

**WASHINGTON SUBURBAN SANITARY COMMISSION**

**MINUTES OF THE COMMISSION MEETING**

**Wednesday, November 18, 2009  
Laurel, Maryland**

Chair Gene W. Counihan called the meeting to order at 8:40 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, 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 Mandel moved to approve the agenda. Commissioner Agarwal seconded the motion. The motion carried with five affirmative votes as Vice Chair Starks had not arrived when this vote was taken.

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

**MINUTES**

Commissioner Jones moved to approve the open session minutes from the October 21, 2009 Commission meeting. Commissioner Moore seconded the motion. The motion carried with four affirmative votes. Commissioner Mandel abstained because she was absent from that meeting.

**WSSC RETIREES**

Three retirees were recognized but none were present to acknowledge the recognition: Michael J. Bigley, Facility Technician, III, retired with 21 years and 8 months of service; Bobbie E. Leggett, Maintenance Worker I, retired with 15 years and 1 month of service; and Armi Mercade, Analytical Information Support Unit Coordinator, retired with 28 years and 6 months of service.

**EMPLOYEE EXCELLENCE**

This month's video featured the Reef Ball Project, a project to introduce school children to the concept of stocking the bay with concrete balls to attract and encourage the growth of the oyster population and other fishes in the Chesapeake Bay.

**COMMISSIONERS' COMMENTS**

Commissioner Mandel noted that both of the counties are experiencing economic distress. In spite of that issue she expressed pride in the work of Sandra August of the WSSC Communications Team for her work with the Friends of Montgomery County Conservation Corps. That group assists youth with problems in following traditional school programs and/or who have experienced the criminal justice system. Ms.

August's work on the Corps helps at-risk students become productive members of society and she significantly assisted with organizing the 25-year anniversary celebration of the Corps. Because of Ms. August's donated time, talent and skill, Commissioner Mandel provided a Certificate of Thanks to Ms. August as a token of recognition.

Commissioner Jones noted he had toured the Potomac Filtration Facility. He was impressed with the fact this plant will be the first in the country to use ultraviolet light for sanitizing the water supply. He thanked the General Manager, Mr. Johnson and his staff for the opportunity to view the process at the Potomac Plant.

Vice Chair Starks wished staff a happy and safe Thanksgiving Holiday and noted she hoped all employees had received her Veterans' Day email message recognizing the service of the WSSC veterans.

Commissioner Agarwal also wished staff a happy Thanksgiving and expressed thanks to the employees of WSSC for continuing to provide clean water, a commodity he noted that is not readily available in most third world countries.

Chair Counihan expressed appreciation to the General Manager, Jerry Johnson and Chief Financial Officer Tom Traber and his staff for their leadership that led to WSSC receiving a AAA rating by the bond agencies.

#### **PUBLIC COMMENTS**

There were none until the discussion on the MBE Program.

#### **GENERAL MANAGER'S OFFICE**

**Monthly Report.** Mr. Johnson advised Commissioners that the recent bond sale yielded a 3.2% interest rate earning the Commission \$1.8 million. He expressed kudos to Mr. Traber, Chief Finance Officer and his team for this accomplishment.

Following the counties' expression of their affordability rate increase preference, Mr. Johnson noted he had been working diligently with staff to determine the necessary adjustments to the proposed budget for 2011 in order to be within those affordability ranges.

In response to a request from the Commissioners, Mr. Johnson noted he had nearly completed the schedule for implementing a strategic planning work session with Commissioners.

The Bi-County Sub-Committee is being reconstructed and he was planning a first meeting in early December 2009.

Mr. Johnson recognized several WSSC staff featured in an article titled, "2009 Project of the Year for Rehabilitation" that was published in Trenchless Technology Magazine. The cover photo of this October 2009 issue featured Marcia Tucker, Mike Woodcock, Vicente Sorra, Dana Karzoun, Greg Frik, Nirmala Benin, and Steven Law.

A media event was held to advise the public of the equipment and resources needed to sustain the work of WSSC during winter months. It was well attended.

WSSC employees were recognized for their generosity to the United Way campaign. The goal was exceeded by \$3,000 with \$9,000 being designated expressly for the WSSC water fund. Teresa Bond was thanked for her efforts in managing the campaign at WSSC.

An open house at Western Branch for the public on November 7, 2009 drew over 30 visitors and also attracted media coverage.

Mr. Johnson had two personal accomplishments: He was re-elected Secretary of the National Association of Metropolitan Water Agencies and was awarded the Outstanding Leadership Award from the Apartment and Office Building Association of Metropolitan Washington.

