management and Utilization; 2. Contract 5605 for Western Branch Biosolids Management and Utilization; 3. Contract 5274, Change Order No. 2 for Repairing and Repainting the Interior and Exterior of Ground Storage Tank, Patuxent Reservoir 2; and 4. Contract 5275, Change Order No. 2 for Repairing and Repainting the Interior and Exterior of Steel Elevated Storage Tank, Cabin John Tank.

Customer Care

Customer Care Team briefed Commissioners on two contracts that were ready for approval at the afternoon session. They were: 1) Contract CI4597B07 - Sewer Main Lining and House Connection Renewals and Rehabilitation Contracts, Northeast Branch Basin, Prince George's County; and 2) Contract 5017 - Trunk Sewer Inspections and Surveying.

IT/CAMO

Commissioners were advised that Contract 5484 for the implementation of Enterprise Resource Planning and Enterprise Asset Management Projects had been segmented such that the contract presented for approval at the afternoon session was only for Phase 1 costing \$1.7 million.

**OPEN SESSION
AUDITORIUM**

Chair Starks called the meeting to order in the auditorium at 1:57 p.m. Vice Chair Counihan was asked to lead the pledge of allegiance.

PRESENTATION OF WSSC RETIREES

Peter Domaruk, Senior Development Project Manager in the Development Services Program Group retired with 32 years and 3 months of service. He was the only retiree this month.

EMPLOYEE EXCELLENCE VIDEO

A video of the Intergovernmental Relations Office was shown as part of the series of employees at work.

APPROVAL OF THE MINUTES

Commissioner Mandel moved to approve the open session minutes from March 18, and March 29, 2009. Vice Chair Counihan seconded the motion. The motion carried with six affirmative votes.

PUBLIC COMMENTS

Thomas M. Farasy, President of the Maryland National Capital Building Industry Association spoke about concerns of the building industry noting that the nation's economic recession has caused significant decreases in local home sales and development, as well as growing unemployment among local builders. He asked WSSC to delay instituting any new fees that may affect the building industry and hold current fee rates without any increases. Mr. Farasy also recommended that Commissioners waive system development and other fees for buildings created with green initiatives; defer system development charges from permit to final inspection for 24 months; index system development fees to house price and/or house type; revise easement reservation and coordination policies; and create roundtable discussion groups from utilities, builders, remodelers, environmentalists and homeowners to exchange ideas for meeting the specific challenges a recession brings to the building industry.

Commissioners thanked Mr. Farasy for his comments.

COMMISSIONERS' ITEMS/COMMENTS

Chair Starks talked about a federal grant that WSSC had received based upon the work of the Interim General Manager and her staff as part of the company's request for economic stimulus funds to assist with infrastructure repair/construction.

INTERIM GENERAL MANAGER'S ITEMS/COMMENTS

Ms. Daniell discussed the WSSC Children's Flower Garden that was installed at the Patuxent Plant. She also thanked Girl Scout Troop 3988 for assisting with the WSSC Water Fest and Boy Scout Troop 1673 who helped clean up the watershed in the Beltsville/Laurel areas. The Royal Canadian Bank was recognized for a \$5000 donation to establish a rain garden at Brighton Dam. Lastly, Ms. Daniell commented on the H2O Fest at Brighton Dam set for April 18, 2009.

PRESS COMMENTS

There were no press comments.

Engineering & Construction

Resolution Number 2009-1820 for 2006 ICC Code Adoption. Vice Chair Counihan moved that the Commission adopt Resolution No. 2009-1820 adopting the WSSC 2009 Plumbing and Fuel Gas Code including adoption of the 2006 International Plumbing Code, the 2006 International Fuel Gas Code and designated chapters of the 2006 International Residential Code relating to plumbing and fuel gas; and repealing the existing WSSC 2007 Plumbing and Fuel Gas Code. Commissioner Mandel seconded the motion. The motion carried with six affirmative votes.

CONSENT CALENDAR. Vice Chair Counihan moved the following contracts be placed on a consent calendar and approved by the Commission:

Contract BL9972A94, Amendment 1, for Architect-Engineer Design Services during Construction for Bi-County Tunnel Project (CIP-W-127.01) to Black and Veatch in the amount of \$ 4,351,460;

Change Order 3, to Contract CI4688A07 for area sewer lateral lining renewals, sewer main lining and other sewer rehabilitation in various locations in Prince George's County, MD to Insituform Technologies, Inc. in the amount of \$562,920.00;

Change Order 3, to Contract CI4687A07 for area sewer lateral lining renewals, sewer main lining and other sewer rehabilitation in various locations in Montgomery County, MD to Insituform Technologies, Inc. in the amount of \$2,782,135.00;

Purchase Order P71858 of Contract CI4597B07, for sewer lining, sewer house connection renewals by lining, and other sewer rehabilitation, Northeast Branch Basin in Prince Georges, MD to Reynolds Inliner, LLC in the amount of \$7,536,745.00;

Contract 5017 for trunk sewer inspections and surveying to ADS Environmental, O'Brien and Gere Engineering, EBA Engineering/REI Drayco Joint Venture with the combined contracts' totaling \$8,000,000;

Change Order 2 to Contract 5274 for repairing and repainting the interior and exterior of one steel elevated storage tank - Patuxent Reservoir No. 2 to Corfu Contractors, Inc. in the amount of \$1,366,625;

Change Order 2 to Contract 5275, for repairing and repainting the interior and exterior of one steel elevated storage tank at Cabin John to Corfu Contractors, Inc. in the amount of \$1,118,434; and

Contract 5484, for consultant services for the Implementation of an Enterprise Asset Management (EAM) Enterprise Resource Planning (ERP)/Customer Relations Management (CRM) System of Oracle

Applications to Oracle USA, Inc. in the amount of \$1,700,000.00.

