

WASHINGTON SUBURBAN SANITARY COMMISSION

MINUTES OF THE COMMISSION MEETING

**Wednesday, October 21, 2009
Laurel, Maryland**

Chair Gene W. Counihan called the meeting to order at 8:38 a.m. in the Auditorium at the Richard G. Hovevar 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, Antonio L. Jones, and Roscoe M. Moore, Jr. were present at the meeting. Also, present were General Manager Jerry Johnson, Deputy General Manager Teresa Daniell, Corporate Secretary Charlett Bundy and General Counsel, Jerry Blask.

AGENDA APPROVAL

Commissioner Jones moved to approve the agenda. Commissioner Agarwal seconded the motion. The motion carried with five affirmative votes.

Chair Counihan asked Commissioner Moore to lead the pledge of allegiance.

WSSC RETIREES

Melody E. Elmo (Reddix), a Utility Technician III retired with 29 years and 4 months of service. She was not present to be recognized.

EMPLOYEE EXCELLENCE

This month's video featured the employees of the Project Delivery Group.

MINUTES

Approval of the minutes was deferred to later in the meeting because Vice Chair Starks had some additional remarks she wanted to include in the minutes.

COMMISSIONERS' COMMENTS

Vice Chair Starks stated she was glad that Commissioner Agarwal was back.

Chair Counihan requested Commissioners be briefed during the November commission meeting on the emergency preparedness for a catastrophic event. Commissioner Moore noted that WSSC provides water service to 30 federal facilities and thus, any WSSC emergency preparedness plan should provide for coordination with federal plans for emergency preparedness.

Commissioner Jones stated he had reviewed some aspects of the emergency preparedness and found WSSC's plan to be solid. Commissioner Starks stated she would provide her comments after she reviewed her copy of the plan.

PUBLIC COMMENTS

There were none.

GENERAL MANAGER'S OFFICE

Monthly Report. Mr. Johnson noted that the flu vaccine had been administered to 250 WSSC employees, retirees and employees' dependents. Also, public service announcements about H1N1 flu have been disseminated to WSSC staff to equip employees with knowledge about this type of flu as well as help them protect against the expected pandemic of this disease forecasted to occur during the 2009/2010 flu season.

WSSC employees had thus far contributed to the United Way campaign at the \$62,000 level which represents 82% of the goal for the fiscal year 2010 campaign. Mr. Johnson thanked Tom Kelly, the customer care team and other employees who volunteered to make the family camp fire night at Brighton Dam a success.

Montgomery County completed its review of the WSSC budget and recommended a rate increase of no more than 9.9%. The Prince George's County review will not be complete until October 27, 2009.

A grant from the Maryland Department of the Environment for a project at the Anacostia Pump Station was increased an additional \$2 million from the initial grant of \$4 million. The project requires an additional \$700,000 from WSSC in order to complete it.

The legislative report on the activities of the Small, Local, Minority Business Enterprise office had to be revised to correct an award to Acorn Company. The report initially reported the full upset limit of the award (i.e., \$16 million) instead of the actual draw down (just under \$1 million).

Mr. Johnson directed Commissioners to the dashboards indicating water production and wastewater processing for the month.

Internal Audit Office

External Auditor Management Letter. Mr. Albert J. Lucas of Thompson, Cobb & Basilio, provided the results of the independent audit of WSSC for 2009. There were "no significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus." Two "significant" issues were discussed with management: How the reserve for receivables is established and any effects from financial institutions' crises caused by current economic conditions. Mr. Lucas reported that WSSC management was cooperative and responded sufficiently.

Appointments to Board of Ethics. Ms. Bardwell advised Commissioners that an interview committee had interviewed several candidates for the Board of Ethics vacancy created by a board member who was not seeking re-appointment. She presented the committee's two

recommendations for appointments to the WSSC Board of Ethics. The interview committee recommended George F. Pruden, a current alternate member of the Board of Ethics, to be appointed as a regular member. Vice Chair Starks moved that Commissioners approve Resolution 2010-1843 that appoints George F. Pruden as a regular member of the WSSC Code of Ethics. Commissioner Jones seconded the motion. The motion carried with five affirmative votes. Mr. Pruden stated he loves the fact he is giving something back to the county through his service on the WSSC Ethics Board.

Next, Ms. Bardwell advised that the interview committee recommended Attorney Rachel Brown as an alternate since Mr. Pruden's appointment as a regular member created a vacancy for the alternate position. Commissioner Agarwal moved that Commissioners approve Resolution 2010-1844 that appoints Rachel Brown as an alternate member of the WSSC Board of Ethics. Commissioner Moore seconded the motion. The motion carried with five affirmative votes. Ms. Brown added she is appreciative of the opportunity to serve and looks forward to serving as an alternate on the Board of Ethics.

Monthly Activity Report. Ms. Bardwell provided an overview of the month's activities in her department. She highlighted the hearing held by the Board of Ethics in September and the risk assessment presented to the Chinese Delegation. Ms. Bardwell advised Commissioners that her department is still awaiting a response from DC WASA's management regarding the results of the Blue Plains audit. She closed in noting that the acquisition audit and comprehensive water audits are well underway.