Mr. Johnson asked Gary Gumm, chief engineer to review the dashboards in his report that summarize the month's water production and wastewater processing activities.

#### **Internal Audit Office**

**Monthly Activity Report.** Ms. Bardwell provided an overview of the month's activities in her department stating that the acquisition audit was nearly complete. Ms. Bardwell advised Commissioners that her department continues to await a response from DC WASA's management regarding the results of the Blue Plains audit. She closed in noting that her department was conducting three special audit requests.

#### **ACTION ITEMS**

##### **Customer Care Team**

**Resolutions 2010-1847 and 201-1848.** Commissioner Mandel moved to approve Resolution 2010-1847 that amends the Plumbing and Fuel Gas Code, 2009 Edition and Resolution 2010-1848 that amends Standard Procedure CUS 99-02, Billing and Collections of Water/Sewer Charges and Related Fees. Commissioner Jones seconded the motion. The motion carried with six affirmative votes.

#### **SIMBE**

Commissioners were advised that General Counsel Blask did not receive comments from outside counsel until the evening before the commission meeting.

#### **Engineering & Construction**

**Contract RC4957A09.** Commissioner Mandel moved to award Contract RC4957A09 for area house connection renewals at various locations in Prince George's and Montgomery Counties to Wills Trucking and Excavating, Inc. in the estimated amount of \$2,956,575.00. Commissioner Agarwal seconded the motion. The motion carried with six affirmative votes.

#### **Consent Calendar**

Commissioner Agarwal moved that the Commission approve Resolution 2010-1851 that adopts the Consent Calendar for the November 18, 2009 commission meeting consisting of the following items: Contracts 5509 for ductile iron pipe to; Contract IC2007A07 first option term and Resolutions 2010-1846 that approves Standard Procedure Engineering 09-03 for Cross Connection Control SP and Resolution 2010-1842 that approves modifications to the WSSC Ethics Code; and Contract RC 4957A09 for area water and sewer house connection renewals. Commissioner Mandel seconded the motion. The motion carried unanimously.

#### **SLMBE Continued**

Commissioners decided to go into closed session to discuss advice from outside counsel on the proposed MBE Program. Commissioner Mandel moved to close the meeting, pursuant to Subtitle 5 of Title 10 of the State Government Article, Maryland Code: Section 10-508(a)(7) to receive legal advice on the proposed options for a MBE program. Commissioner Jones seconded the motion. The motion carried as the vote was unanimous to close. At 11:45 the meeting was closed and the Commissioners retired to the Commissioners' Conference room.

#### **EXECUTIVE SESSION I**

**ATTENDEES: Chair Gene Counihan, Vice Chair Joyce Starks, Commissioners Prem Agarwal, Adrienne Mandel, Roscoe Moore, Jr. and Antonio Jones; General Manager Jerry Johnson, General Counsel Jerry Blask and Corporate Secretary Charlett Bundy were present. Towanda Livingston, SLMBE Director was also present.**

At 11:50 Commissioners determined that Mr. Blask needed to summarize the information from Attorney Franklin Lee, outside counsel to WSSC on SLMBE matters and present it to Commissioners before they could make any meaningful, substantive review of the options for an MBE Program as presented by Ms. Livingston in the meeting packet whereupon Commissioner Jones moved to end the closed session and resume the open session. Chair Counihan seconded the motion. The motion carried unanimously. At 12:03 p.m. the meeting was opened and Commissioners returned to the auditorium.

**OPEN SESSION RESUMED**

Once the assembly resumed in the auditorium at 12:08 Chair Counihan announced the decision to defer a vote on the MBE Program until Commissioners received detailed opinion from Mr. Blask.

Chair Counihan allowed a member of the Association for Business Advocacy, Mrs. Norma Byrd to provide a public comment about the proposed changes. Ms. Byrd announced that she had on behalf of the Association emailed a memorandum to the Corporate Secretary, Ms. Bundy and Ms. Livingston, listing the Association's concerns about the options for the WSSC MBE program. The Association requested a clarification of the term "median sales" which was defined in two ways and a clarification of the two-year period on which graduation would be calculated, e.g., would the two years be the last two years or the last two of three years, etc. Chair Counihan noted that the comments were received.

