

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, August 5, 2009
Laurel, Maryland**

Chair Gene Counihan called the meeting to order at 1:05 p.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 Joyce Starks was present and Commissioners Prem P. Agarwal, Adrienne Mandel, Juanita Miller, and Roscoe M. Moore, Jr. were present by telephone 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. In addition, Maryland Delegate Michael L. Vaughn of District 24 in Prince George's County was present and a number of small, local, or minority business owners attended.

AGENDA APPROVAL

Commissioner Moore moved to amend the agenda to take the items in reverse order. Vice Chair Starks seconded the motion. The motion carried with five votes as Commissioner Miller had temporarily lost connection by telephone.

SLMBE OFFICE

Extend the MBE Program SP 96-01 for 120 days [until January 10, 2010] and enforce the graduation criteria in the program now and commission a new disparity study and seek a constitutionally sufficient program. Commissioner Miller asked just for an extension of SP 96-01 without the other two criteria (graduation and disparity study) mentioned in the motion. Vice Chair Starks seconded the motion and then asked to amend the motion to include more time, specifically a minimum of one year to allow a new disparity study to be completed and identify the weaknesses in the MBE Program 96-01. With no second for extending the program for one year, the proposed amendment died. The motion reverted to adopt the current MBE program, SP 96-01 for 120 days with the immediate commission of a new disparity study. Commissioner

Mandel noted that the graduation requirements were already in SP 96-01 and no separate statement regarding removing graduation requirements was necessary.

Commissioner Mandel thanked staff for the historical timeline to see the development of the SLMBE Office and the side-by-side comparison of the programs being considered. For 20 months that she has been a commissioner, Commissioner Mandel stated she has a strong record as a proponent of MBE. During her tenure as a Maryland State Delegate she stated she was such a strong advocate of MBE that she strongly supported a law that is now the current state goal of 25% for minority contracting. She reiterated that this strong position is on the record and cannot be questioned. She noted that the repeated discussions of the MBE Program and after 20 months with no definitive actions she would not support a program that is not legally sufficient when the commission has a proposal that is a legally sufficient program. She clarified a misstatement that appeared in a letter from Delegate Aisha Braveboy. The state legislature in 2007 required that WSSC establish an MBE Program. It is not a fact that the state legislature required WSSC to establish a program that has mandatory percentages. She noted that to the contrary there is no requirement for mandatory percentages and this is confirmed in a letter from the Maryland Attorney General. She expressed her intention to abstain from voting on the motion.

Delegate Vaughn asked for WSSC to identify the authority that sanctions a temporary program with an expiration date as it was his opinion Commissioners' authorization of repeated expiration dates are inconsistent with HB 691 which requires WSSC to create a program that does not expire until September 12, 2012.

Jerome Blask, WSSC General Counsel stated that WSSC in 2007 adopted SP 96-01 for a limited time to give the company time to create a permanent program. As no permanent program was agreed upon, other extensions were enacted. Mr. Blask further noted that the current MBE program (SP 96-01) is the MBE program that was enacted before the state law sunset the program in 2006.

Commissioner Moore then called for the vote. Chair Counihan asked the Corporate Secretary to state the motion. Ms. Bundy said the motion was to extend the Interim MBE Program 96-01 for 120 days and to begin to commission immediately a new disparity study. Chair Counihan then asked for an alphabetical roll call vote. Commissioner Agarwal passed; Chair Counihan voted yes; Commissioner Mandel abstained for the reasons stated on the record earlier; Commissioner Miller voted aye; Commissioner Moore voted aye; Vice Chair Starks voted aye; Commissioner Agarwal on the second round voted yea. The vote was five affirmative votes and one abstention so the motion carried.

Adjournment

Commissioner Mandel moved to adjourn the meeting. With no further business, Chair Counihan accepted the motion to adjourn. Vice Chair Starks seconded the motion. The motion carried with six affirmative votes. At 1:51 p.m. Chair Counihan declared the meeting was adjourned.

Respectfully submitted,

//signed//
Charlett Bundy
Corporate Secretary