ACTION ITEMS

Finance Office

Resolution 2010-1838. Commissioner Agarwal moved to approve Resolution 2010-1838 Authorizing the Issuance of Water Supply Refunding Bonds of 2009. Commissioner Jones seconded the motion. The motion carried with four affirmative votes as Commissioner Moore was temporarily out of the auditorium.

Resolution 2010-1839. Commissioner Agarwal moved to approve Resolution 2010-1839 Authorizing the Issuance of Sewage Disposal Refunding Bonds of 2009. Commissioner Jones seconded the motion. The motion carried with four affirmative votes as Commissioner Moore was temporarily out of the auditorium.

Resolution 2010-1840. Commissioner Agarwal moved to approve Resolution 2010-1840 Authorizing the Issuance of General Construction Refunding Bonds of 2009. Commissioner Jones seconded the motion. The motion carried with five affirmative votes.

Resolution 2010-1841. Commissioner Agarwal moved to approve Resolution 2010-1841 Providing for the Public Sale, and Publication of the Notice of Sale of the Water Supply Refunding Bonds of 2009, Sewage Disposal Refunding Bonds of 2009, and General Construction Refunding Bonds of 2009, and Providing for the Consolidation of Such Bonds for Issuance, Sale, and Delivery as a Single Series of Bonds. Commissioner Jones seconded the motion. The motion carried with five affirmative votes.

CONSENT CALENDAR

Commissioner Jones moved that the Commission adopt the Consent calendar as printed in the meeting agenda for October 21, 2009 which consists of the following items:

- A. Contract PM0014A08 for Water Distribution System Modeling and Planning Basic Ordering Agreement to Malcolm Pirnie, Inc. with an upset limit of \$1 million.
- B. Approval of the Standard Procedure ENGR 2010 for the System Extension Permit (SEP) Refund.

Commissioner Moore seconded the motion. The motion carried with four affirmative votes. Commissioner Agarwal abstained because he was absent from the September meeting and did not receive a briefing.

DISCUSSION/ACTION ITEM

Customer Care Team

Contract CI4851C08 - Commissioner Moore moved to approve Contract CI4851C08 for Sewer Rehabilitation, Lower Anacostia River Basin, Prince George's County to Miller Pipeline Corp. in the amount of \$6,729,605.00. Commissioner Agarwal seconded the motion. Vice Chair Starks moved to special order Contract CI4851C08 to after 1:30 p.m. Commissioner Jones seconded the motion. The motion carried with five affirmative votes.

COMMISSIONER ITEMS

Unfinished Business

Commissioner Moore reported on the activities of the Personnel/Governance committee that addressed the unfinished business items.

Amended Minutes of April 16, 2008

Commissioner Agarwal moved to approve the amended minutes for April 16, 2008 which contain a correction that Commissioners voted to approve only the minutes for March 4 and 19, 2008 and additional language changes which are listed in the Amended Minutes for April 16, 2008 provided in the meeting packet for October 21, 2009 commission meeting [and attached hereto]. Commissioners did not vote to approve

the minutes for March 7, 13, 20 and 27, 2008 as written in the original minutes. Chair Counihan seconded the motion. During discussion Vice Chair Starks moved to special order the motion on the April 16, 2008 Amended Minutes to after 1:00 p.m. Commissioner Jones seconded the motion. The motion carried with five affirmative votes.

Committee Reports

Commissioner Moore indicated how the Personnel/Governance Committee had agreed to resolve the unfinished business matters - they were prioritized into pressing issues and routine issues. A review of the matters listed in each category was discussed.

AFTERNOON SESSION

Commissioners recessed for lunch and resumed in the Commissioners' Conference Room at 1:17 p.m. and the remainder of the report by the Personnel/Governance Committee was presented. Commissioner Agarwal left the meeting at 1:30 p.m. when the Personnel/Governance Committee report concluded.

Customer Care Team

Contract C14851C108. Commissioners were briefed on this contract that is being funded by a grant from the Maryland Department of the Environment (MDE) which totals \$6 million. During the morning session, Commissioner Moore moved to award Contract C14851C108 to Miller Pipeline Corporation for sewer lining, sewer house connection renewals by lining and other sewer rehabilitation in the lower Anacostia River Basin, Prince George's County, MD in the amount of \$6,729,605.00. Commissioner Agarwal seconded the motion. By the time the vote was taken (2:23 p.m.), Commissioner Agarwal had left. The motion carried with three aye votes (Commissioners Moore and Jones and Chair Counihan) and one nay vote (Vice Chair Starks).

MINUTES APPROVAL

Commissioner Moore moved to approve the September 23, 2009 minutes that contained additions by Vice Chair Starks. Commissioner Jones seconded the motion. The motion carried with four affirmative votes.

COMMITTEE REPORTS

The Pension Committee and Bi-county Committee made no reports.