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

**OPEN SESSION RESUMED
COMMISSIONERS' CONFERENCE ROOM**

Finance Office

Public Hearing Dates for Proposed FYs 2011-2016 Capital

Improvements Program. Commissioners were advised that the dates for the hearing on the CIP Program would need to be held as follows: September 9, 2009 for Montgomery County and September 10, 2009 for Prince George's County. Commissioners by consensus agreed on these dates for the hearings.

February 2009 Monthly Status Report. The report was transmitted to the counties. It shows adjustments in projections due to reduced water production and water revenues with corresponding offsets.

Water Fund Ad Hoc Committee. A report on the water Fund Ad Hoc Committee indicates ongoing review and recommendations to improve the efficiency of this assistance program for indigent customers facing service shut off.

Intergovernmental Relations Office

Legislation Update. Of all the bills introduced in the 2009 legislative season that impact WSSC, only three were approved for signing by Governor O'Malley and will be enacted October 1, 2009. They were: House Bill 1133 which provides WSSC employees with the same whistleblower protection afforded Maryland state employees; House Bill 1136 which requires WSSC to submit a certified copy of its annual audit and financial statements annually to Montgomery County Council and allows Montgomery County to audit and examine the books and records of the Commission under certain circumstances as long as such examination or audit is without cost to WSSC; and House Bill 1139 which clarified

which organizations are entitled to system development charge exemptions.

General Counsel's Office

Authorization to Negotiate Transfer of a Contract for Managing the Bolling Air Force Base Water Distribution System from WSSC to American States Utility Services Inc. (ASUS) Commissioners were updated on the ongoing negotiations with ASUS, the potential transferee who will assume management of Bolling's water distribution system.

Authorization to enter into National Capital Region Mutual Aid Agreement. Vice Chair Counihan moved to authorize the Interim General Manager to execute the National Capital Region Water and Wastewater Mutual Aid Agreement developed by the Metropolitan Washington Council of Governments. Commissioner Mandel seconded the motion. The motion carried with six affirmative votes.

COMMISSIONERS

New Meeting Dates. Commissioners by consensus agreed to cancel the June 18, 2009 meeting and add May 13, 2009 as a replacement meeting date. Commissioners also agreed to add a telephone meeting date to approve the rates for FY 2010 once the Counties have completed their review and recommendations to the WSSC GY 2010 budget. The date for the meeting will be determined later.

**AFTERNOON CLOSED SESSION
COMMISSIONERS' CONFERENCE ROOM**

Commissioner Agarwal moved to close the meeting pursuant to Subtitle 5 of Title 10 of the State Government Article, Maryland Code Section 10-508(a)(1) to discuss the following personnel matter: Finalize performance evaluations of direct reports and contracts; and (matters that were not completed in the morning session) pursuant to Section 10-508(a)(13) to approve closed session minutes for March 18, 2009 and May 20, 2008 and discuss a personnel matter related to the Transition Plan; and Section 10-508(a)(7) to discuss legal advice on: settling an Employee's claim; an EEO claim of a former employee; and responding to a court action involving a former employee; Commissioner Moore seconded the motion. The motion carried with six affirmative votes. At 3:53 p.m. the meeting was closed.

ATTENDEES: Chair Starks; Vice Chair Counihan, Commissioners Agarwal, Mandel, Miller and Moore; Corporate Secretary Charlett Bundy for all discussions; Interim General Manager Teresa Daniell, Interim

Deputy General Manager Rudy Chow, and General Counsel Jerry Blask for all discussions except the Transition Plan; Attorney Vicky Webb for the discussion on the employee claim only; and Attorney Russell Beers for the discussion/advice on the former employee's EEO claim.

By unanimous vote, the Commissioners authorized the general manager to execute a settlement agreement in a legal matter involving a former employee.

Commissioners decided to postpone voting on the closed session minutes because of questions from a Commissioner.

A motion was made to amend the agenda to make one of the closed session items a voting item but the motion failed as the vote was tied, three aye votes from the Montgomery County Commissioners and three nay votes from the Prince George's County Commissioners. Next Commissioners reviewed court decisions and received legal advice on next steps in a matter involving a former employee's legal claim pursuant to the Equal Employment Opportunity laws.

There was a discussion regarding a personnel matter related to the Transition Plan and it was decided by consensus not to take any action on that item.

Commissioner Mandel moved to resume the open session. Vice Chair Counihan seconded the motion. The motion carried with five affirmative votes. At 6:07 p.m. the meeting was declared open.

OPEN SESSION RESUMED

Adjournment

With no other business to be addressed at this meeting, Commissioner Mandel moved to adjourn the meeting. Commissioner Miller seconded the motion. The motion carried with four affirmative votes: At 6:09 p.m. Chair Starks declared the meeting was adjourned.

Respectfully submitted,

//signed//
Charlett Bundy
Corporate Secretary