Chair Counihan asked Commissioners to meet again before December 3, 2009 to avoid allowing the current MBE Program to lapse. The Corporate Secretary was asked to arrange the meeting date and details. Commissioner Mandel made a motion and after two amendments the motion read: moved to direct the General Manager, general counsel and the SLMBE Director to assess the new information from Attorney Franklin Lee and provide their input and to schedule a meeting solely to discuss the approval of a MBE Program some time on or before December 3, 2009. Commissioner Jones seconded the motion. Vice Chair Starks raised a point of order to amend the agenda to allow the item of a new meeting.

Chair Counihan clarified that the vote on the MBE Program is special ordered to the December 20, 2009 meeting. After clarification by the Parliamentarian and the amendments, the vote was four yeas and one abstention by Commissioner Moore. Commissioner Moore abstained to balance the representation because Commissioner Agarwal had left

Vice Chair Starks moved to amend the agenda to add a change in the calendar of the scheduled meetings to include the special meeting that will be held on or before December 3, 2009. Commissioner Jones seconded the motion. The motion carried with three affirmative votes. Commissioner Moore abstained to balance the representation because Commissioner Agarwal had left and Chair Counihan abstained because he did not want to vote on the motion.

#### **COMMISSIONER ITEMS**

##### **Unfinished Business and Sub-committee Reports**

Commissioner Moore advised that the continued business items had been delegated to the Personnel/Governance Sub-committee and Commissioner Jones noted that the Sub-committee had also completed a survey of other multi-jurisdictional utilities to determine their definition of majority vote and quorum. Commissioner Mandel shared the

financial report from the Employees Retirement Trustee Board meeting and Chair Counihan noted that the Bi-County Committee has been placed under the direction of the general manager who had begun to reconstitute that group.

**DEPARTMENT BRIEFINGS**

**FINANCE OFFICE**

Mr. Rick Baker presented a summary of the operation of the WSSC retirement plan and the operations and financial standings of the WSSC Employees' Retirement Trust.

Mr. Traber presented Commissioners with the proposed rates for the Front Foot Benefit and House Connections for 2010.

The meeting recessed at 2:25 p.m. while the chair presided over the 2:30 p.m. hearing on the 2010 Front Foot Benefit and House Connection Rates in the WSSC Auditorium. The commission meeting resumed at 2:40 p.m.

**CORPORATE SECRETARY**

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

**DEPARTMENT BRIEFINGS CONTINUED**

**Engineering & Construction**

Mr. Gumm presented Commissioners with an overview of two design contracts: BL7053A86 for the design of the John Hanson Highway Water Main, Part 1; PM0017A08 for Corrosion Engineering Services; and PM001A09 for Corrosion Engineering Services. Next he presented a briefing on two construction contracts: BR4271H05 for Water Main Replacement in Silver Spring, Montgomery County; and BR4939A09 for Water Main Replacement in Beltsville, Prince George's County.

**Production**

Mr. Jay Price, Production Chief offered information on contracts for three matters: Contract 5660 for repairing and repainting of the interior of a steel elevated water storage tank for Forest Heights; Contract 5687 to purchase biosolids for Seneca and Damascus Wastewater Treatment Plants; and Contract 5711 to purchase water and wastewater chemicals. Mr. Price described a reverse auction process that was used to purchase chemicals for Contract 5711. The auction resulted in a savings to WSSC of nearly three quarters of a million dollars.

**EXECUTIVE SESSION II**

Commissioner Mandel moved to close the meeting for November 18, 2009 pursuant to Subtitle 5 of Title 10 of the State Government Article, Maryland Code Section 10-508(a)(13) to approve October 21, 2009 closed session minutes. Commissioner Jones seconded the motion. The vote on the motion was inaudible. At 3:13 p.m. the meeting was declared closed.

**ATTENDEES:** Chair Gene Counihan, Vice Chair Joyce Starks, Commissioners Adrienne Mandel and Antonio Jones; General Manager Jerry Johnson, General Counsel Jerry Blask and Corporate Secretary Charlett Bundy were present.

The motion to approve the minutes was inaudible. Chair Counihan announced the vote on the motion to approve the minutes as three ayes and one abstention from Commissioner Mandel because she was absent from the October 21, 2009 meeting. The motion to end the closed session and the vote on the motion was inaudible.

**OPEN SESSION RESUMED**

At 3:14 p.m. Chair Counihan declared the meeting was declared open.

**Adjournment**

Commissioner Mandel moved to end the meeting. Commissioner Jones seconded the motion. The motion carried with four affirmative votes such that at 3:15 p.m. Chair Counihan declared the meeting was adjourned.

Respectfully submitted,

          //signed//            
Charlett Bundy  
Corporate Secretary