CORPORATE SECRETARY

Ms. Bundy reviewed her activities and the office budget for 2010. She advised Commissioners of the ongoing revisions to the web site and was asked to bring any final proposed changes to Commissioners for approval.

Additional discussion about topics in the general manager's report included the planning for a proposed strategic planning workshop for commissioners and the necessity for a rate study.

EXECUTIVE SESSION

Commissioner Jones moved to close the meeting for October 21, 2009 to deal with the agenda items presented, i.e., pursuant to Subtitle 5 of Title 10 of the State Government Article, Maryland Code: Section 10-508(a)(13) to approve closed session minutes for August 19, and September 23, 2009; Section 10-508(a)(7) and (8) to discuss legal advice, representation issues and consult with General Counsel on the Bowen, et al, v. WSSC litigation; and Section 10-508(a)(7) to discuss legal advice on revisions to SP CUS 99-02 and the MBE program. Commissioner Moore seconded the motion. The motion carried with four affirmative votes.

At 3:14 p.m. the meeting was declared closed.

ATTENDEES: Chair Gene Counihan, Vice Chair Joyce Starks, Commissioners Roscoe Moore, Jr. and Antonio Jones; General Manager Jerry Johnson, Deputy General Manager Teresa Daniell, General Counsel Jerry Blask and Corporate Secretary Charlett Bundy were present. Also present were Rudy Chow, Jacquelyn Barry, Joel Kramer, Heather Ashbury, Vicki Webb, Tom Buckley, Tom Traber and Sheila Cohen.

Commissioners were briefed on the legal analysis of the changes to WSSC Standard Procedure CUS 99-02 that impact mixed use properties, i.e., properties with residential and commercial units. At 3:54 p.m. Rudy Chow, Jacquelyn Barry, Joel Kramer, Heather Ashbury, Vicki Webb, Tom Buckley, Tom Traber and Sheila Cohen left the closed session.

Commissioner Moore moved to approve closed session minutes from August 19 and September 23, 2009. Commissioner Jones seconded the motion. The motion carried with four affirmative votes.

Commissioners then received legal advice from Mr. Blask regarding the Bowen, et al., v. WSSC case. Mr. Johnson asked general counsel to update Commissioners on the options for establishing an MBE Program.

Commissioner Moore then moved to end the executive session and resume the open session. Commissioner Jones seconded the motion. The carried with five affirmative votes. At 4:32 p.m. the meeting was declared open.

OPEN SESSION RESUMED

Commissioners were advised that the time to respond to the request for proposal to conduct a disparity study for WSSC had been extended.

Commissioner Moore moved that Commissioners give notice on the web site and newspapers of Montgomery and Prince George's County of Commissioners' intention to adopt a draft amendment to the International Plumbing Code and a draft amendment to Standard Procedure CUS 99-02 and that the staff reach out to stakeholders. Commissioner Jones seconded the motion. The motion carried with four affirmative votes.

Adjournment

Commissioner Jones moved to adjourn the meeting. Commissioner Moore seconded the motion. The motion carried with four affirmative votes such that at 4:38 p.m. Chair Counihan declared the meeting was adjourned.

Respectfully submitted,

 //signed//
Charlett Bundy
Corporate Secretary

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following persons were also in attendance: Teresa Daniell, Interim General Manager; Rudy Chow, Interim Deputy General Manager; and Mr. Jerry Blask, General Counsel.

General Counsel's Office

Mr. Blask provided a recommendation for settling a legal matter.

Closed Session Minutes

Commissioner Counihan moved to approve the Closed Session Minutes for March 7, 13, 20, and 28 2008. Vice Chair Starks seconded the motion. The motion carried with five affirmative votes.

Administrative Matters

Commissioners then addressed several administrative matters. Two motions were made regarding a former employee's severance but neither motion passed as the vote was three to three for each motion. At 4:27, Yvonne McKinney joined the meeting to provide information about the policies and practices for interviewing at WSSC. She addressed information in a packet handout.

OPEN SESSION

ADJOURNMENT

At 5:40 p.m., Vice Chair Starks moved to adjourn the meeting. Commissioner Pruitt seconded the motion. The motion carried with four affirmative votes (Commissioner Miller had left the room). Chair Mandel declared the meeting was adjourned.

Charlett Bundy, Esq.
Corporate Secretary

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General Counsel's Office

Mr. Blask provided a recommendation for settling a legal matter.

Closed Session Minutes

Commissioner Counihan moved to approve the Closed Session Minutes for March 4 and 19, 2008. Vice Chair Starks seconded the motion. The motion carried with five affirmative votes.

Administrative Matters

Commissioners then addressed several administrative matters related to their duties to conduct a process to hire a general manager and ensure continuity of leadership in the interim. Commissioners discussed a plan to rate the candidates for the general manager position and decided to extend the deadline for receiving applications for that position. Commissioners discussed the employment contracts of the interim deputy and general manager which necessitated

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Charlett Bundy, Esq.
Corporate Secretary